

HOUSING PLAN ELEMENT & FAIR SHARE PLAN



Prepared for:

BOROUGH OF FAIR LAWN BERGEN COUNTY, NEW JERSEY

MAY 4 2020

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The original of this document was signed and sealed in accordance with New Jersey Law.

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INTRODUCTION

LOCATION AND CONTEXT

The Borough of Fair Lawn is located in central Bergen County, along the eastern banks of the Passaic River. Several Bergen County municipalities surround Fair Lawn, including the Borough of Glen Rock to the north, the Borough of Paramus to the east, and the Borough of Elmwood Park and the Township of Saddle Brook to the south. Passaic County municipalities adjacent to Fair Lawn include the City of Paterson across the Passaic River to the west and the Borough of Hawthorne to the northwest. Fair Lawn has a land area of approximately 5.2 square miles. Major roadways traversing through the Borough include Route 208 and Route 4. The New Jersey Transit Bergen County Commuter Rail Line runs through the Borough, having two train stations located at Radburn and Broadway.

A predominantly developed community, Fair Lawn consists primarily of residential uses, mostly single-family houses, and some multifamily and townhouse units. The remaining land uses include mixed-use development, office-type uses, commercial, and parkland, mostly located along several commercial corridors: New Jersey Routes 4 and 208, Saddle River Road, Plaza Road, River Road (County Route 507), Broadway, Morlot Avenue, and Fair Lawn Avenue.

AFFORDABLE HOUSING

In 1975, the New Jersey Supreme Court, in the case of Southern Burlington County, NAACP v. Township of Mount Laurel (Mount Laurel I), determined that every developing municipality in the State had an affirmative obligation to provide a realistic opportunity for the construction of housing for people of low and moderate incomes. This is known as the “fair share” doctrine, whereas each municipality must provide for its fair share of housing within an established region of the state.

In a subsequent decision in 1983 (Mount Laurel II), the Court acknowledged that many municipalities had ignored this constitutional obligation. In Mount Laurel II, the Court refined the constitutional obligation to focus the obligation primarily on those municipalities that have portions of their boundaries within the growth area as shown on the State Development and Redevelopment Plan, and called for the State Legislature to enact legislation that would save municipalities from the burden of having the courts determine their affordable housing needs. The result was the adoption of the Fair Housing Act (FHA) in 1985 and the establishment of the New Jersey Council on Affordable Housing (COAH), the State agency responsible for overseeing the State’s municipalities address their low and moderate-income housing needs.

COAH proceeded to adopt regulations for the First Round obligation covering the years 1987 to 1993, and established Second Round housing need numbers that cumulatively covered the years 1987 through 1999. Under both the First and Second Rounds COAH utilized what is commonly referred to a “fair share” methodology. In this report, the First and Second Rounds will be referred to as the Prior Round.

Since 1999 when the Third Round obligation commenced, there have been varying iterations of rules and projected obligations presented and rejected, including the previously adopted “growth share” methodology being invalidated in 2013, which is sometimes referred to as “Mt. Laurel III”. After having been under the jurisdiction of COAH since the adoption of FHA, the New Jersey Supreme Court ruled on March 10, 2015 (Mt. Laurel IV) that COAH was effectively failing to act as required by the FHA, and returned jurisdiction of affordable housing issues to the trial courts, where it had been prior to the creation of COAH in 1986.

Since the 2015 Mt. Laurel IV decision, municipalities have turned to the courts to seek a declaratory judgement of their housing plans to determine whether they are meeting their constitutional affordable housing obligations, and to be granted immunity from any “builder’s remedy” lawsuits. With no COAH functioning and providing guidance to municipalities to determine their municipal fair share of statewide and regional obligations, a number of independent groups produced their own reports to determine individual obligations across the state. In several court decisions in 2016 and 2018, judges in Middlesex and Mercer County developed a methodology following closely one proposed by Fair Share Housing Center to determine municipal obligations. In the 2018 decision by Judge Jacobson, it was further determined that the initial period of the Third Round which had not been addressed (1999 – 2015) known as the “gap period” is to be included in each municipality’s fair share calculations.

FAIR LAWN’S COMPLIANCE HISTORY

Fair Lawn had previously worked with COAH and the courts in determining and satisfying its constitutional obligations to provide housing for low- and moderate-income households. In 1996, the Borough was granted substantive certification from COAH for its 152-unit obligation at the time. The Borough was granted a judgment of compliance and repose by the Bergen County Superior Court in October of 2010, and further amended in September of 2012, approving of its Housing Plan Element and Fair Share Plan and ordinances in compliance with the growth share rules that were in place at that time.

In December of 2018, Fair Lawn petitioned the court for a declaratory judgement of its compliance with the Mt. Laurel doctrine and the Fair Housing Act. The Fair Share Housing Center, which has been designated by the courts as an interested party in all affordable housing matters, has reached a settlement agreement with the Borough that was signed by both parties in November of 2019. In that settlement agreement, the Borough’s affordable housing obligations are established, and terms, conditions, and mechanisms to satisfy those obligations are laid out.

A copy of the signed Settlement Agreement can be found in Appendix A.

The Borough of Fair Lawn has prepared this Housing Plan Element and Fair Share Plan in accordance with all requirements of the Municipal Land Use Law, the Fair Housing Act, and in conformance with the terms and conditions of the November 2019 settlement agreement with Fair Share Housing Center.

HOUSING PLAN ELEMENT

According to the Municipal Land Use Law (MLUL) (40:55D-28.b(3)), a municipality is required to adopt a Housing Plan Element of the Master Plan, as well as a Fair Share Plan for addressing its low and moderate income housing obligations in accordance with the Fair Housing Act (FHA). Pursuant to the Fair Housing Act, Section 10 of P.L. 1985, c. 222 (C. 52:27D-310), a municipality's housing plan element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with attention to low- and moderate-income housing. This updated Housing Plan Element and Fair Share Plan for the Borough of Fair Lawn has been prepared in a manner that is consistent with the FHA and MLUL requirements, and contains the following, as spelled out in the FHA:

1. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
2. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
3. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing; and
6. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.
7. A map of all sites designated by the municipality for the production of low- and moderate income-housing and a listing of each site that includes its owner, acreage, lot, and block;
8. The location and capacities and proposed water and sewer lines and facilities relevant to the designated sites;
9. Copies of necessary applications for amendments to, or consistency determinations

regarding, applicable area-wide water quality management plans (including wastewater management plans).

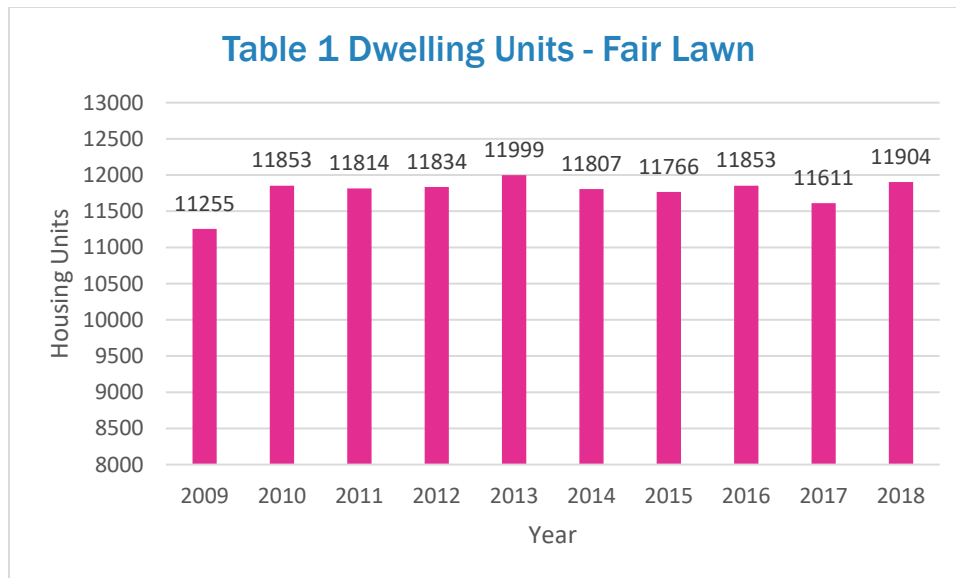
10. A copy of the most recently adopted master plan and where required, the immediately preceding, adopted master plan;
11. For each designated site, a copy of the New Jersey Freshwater Wetlands maps where available. When such maps are not available, municipalities shall provide appropriate copies of the National Wetlands Inventory maps provided by the U.S. Fish and Wildlife Service;
12. A copy of appropriate, United States Geological Survey Topographic Quadrangles for designated sites; and
13. Any other documentation pertaining to the review of the municipal housing element as may be required by the appropriate authority.

This Housing Plan Element and Fair Share Plan will address the Borough's obligations to provide a realistic opportunity for the construction of low- and moderate-income housing in accordance with the Fair Housing Act, the MLUL, the Court, and the terms of the Settlement Agreement with Fair Share Housing Center, for the Third Round period of 1999 – 2025. The preparation of a Housing Plan Element and Fair Share Plan is the first step in petitioning the court for Substantive Certification and Judgement of Repose.

HOUSING CHARACTERISTICS

As required by the Municipal Land Use Law, this Housing Plan Element provides an inventory of the Borough's housing stock. The inventory details housing characteristics such as age, condition, purchase/rental value, and occupancy. It also details the number of affordable units available to low- and moderate-income households and the number of substandard housing units capable of being rehabilitated.

Dwelling Units - The Borough's housing stock has been growing slowly since 2009, with minor fluctuations between 2010 and 2018. There was an estimated five percent increase in housing units from 2009 to 2010, adding nearly 600 dwelling units to the Borough. Since then, the Borough's housing stock has remained stable at just under 12,000 total units according to annual estimates provided by the American Community Survey (ACS) of the US Census Bureau.



Sources: US Census Bureau, ACS Annual 5-year estimates

Tenure and Occupancy - Table 2 below provides additional detail regarding the tenure and occupancy of the Borough’s housing stock. As shown below, 97.3 percent of the Borough’s housing stock was estimated to be occupied in 2010, with 76.8 percent being owner occupied, 20.5 percent renter occupied, and the remaining 2.7 percent being vacant. Since 2010, Census estimates for 2018, the most recent data set available, show very similar percentages of occupancy, albeit with a small – 1.9% increase in owner occupancy coupled with a similarly small decrease in rental occupancy. The vacancy rate is also estimated to be slightly higher, although still very few vacant units at just 3.1 percent.

Category	2010		2018	
	# Units	Percent	# Units	Percent
Occupied Housing Units	11,930	97.3%	11,463	96.9%
Owner-Occupied Units	9,418	76.8%	9,424	78.7%
Renter-Occupied Units	2,512	20.5%	2,187	18.2%
Vacant Units	336	2.7%	369	3.1%
Total Units	12,266	100.0%	11,980	100.0%

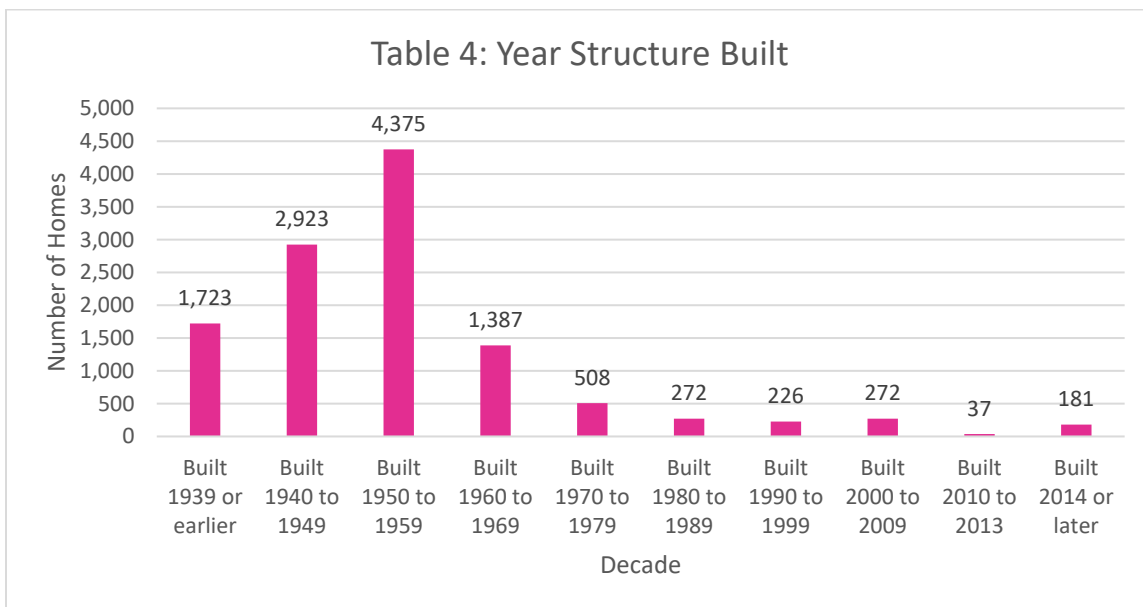
Source: U.S. Census 2010, ACS 2014-2018 5-year estimates

Housing Characteristics - Table 3 provides information on the characteristics of the Borough’s housing stock in terms of the number of units in structures. The American Community Survey (ACS) data estimates that there has been a net loss of over 260 housing units in the Borough from 2010 to 2018. The Borough’s housing stock is predominantly single-family detached units, which has been increasing, while the number of structures that contain 2 units (duplex) to 10 (multi-family apartment) units has been decreasing, according to Census estimates.

Table 3: Units in Structure (2010 to 2018)						
Units in Structure	2010		2018		# Change	% Change
	Number	Percent	Number	Percent	2010 to 2018	2010 to 2018
1-unit, detached	9,176	75.40%	9,332	78.40%	156	1.7%
1-unit, attached	437	3.60%	370	3.10%	-67	-15.3%
2 units	896	7.40%	616	5.20%	-280	-31.3%
3 or 4 units	697	5.70%	606	5.10%	-91	-13.1%
5 to 9 units	334	2.70%	283	2.40%	-51	-15.3%
10 to 19 units	298	2.40%	385	3.20%	87	29.2%
20 or more units	318	2.60%	293	2.50%	-25	-7.9%
Other	14	0.10%	19	0.20%	5	35.7%
Total	12,170	100%	11,904	100%	-266	-2.19%

Source: U.S. Census 2010, ACS 2014-2018 5-year estimates

Housing Age - Table 4 details the age of the Borough’s housing stock. As shown on the table, almost three-fourths (73 percent) of the Borough’s housing units were constructed before the 1960’s, with most units (4,375 units) being constructed in the 1950’s. Between 2010 and 2017, there were an estimated 218 new housing units constructed in the Borough. The pace of construction of housing units parallels the Borough’s population growth.



Source: U.S. Census ACS 2014-2018 5-year estimates.

Housing Conditions - An inventory of the Borough’s housing conditions is presented in Tables 5 and 6. Table 5 identifies the extent of overcrowding in the Borough, defined as housing units with more than one occupant per room. This includes kitchens, living rooms, and habitable spaces, not just bedrooms. The data indicates that the number of occupied housing units considered overcrowded is negligible at 1.1 percent of housing units for 2018, although that still represents an increase from 0.6 percent in 2010.

Table 5: Occupants per Room (2010 to 2017)						
Occupants Per Room	2010		2018		# Change	% Change
	Number	Percent	Number	Percent		
1.00 or less	11781	99.4%	11341	98.9%	-440	-3.7%
1.01 to 1.50	41	0.3%	70	0.6%	29	70.7%
1.51 or more	31	0.3%	52	0.5%	21	67.7%
Total	11,853	100%	11,463	100%	-390	-3.3%
<i>Source: U.S. Census 2010, ACS 2014-2018 5-year estimates</i>						

Table 6 below presents other key characteristics of housing conditions, including the presence of complete plumbing and kitchen facilities and the type of heating equipment used. As shown, 100 percent of units have complete kitchen and 100 percent of units have complete plumbing facilities as of 2018. Although Census estimates do not count or survey every home in the Borough, this means that virtually every housing unit in Fair Lawn has a functioning kitchen and indoor plumbing. The data also indicate that almost all homes in the Borough are heated by gas, electricity, or fuel oil. Only 14 units, or 0.1 percent of the total number of homes in Fair Lawn have no heat source.

Table 6: Equipment & Plumbing Facilities (2010 to 2017)						
Facilities	2010		2018		% Change	
	Number	Percent	Number	Percent		
Kitchen:						
With Complete Facilities	11,720	98.90%	11,457	100%	1.1%	
Lacking Complete Facilities	133	1.10%	6	0.00%		
Plumbing:						
With Complete Facilities	11,720	98.90%	11,463	100%	1.1%	
Lacking Complete Facilities	133	1.10%	0	0.00%		
Heating Equipment:						
Standard Heating Facilities	11,823	99.70%	11,449	99.90%	0.20%	
Other Means, No Fuel Used	30	0.30%	14	0.1%		
<i>Source: U.S. Census 2010, ACS 2014-2018 5-year estimates</i>						

Purchase and Rental Values - As shown on Table 7, approximately 83 percent of Fair Lawn’s rental housing stock had monthly rents greater than \$1,000 in 2010. By 2018, the percentage of

rents greater than \$1,000 per month increased to 87 percent. The Borough’s median rent is higher than the median monthly rent of Bergen County and has increased since 2010. This is an indication that housing costs have been increasing. With the median rent increasing by almost \$400 per month in an 8 year time span, which is more than double the estimated rise in the cost of rent for the County as a whole.

Table 7: Gross Rent of Renter-Occupied Housing Units (2010 to 2018)

Gross Rent	2010		2018		# Change	% Change
	Number	Percent	Number	Percent		
Less than \$500	85	3.2%	113	5.3%	28	33%
\$500 to \$999	380	14.3%	161	7.5%	-219	-58%
\$1,000 to \$1,499	1368	51.6%	658	30.7%	-710	-52%
\$1,500 to \$1,999	818	30.9%	536	25.0%	-282	-34%
\$2,000 to \$2,499	N/A		341	15.9%	N/A	N/A
\$2,500 to \$2,999	N/A		231	10.8%	N/A	N/A
\$3,000 or more	N/A		100	4.7%	N/A	N/A
Total	2,649	100%	2,140	100%		
No Cash Rent	62	--	145		83	
Median Gross Rent	\$1,240		\$1,629		\$389	
Bergen County Median Gross Rent	\$1,236		\$1,425		\$189	

Source: U.S. Census 2010, ACS 2014-2018 5-year estimates

Table 8 shows that 21 percent of Fair Lawn’s owner-occupied units had a value of \$500,000 or more in 2017, whereas in 2010 approximately 29 percent of Fair Lawn’s owner-occupied units had a value of \$500,000 or more. This decline is attributed to the decrease in values that occurred throughout the region after the 2008 recession, whereas at the time of the 2010 census counts, many homes were still valued near their peak prior to the recession. The County’s median value of owner-occupied units was approximately 10 percent higher than the Borough’s median value in 2010. This ratio remained consistent in 2017. It is noteworthy that while the estimated cost of rent has increased since 2010, the value of homes in the Borough, and the County has decreased.

Data for Table 8 is taken from the 2017 ACS 5-year estimates, as the 2018 data used elsewhere in this Plan was unavailable for home values in Fair Lawn Borough.

Table 8: Value of Owner-Occupied Housing Units (2010 to 2017)				
Value Range	2010		2017	
	Number	Percent	Number	Percent
Less than \$50,000	75	0.8%	185	2.0%
\$50,000 to \$99,999	59	0.6%	39	0.4%
\$100,000 to \$149,999	36	0.4%	16	0.2%
\$150,000 to \$199,999	108	1.2%	35	0.4%
\$200,000 to \$249,999	635	6.9%	880	9.3%
\$300,000 to \$499,999	5,589	61.1%	6,293	66.8%
\$500,000 to \$999,999	2,509	27.4%	1,968	20.9%
\$1,000,000 or More	131	1.4%	8	0.1%
Total	9,142	100.0%	9,424	100.0%
Median Value	\$431,000		\$406,400	
Bergen County Median Value	\$482,300		\$451,200	
<i>Source: U.S. Census 2010, ACS 2013-2017 5-year estimates</i>				

Affordability - For Low- and Moderate-Income Households, Fair Lawn is in Housing Region 1, which is comprised of Bergen, Passaic, Hudson, and Sussex counties. Based on the most current regional income limits as prepared by the Affordable Housing Professionals of New Jersey (AHPNJ), the median household income for a three-person household in the region is \$85,637. A three-person moderate-income household, defined as those earning 80 percent of the median income, would have an annual income not exceeding \$68,510. A low-income household is considered those with an income of less than 50% of the median, or \$42,819, and a very low-income household is defined as one with an income of less than 30% of the median, or \$25,691.

An affordable sales price for a three-person moderate-income household earning 80 percent of the median income is estimated at approximately \$170,000. This estimate is based on the UHAC affordability controls outlined in N.J.A.C. 5:80-26.3, where to be affordable, a household should not be spending more than 30 percent of their income on housing expenses. In 2018, the percentage of housing units in the Borough valued at less than \$150,000 was 2.6 percent, and \$150,000 to \$200,000 was approximately 0.4 percent, meaning that approximately 3 percent of all homes in Fair Lawn would be affordable to a household earning 80 percent of the area median income.

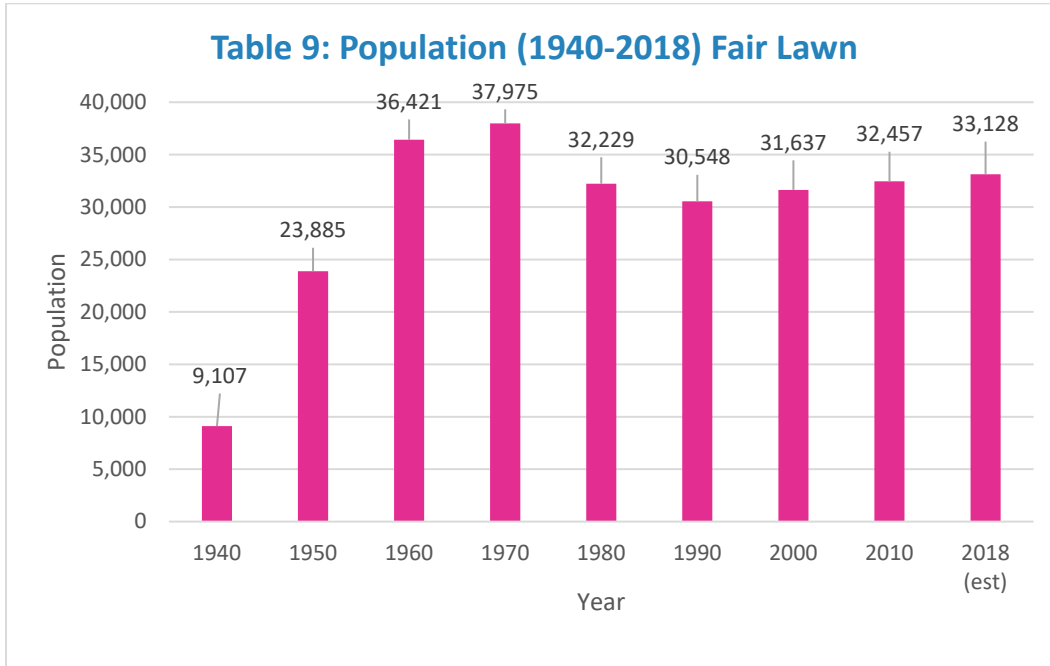
DEMOGRAPHIC CHARACTERISTICS

The Municipal Land Use Law (MLUL) requires that a Housing Plan Element provide data on the municipality's population, including population size, age, and income characteristics.

Population Size - The Borough experienced its greatest population growth in the 1940s and 1950s, having its population quadruple between 1940 and 1960. During the 1970's, Fair Lawn

saw its population decline by 15 percent. This decline continued through the 1980s with the Borough having a 1990 population of 30,548. The 2010 Census data indicates the Borough had 32,457 residents, representing a six percent population growth over the 1990 Census figure. Since 1990, the Borough’s population has remained relatively stable, and showing slow but steady increases.

The North Jersey Transportation Planning Authority (NJTPA) provides population projections for the northern New Jersey region. According to their figures, Fair Lawn is anticipated to see a population of 36,933, indicating that population will continue to grow, but at a relatively slow pace.



Source: U.S. Census – 2000, 2010, U.S. Census 2018 Population Estimates

Age Characteristics - The Borough’s age characteristics are outlined on Table 10 below. As shown, the Borough’s population is slightly older than the rest of the state and nation. As a typical suburban community, the Borough has higher percentages of school aged children and middle-aged adults. There has been a decrease of seniors (aged 65 or over) by approximately 10 percent though. However Fair Lawn’s population is not necessarily aging consistent with its peers, as the median age has decreased by less than one percent since being 42.6 years of age in 2010 to 42.5 years of age in 2018 according to Census estimates. The three subcategories, Bergen County, New Jersey, and United States, all show an increase in median age between 2010 and 2018. Fair Lawn has the highest median age compared to the other jurisdictions in both 2010 and 2018.

Table 10: Age Characteristics (2010 to 2018)

Age	2010		2018		# Change	% Change
	Number	Percent	Number	Percent	2010 to 2018	2010 to 2018
Under 5 years	1,607	5.0%	1,556	4.7%	-51	-3.2%
5 to 19 years	3,954	20.4%	4,263	12.9%	309	7.8%
20 to 54 years	14,755	45.8%	14,607	44.2%	-148	-1.0%
55 to 64 years	4,854	12.7%	4,880	14.8%	26	0.5%
65 years and over	6,044	16.0%	5,436	16.4%	-608	-10.1%
Total (population)	32,147	100	33,081	100	934	2.9%
Median Age						
Fair Lawn	42.6		42.5		-0.1	
Bergen County	40.8		41.6		0.8	
New Jersey	38.5		39.6		1.1	
United States	36.9		37.8		0.9	

Source: U.S. Census 2010, ACS 2014-2018 5-year estimates

Average Household Size - The average household size for the Borough has remained nearly constant from 2010 to 2018 based on Census data and estimates, going from 2.67 persons per household to an estimated 2.70 persons per household.

Table 11: Average Household Size (2000 to 2018)

Year	Total Population	Number of Households	Average Household Size
2000	31,637	11,806	2.67
2010	32,457	11,930	2.70
2018	33,128	11,463	2.87

Source: U.S. Census – 2000, 2010, ACS 2014-2018 5-year estimates

Household Income - Detailed household income figures are shown on Table 12. As shown, approximately 57 percent of the Borough’s households had an income of \$100,000 or more in 2018. This figure represents an increase from 45 percent from 2010. Every income bracket in the Borough has decreased, with the exception of household incomes above \$150,000 which has increased by 36 percent since 2010. This indicates a general rise in incomes for households in the Borough, although not necessarily equal gains across the board. An increase in the number of high earning households can skew the data towards the top. The Borough’s median household income has risen by over \$17,000 since 2010, which is a greater increase than has been seen throughout the County as a whole.

Table 12: Household Income (2009 to 2017)

Income	2010		2018		# Change	% Change
	Number	Percent	Number	Percent	2010 to 2018	2010 to 2018
Less than \$5,000	130	1.1%	136	1.2%	6	4.3%
\$5,000 to \$9,999	178	1.5%	159	1.4%	-19	-10.6%
\$10,000 to \$14,999	367	3.1%	199	1.7%	-168	-45.8%
\$15,000 to \$19,999	273	2.3%	251	2.2%	-22	-7.9%
\$20,000 to \$24,999	498	4.2%	299	2.6%	-199	-39.9%
\$25,000 to \$34,999	782	6.6%	401	3.5%	-381	-48.7%
\$35,000 to \$49,999	806	6.8%	717	6.3%	-89	-11.0%
\$50,000 to \$74,999	1470	12.4%	1,304	11.4%	-166	-11.3%
\$75,000 to \$99,999	1956	16.5%	1,399	12.2%	-557	-28.5%
\$100,000 to \$149,999	2821	23.8%	2,477	21.6%	-344	-12.2%
\$150,000 or more	2584	21.8%	4,121	36.0%	1537	59.5%
Total Households	11,853		11,463		-390	
Median Income	\$97,727		\$115,512		\$17,785	
Bergen County Median	\$81,350		\$91,572		\$10,222	

Source: U.S. Census – 2010, ACS 2014-2018 5-year estimates

Housing Cost Burden - Households that spend more than 30 percent of their income on housing costs are considered cost burdened, and it is assumed they will likely have difficulty affording other necessities such as food, clothing, transportation, and medical care as a result of the high proportion of their income that is devoted to housing. Despite Fair Lawn’s high median household income, the 2018 data reveals that approximately 30 percent of owner and rental-occupied households had housing costs at least 30 percent of income or greater. This reflects the general high housing costs of the northern New Jersey region, as it requires a relatively high income to afford housing in the area. The data also indicate that this percentage in Fair Lawn has decreased, while the percentage of households spending less than 20 percent of their income on housing has increased. This would be consistent with the rise of incomes noted above, and the stagnant housing values. Although the cost of rent has increased, the percentage of renter occupied households remains low, with the bulk of the data representing owner occupied households, whose income has likely increased while housing costs remained the same.

Table 13: Housing Cost as Percentage of Income (2010 to 2018)						
Percentage of Income	2010		2018		# Change	% Change
	Number	Percent	Number	Percent		
Less than 20 percent	3,888	32.8	4,630	40.4%	742	19.1%
20.0 to 29.9 percent	3,116	26.3	3,141	27.4%	25	0.8%
30 percent or more	4,755	40.1	3,511	30.6%	-1,244	-26.2%
Zero or negative income	32	0.002	36	0.3%	4	12.5%
No cash rent	62	0.005	145	1.3%	83	133.9%
Occupied Units	11,853	100	11,463	100		

Source: U.S. Census 2010, ACS 2014-2018 5-year estimates

EMPLOYMENT CHARACTERISTICS

The MLUL requires that the Housing Plan Element include data on employment levels in the community to determine economic activity and potential access to employment. The following tables present information on the Borough’s employment characteristics.

Employment Status - Table 14 provides information on the employment status of Borough residents age 16 and over. Approximately 31 percent of Fair Lawn residents were not participating in the labor force in 2018, which is a nearly 7 percent increase since 2010. The employed population has also increased by over 1000 residents. However, the data indicates at the same time that the unemployment rate may have increased as well. This could simply be an anomaly, or potentially an error in the 2010 data, which indicates an unemployment rate of 3.6 percent in 2010 and 4.0 percent for 2018, as unemployment was relatively high across the region in 2010.

Table 14: Employment Status, Population 16 and Over (2010 to 2018)						
Employment Status	2010		2018		# Change	% Change
	Number	Percent	Number	Percent		
In labor force	17,263	66.5%	18,433	69.2%	1,170	6.8%
Employed	16,307	62.8%	17,368	65.2%	1,061	6.5%
Unemployed	938	3.6%	1066	4.0%	128	13.6%
Not in labor force	8,714	33.5%	8,205	30.8%	-509	-5.8%

Table 14: Employment Status, Population 16 and Over (2010 to 2018)				
Total Population 16 and Over	25,977	26,638		
<i>Source: U.S. Census 2010, ACS 2014-2018 5-year estimates</i>				

Employment Characteristics of Employed Residents - Tables 15 and 16 provide data on the employment characteristics of Fair Lawn residents. Table 15 shows a total increase of 1,394 employed persons between 2010 and 2018, with an increase largely in the management, business, science, and arts occupations sector, as well as in service occupations. The sales and office occupations have seen a decrease of approximately 15 percent since 2010, according to US Census estimates.

Table 15: Employed Residents Age 16 and Over, By Occupation (2010 to 2018)						
Occupation	2010		2018		# Change	% Change
	Number	Percent	Number	Percent		
Mgmt., business, science, & arts occupations	8,441	51.8	9,596	54.2%	1,155	13.7%
Service occupations	1,388	8.5	1,940	11.0%	552	39.8%
Sales and office occupations	4,356	26.7	3,702	20.9%	-654	-15.0%
Natural resources, construction, and maintenance occupations	1,076	6.6	1,065	6.0%	-11	-1.0%
Production, transportation, and material moving occupations	1,046	6.4	1,398	7.9%	352	33.7%
Total	16,307	100	17,701	100	1,394	
<i>Sources: U.S. Census – 2010 Census, ACS 2014-2018 5-Year Estimates.</i>						

Table 16, which represents employment levels by industry, shows an increase of 971 employed residents age 16 and over between 2010 and 2018, which is a smaller increase than is indicated in Table 15, which is employment by occupation. Although the two datasets are not completely consistent, they do both represent an increase in employment in the Borough. The industries that have seen the greatest increases in employment include retail trade, arts and entertainment, and educational and healthcare workers. Construction, wholesale trade, and public administration industries have seen decreases in their numbers of employment since 2010.

Table 16: Employed Residents Age 16 and Over, By Industry (2010 to 2018)

Industry	2010		2018		# Change	% Change
	Number	Percent	Number	Percent		
Agriculture, forestry, fishing, hunting and mining	2	0	0	0	-2	-100%
Construction	1,005	6	749	4.2%	-256	-25.5%
Manufacturing	1,498	9	1,494	8.4%	-4	-0.3%
Wholesale trade	951	5.7	643	3.6%	-308	-32.4%
Retail trade	1,556	9.3	1,910	10.8%	354	22.8%
Transportation and warehousing, and utilities	962	5.8	950	5.4%	-12	-1.2%
Information	496	3	460	2.6%	-36	-7.3%
Finance, insurance, real estate and rental and leasing	1,745	10.4	1,623	9.2%	-122	-7.0%
Professional, scientific, mgmt, administrative & waste mgmt svcs	2,463	14.7	2,525	14.3%	62	2.5%
Educational, health and social services	4,056	24.2	5,112	28.9%	1056	26.0%
Arts, entertainment, recreation, accommodation, & food services	569	3.4	1,009	5.7%	440	77.3%
Public administration	565	3.4	424	2.4%	-141	-25.0%
Other services	862	5.2	802	4.5%	-60	-7.0%
Total	16,730	100	17,701	100	971	

Source: U.S. Census 2010, ACS 2014-2018 5-year estimates

Housing and Employment Projections - The following section identifies the extent to which recent development has occurred in the community in order to assist in the determination of future residential and employment projections.

Future Employment - Employment within the Borough has steadily increased since 2014 and 2018, with increases ranging from 1.5 percent to 3.6 percent year to year. Assuming the current economic climate continues and recognizing the limited availability of vacant land for new non-residential development except for potential redevelopment, job creation should follow the pattern over the last couple of years of modest growth, or steady employment. However, economic patterns can be unpredictable, and sharp increases or decreases in employment can occur in any year.

Table 17: Covered Employment Trends 2014 – 2018

Year	Number of Jobs	Change in Number of Jobs	Percent Change
2014	10,243	-	-
2015	10,608	365	3.6%
2016	10,856	248	2.3%
2017	11,024	168	1.5%
2018	11,383	359	3.3%

Source: NJ Department of Labor and Workforce Development

Projection of the Municipality’s Housing Stock - With limited vacant land acreage remaining in the municipality that may be developed for residential use, it is anticipated that the Borough’s residential growth will remain relatively flat, as reflected in the recent annual data shown below, and in the population projections from NJTPA discussed previously. Any substantial residential unit growth would likely be through redevelopment of existing developed areas.

Referring to certificate of occupancy (CO) and demolition permit data from 2001 through 2018 in Table 18, The Borough has a net growth of residential development with 353 developments alone in 2007, 50 developments between 2010 and 2018 and an overall net growth between 2001 and 2018 with 472 developments. Much of this growth has been due to redevelopment of former industrial and commercial properties for multi-family and mixed-use residential development, as previously noted.

Table 18: Trend in Residential Development - Analysis of Certificates of Occupancy and Demolition Permits, 2001-2018

Year	COs Issued	Demo Permits Issued	Net Growth
2001	96	3	93
2002	3	8	-5
2003	2	4	-2
2004	1	2	-1
2005	4	12	-8
2006	19	26	-7
2007	362	9	353
2008	8	9	-1
2009	7	7	0
2010	6	4	2
2011	4	4	0
2012	21	2	19
2013	2	1	1

Table 18: Trend in Residential Development - Analysis of Certificates of Occupancy and Demolition Permits, 2001-2018			
2014	3	2	1
2015	48	3	1
2016	3	2	1
2017	10	3	7
2018	26	8	18
18 YR Total	625	109	472
18 YR Average	34.72	6.05	26.22
<i>Source: NJ Construction Reporter</i>			

CONSIDERATION OF LANDS SUITABLE FOR AFFORDABLE HOUSING

In preparing this Housing Plan Element and Fair Share Plan, Fair Lawn has evaluated many different parcels at various locations throughout the Borough and considered which of those may be most appropriate and available, suitable, developable, and approvable for satisfying the Borough’s affordable housing obligation. The Borough prepared a Vacant Land Inventory and Analysis Report to identify all of the lands available for housing development, including all vacant lands, publicly owned lands, and other lands which may be available. These lands were reviewed and any portions of the lands that were environmentally constrained, or do not contain sufficient acreage for development, have been excluded. This analysis included a consideration of lands of developers who have expressed a commitment to provide low and moderate-income housing. The results of the Vacant Land Inventory and Analysis indicated that the proposed projects outlined herein are the most appropriate and expeditious means to satisfy Fair Lawn’s affordable housing obligations, given the lack of available and vacant land in Fair Lawn.

A copy of the Vacant Land Inventory and Analysis Report can be found in Appendix B.

FAIR SHARE PLAN

A Fair Share Plan has been defined in prior COAH regulations as:

“Fair Share Plan” means that plan or proposal, which is in a form that may readily be converted into an ordinance, by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low and moderate income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low and moderate income housing, as provided in Sections 9 and 14 of the Fair Housing Act, addresses the development regulations necessary to implement the Housing Element, and addresses the requirements of N.J.A.C. 5:93-7 through 11.

The Fair Share Plan for the Borough of Fair Lawn is broken up into three sections; a Present Need or Rehabilitation Obligation, the Prior Round (1987-1999) Obligation, and the Third Round or Prospective Need Obligation (1999-2025).

FAIR SHARE OBLIGATION

The Borough has the following cumulative affordable housing obligations, as agreed to in the Settlement with Fair Share Housing Center:

- Rehabilitation Obligation (Present Need) – 42 units
- Prior Round Obligation (1987 – 1999) – 152 units
- Third Round Obligation (1999 – 2025) – 586 units

REALISTIC DEVELOPMENT POTENTIAL

Given the lack of vacant and available land in the Borough, Fair Lawn has sought a Vacant Land Adjustment (VLA) for its prospective Third Round obligation. To this end, the Borough has prepared a vacant land inventory and analysis in accordance with N.J.A.C. 5:93-4.2 to determine a realistic development potential for development of new housing with the limitations of the built-out nature of the Borough, by reviewing all lands in the Borough which may be available and suitable for development of affordable housing.

According to the report, the Borough can realistically be expected develop 52 new units of affordable housing by 2025.

A copy of the Borough’s Vacant Land Analysis report can be found in Appendix B.

REHABILITATION OBLIGATION

Fair Lawn has a Rehabilitation Obligation, or Present Need, of 42 units. The Borough will address this present need obligation through a combination of a municipal rehabilitation program, and the County's rehabilitation program. The Bergen County Home Improvement Program is available to all residents of Bergen County to provide assistance to low- or moderate-income homeowners for upgrading homes and making necessary repairs. The program provides no interest, no monthly payment loans to income eligible homeowners. Payment is not due until the time that the house is sold. Since July of 2010, there have been 2 units rehabilitated by the Bergen County Home Improvement Program in the Borough of Fair Lawn.

However, it appears that the 2 units that have been rehabilitated by the County do not necessarily qualify for rehabilitation credits in accordance with N.J.A.C. 5:93-5.2. Therefore, the Borough will not claim any credits for existing rehabilitated units through the County Program. It is noted though that the program will remain available to all Fair Lawn residents, and the Borough will actively promote the Bergen County Home Improvement Program to low- and moderate-income residents as a tool and source of funds for any necessary home repairs.

Fair Lawn anticipates that an additional 5 units of substandard housing will be rehabilitated by the Bergen County Home Improvement Program, or 1 each year by 2025. The Borough intends to coordinate with Bergen County to help ensure the 5 projected rehabilitation units will be credit worthy. With the additional 5 units being rehabilitated by the County, this leaves an obligation of 37 units to be rehabilitated by 2025. The Borough will establish a municipal Rehabilitation Program to satisfy this obligation. The municipal Rehabilitation Program will provide an opportunity for any existing units, either rental or owner occupied by a low- or moderate-income household to be rehabilitated so that they are consistent with all building codes and standards, in accordance with N.J.A.C. 5:93-5.2.

The Borough's plan to spend affordable housing trust fund monies on rehabilitation can be found in the Spending Plan in Appendix Q.

A draft of the Municipal Rehabilitation Program Manual can be found in Appendix D.

PRIOR ROUND OBLIGATION

As noted above, the Borough has an obligation of 152 units to satisfy its Prior Round (1987-1999) obligation. Fair Lawn must meet the following minimum and maximum requirements when addressing this obligation:

- Age-Restricted: A maximum of 25% of credits claimed by the may be age-restricted, or senior housing units.
 - $152 \times 0.25 = 38$ age restricted credits maximum.
- Rental: A minimum of 25% of the total obligation must be rental units.
 - $152 \times 0.25 =$ at least 38 rental unit credits.
- Rental Bonus: The Borough may claim bonus credits for rental units, up to two credits for each family rental unit. The maximum number of rental bonus credits shall be equal to the Borough's rental obligation.
 - Rental obligation = 38 rental bonus credits maximum.

In accordance with the Borough's Settlement Agreement with Fair Share Housing Center the Borough will address this Prior Round obligation through the following mechanisms:

PRIOR CYCLE CREDITS

Association for Retarded Citizens (ARC) of Bergen and Passaic Counties

Block 1101, Lot 3.02
0-07 Saddle River Road
4 Credits – Constructed

The ARC of Bergen and Passaic Counties operates a 4-bedroom special needs group home for up to 5 individuals at a facility on Saddle River Road. The group home has been licensed by the Department of Human Services and operating at this location since 1982.

All crediting documentation for supportive needs housing can be found in Appendix G.

Total Prior Cycle Credits - 4

FAMILY RENTAL PROJECTS

Fair Lawn Commons

Block 4702, Lot 1
16-05 Fair Lawn Avenue
38 credits + 3 bonus credits – Constructed

Fair Lawn Commons is an inclusionary development on Fair Lawn Avenue that includes 52 units of affordable housing which consists of 38 family rental apartment units, and 14 senior

rental apartment units. The project was constructed in 1999, and each affordable unit within the complex is deed restricted until August 31, 2029. The Borough will claim 3 additional bonus credits from the family rental units as well.

A copy of the deed to the property can be found in Appendix F.

River House Condominiums

Block 5610, Lots 33-38
13-23 River Road
3 credits + 3 bonus credits - Constructed

The River House Condominium project was approved in 2008 as a 17-unit inclusionary condominium project. Three of the units are affordable family rental units. The Borough will claim 3 credits for the units, and 3 additional bonus credits from this existing project.

Total Prior Round Family Rental Credits: 41 + 6 bonus credits = 47 credits

AGE-RESTRICTED SENIOR RENTAL PROJECTS

Fair Lawn Commons

Block 4702, Lot 1
16-05 Fair Lawn Avenue
14 credits – Constructed

Fair Lawn Commons is an inclusionary development on Fair Lawn Avenue that includes 52 units of affordable housing which consists of 38 family rental apartment units, and 14 senior rental apartment units. The project was constructed in 1999, and each affordable unit within the complex is deed restricted until August 31, 2029. The Borough will claim 4 additional bonus credits from the family rental units as well.

A copy of the deed to the property can be found in Appendix F.

Fair Lawn Senior Housing (HADCO/KEM)

Block 5834, Lot 1.02
18-25 River Road
23 credits – Under Construction

This project is an affordable senior living project that was granted approval in 2017 and is now under construction. The project consists of 84 total units, with 79 of those units being age-restricted senior one-bedroom rental apartments, and 5 units being special needs one-bedroom units. The project was awarded Low Income Housing Tax Credits (LIHTC) to fund its construction and the acquisition of land for the project was funded by the Borough's affordable housing trust fund. The Borough will apply 23 credits of senior rental units of the 84 total units to its Prior Round obligation, with the remaining 61 units being applied to its unmet need obligation.

A copy of the approval for this project can be found in Appendix E.

Total Prior Round Age-Restricted Rental Credits: 37 credits

FOR SALE FAMILY PROJECTS

Landmark at Radburn LLC / Crossings at Radburn / Pulte

Block 3610, Lot 2
Plaza Road
33 credits – Under Construction

This project is located on Plaza Road at the corner of Coopers Way in the historic Radburn section of the Borough. This site and project were the subject of a previous “builders remedy” lawsuit and has been approved to construct a mixed use development consisting of townhouses and multi-family buildings. The project consists of 165 total units, with a 20% affordable set aside for 33 affordable units on the site. The affordable housing will consist of 6 one-bedroom units, 20 two-bedroom units, and 7 three-bedroom units. Approval for the project was initially granted in 2013, and an amended approval was granted in 2018. The project is currently under construction.

A copy of the resolution of approval for this project can be found in Appendix E.

Total Prior Round Family for Sale Credits: 33 credits

SUPPORTIVE / SPECIAL NEEDS PROJECTS

Advance Housing Inc. / Alliance Against Homelessness of Bergen County

Block 3223.01, Lot 17
23-10 Berkshire Road
4 credits + 4 bonus credits – Constructed

The Alliance Against Homelessness of Bergen County operates a supportive housing facility on Berkshire Road in the Borough that has been licensed by the Department of Health to provide housing for up to 4 individuals in 4 separate bedrooms. The facility has been operating in the Borough since 1992. The Borough will claim 4 credits and 4 additional bonus credits for this facility.

Allies Inc.

Block 2204, Lot 4
33-11 Ryan Road
5 credits + 5 bonus credits – Constructed

Allies Inc. operates a special needs housing facility in the Borough on Ryan Road. The facility is licensed by the Department of Health to provide care for 5 individuals with developmental disabilities. The Borough will claim 5 credits and 5 additional bonus credits for this supportive needs facility.

Care Plus NJ, Inc.

Block 5816, Lot 9
8-18 Fern Street
5 credits + 5 bonus credits – Constructed

The Department of Human Services has licensed Care Plus NJ, Inc. to operate a supervised supportive needs housing facility for up to 5 residents at a group home on Fern Street. The Borough will claim 5 credits and 5 additional bonus credits for this facility.

Fair Lawn Mental Health Center / Care Plus

Block 3703, Lot 6
29-14 High Street
3 credits + 3 bonus credits – Constructed

Care Plus NJ, Inc. along with the Fair Lawn Mental Health Center operates a 3-bedroom group home on High Street. The Borough will claim 3 credits and 3 additional bonus credits for this project.

Heart to Heart Home Care / Jawonio NJ Inc.

Block 3220.01, Lot 27
24-10 Ellington Road
4 credits + 4 bonus credits – Constructed

Heart to Heart Home Care c/o Jawonio NJ Inc. has been licensed by the Department of Human Services to operate a group home facility for up to 5 residents in 4 separate bedrooms. The Borough will claim 4 credits and an additional 4 bonus credits for this group home facility.

Jewish Association for Developmental Disabilities

Block 3309, Lot 12
1-20 29th Street
6 credits + 6 bonus credits – Constructed

The Jewish Association for Developmental Disabilities operates a six-bedroom group home facility for persons with disabilities on 29th Street. The facility is licensed by the Department of Human Services. The Borough will claim 6 credits and an additional 6 bonus credits for this facility.

Life Opportunities Unlimited

Block 4411, Lot 19
8-26 Plymouth Drive
4 credits + 4 bonus credits – Constructed

This facility operated by Life Opportunities Unlimited provides 4 bedrooms for individuals with developmental disabilities. The group home has been licensed by the Department of Human Services. The Borough will claim 4 credits and 4 additional bonus credits for this facility.

All crediting documentation for supportive needs housing can be found in Appendix G.

Total Prior Round Supportive/Special Needs Housing Credits: 31 + 31 bonus credits = 62 credits.

Prior Round Summary:

Table 19 - Prior Round (Cycles I / II) Projects				
	Affordable Units/Credits	Bonus Credits	Unit Type	Status
Prior Cycle Credits				
Association for Retarded Citizens of Bergen and Passaic Counties,	4		Prior Cycle	Constructed
Total	4			
Rental				
Fair Lawn Commons*	38	4	Family Rental	Constructed and Occupied in 2000
River House Condos	3	3	Family Rental	Approved 11/2008, Constructed and Occupied in 2012
Fair Lawn Commons*	14		Age-Restricted Rental	Constructed and Occupied in 2000
Fair Lawn Senior Housing (HADCO / KEM)	23		Age-Restricted Rental	Approved 1/2017
Total	78	7		
Total Units and Bonus	85			
Supportive/Special Needs				
Alliance Against Homelessness of Bergen County, Inc.	4	4	Permanent Supportive Housing	Constructed
Allies, Inc.	5	5	Group Home	Constructed
Care Plus NJ, Inc.	5	5	Group Home	Constructed
Fair Lawn Mental Health Center / CarePlus	3	3	Group Home	Constructed
Heart to Heart Home Care / Jawonio NJ, Inc.	4	4	Group Home	Constructed
Jewish Association for Developmental Disabilities	6	6	Group Home	Constructed
Life Opportunities Unlimited	4	4	Group Home	Constructed
Total	31	31		
Total Units and Bonus	62			
For-Sale				
Landmark at Radburn, LLC / Crossings at Radburn / Pulte	33		Family-for-Sale	Approved 4/2013 Under Construction
Total	33			

Table 19 - Prior Round (Cycles I / II) Projects

Prior Round Summary	
Total Credits Provided	184
Total Obligation	152
Shortfall	0
Surplus (Fair Lawn Commons)*	32

*Fair Lawn Commons is a 52-unit development with 38 family rental units and 14 senior rental units. As the Borough has 32 surplus prior round credits, 32 family rental credits from Fair Lawn Commons will be applied to the Borough's Third Round RDP.

- Age-Restricted: The Borough may claim credit for a maximum of 38 age restricted units.
 - 37 age restricted credits have been applied.
 - (23 Fair Lawn Senior Housing + 14 Fair Lawn Commons)
- Rental: A minimum of 38 units must be rental units.
 - 109 rental credits are being applied
- Rental Bonus: The Borough may claim up to 38 bonus credits for rental units.
 - 38 rental bonus credits are being claimed by the Borough.

As shown in the table above, the Borough satisfies its Prior Round obligation by providing 184 credits, where 152 credits are required. This leaves the Borough with a surplus of 32 credits that may be applied to the Third Round. The Borough also satisfies its rental and family unit obligations, and will not claim more age-restricted credits, or rental bonus credits than is allowed.

A map of all Prior Round affordable housing locations can be found in Appendix C.

THIRD ROUND OBLIGATION

The Borough has a Third Round Obligation of 586 units. For the purposes of this Plan, this obligation is inclusive of the Gap Period need of 1999 – 2015, in accordance with the ruling of the Court in Judge Jacobson’s opinion.

However, as adjusted due to the Vacant Land Analysis performed by the Borough, a realistic development potential (RDP) of 52 units will be applied to the Borough’s fair share obligation.

Fair Lawn must meet the following minimum and maximum requirements when addressing this obligation:

- Age-Restricted: A maximum of 25% of credits claimed by the may be age-restricted, or senior housing units.
 - $52 \times 0.25 = 13$ age restricted credits maximum.
- Family: A minimum of 50% of credits to satisfy the Third Round RDP shall be for units available to families (2-3 bedroom units)
 - $52 \times 0.50 = 26$ family units minimum.
- Rental: A minimum of 25% of credits claimed by the Borough must be rental units.
 - $52 \times 0.25 =$ at least 13 rental unit credits.
- Rental Bonus: The Borough may claim bonus credits for rental units, up to two credits for each family rental unit, and 1.33 credits for any age restricted rental unit. The maximum number of rental bonus credits shall be equal to the Borough’s rental obligation.
 - $52 \times 0.25 = 13$ rental bonus credits maximum.

The Borough intends to address this RDP through the following mechanisms:

FAMILY RENTAL PROJECTS

Fair Lawn Commons (Prior Round Surplus)

Block 4702, Lot 1
 16-05 Fair Lawn Avenue
 32 credits + 13 bonus credits – Constructed

Fair Lawn Commons is an inclusionary development on Fair Lawn Avenue that includes 52 units of affordable housing which consists of 38 family rental apartment units, and 14 senior rental apartment units. The project was constructed in 1999, and each affordable unit within the complex is deed restricted until August 31, 2029. The Borough will claim 32 credits from this development as prior round surplus credits. As each of these surplus credits are for family rental units, the Borough will claim an additional 13 bonus credits from this project.

A copy of the deed to the property can be found in Appendix F.

River Lofts

Block 5616, Lot 1
 12-28, 12-44 River Road
 4 credits – Approved

This mixed-use development received approval from the Borough’s Planning Board in January of 2019. The project consists of 26 residences and 3,000 square feet of commercial space. As the project is within the River Road Affordable Housing overlay district a 15% set aside for affordable rental housing is required, so this project is anticipated to produce 4 affordable rental units. The developer of the site has indicated that 1 very low-income family rental unit will be produced on site, and they are investigating the possibility of developing a 3-bedroom supportive needs facility to satisfy the remaining obligation, either on site or off site. The site to be the home of the supportive needs facility and the details of the units are currently pending the negotiations of a developer’s agreement with the Borough.

A copy of the resolution of approval for this project can be found in Appendix E. A copy of the executed developer’s agreement will be provided when available.

Total Third Round Family Rental Credits: 35 + 13 bonus credits = 48 credits

SUPPORTIVE / SPECIAL NEEDS PROJECTS

Children’s Aid & Family Service, Inc.

Block 2316, Lot 7
 2-15 35th Street
 4 credits – Constructed

The Department of Human Services has granted a license to Children’s Aid and Family Services to operate a group home for up to 4 individuals in a facility on 35th Street in the Borough. Fair Lawn will claim 4 credits for this facility.

All crediting documentation for supportive needs housing can be found in Appendix G.

Total Third Round Supportive/Special Needs Housing Credits: 4 credits

Third Round RDP Summary:

Table 20 - Third Round RDP Projects				
	Affordable Units/Credits	Bonus Credits	Unit Type	Status
Rental				
Prior Round Surplus (Fair Lawn Commons)*	32	13*	Family Rental	Constructed and Occupied in 2000
River Lofts	4		1 Family Rental	Approved 1/2019

Table 20 - Third Round RDP Projects				
			3 Rental Units on or off-site	
Children's Aid & Family Services, Inc.	4		Group Home	Constructed
Total	40	13		
Total Units and Bonus	53			

*32 surplus credits of family rental housing from the prior round are being applied from Fair Lawn Commons. As family rental housing, these surplus credits are eligible for rental bonus credits.

- **Age-Restricted:** The Borough may claim a maximum of 13 age restricted units.
 - No credits for age restricted units are being applied to the Third Round RDP.
- **Family:** A minimum of 26 units shall be available to families.
 - 33 units will be available to families.
 - (32 Fair Lawn Commons + 1 River Lofts)
- **Rental:** A minimum of 13 units shall be rental units.
 - 36 units will be rental units.
 - (32 Fair Lawn Commons + 4 River Lofts)
- **Rental Bonus:** A maximum of 13 bonus credits for rental units may be claimed.
 - 13 rental bonus credits will be claimed.

As noted in the table and text above, the Borough will satisfy its Third Round Realistic Development Potential obligation of 52 units. The Borough satisfies its minimum family unit obligation of 26 units, satisfies its minimum rental obligation of 13 units, and will not claim more than 13 rental bonus credits, which is the maximum permitted. The Borough is not claiming any credits in the Third Round for age-restricted housing.

A map of all Third Round RDP projects can be found in Appendix C.

UNMET NEED

While the Borough has an RDP of 52 units, with the total Third Round Obligation of 586, this leaves an unmet need of 534 affordable units. The Borough intends to address unmet need through the following projects and mechanisms:

FAMILY RENTAL PROJECTS

24-19 Broadway LLC

Block 3321, Lots 16 - 22
24-19 Broadway
2 credits – Proposed / Approval pending

This site on the corner of Broadway and Plaza Road is the subject property of a proposal for 18 residential units which would include 2 affordable family rental units. The application was initially submitted to the Planning Board for site plan approval, but it has been determined that a “d” variance will be required due to the proposal including residences on the ground level of the building, which is not permitted. The developer is in the process of applying to the Borough’s Zoning Board for a variance to permit the application, with 2 affordable units. The Borough has agreed as one of the terms of the Settlement Agreement that if the variance application is unsuccessful, the property will be rezoned to permit affordable housing development on site as proposed.

A copy of the initial site plan application to the Planning Board is included in Appendix E.

Clariant Site

Block 5729, Lot 2
14-00 3rd Street
30 credits – Proposed

The Borough will amend its zoning ordinance to permit up to 150 residential units on the former Clariant site, with a mandatory affordable housing set aside of 20%, which will yield 30 affordable family rental units. The proposed ordinance has a 20% very low-income requirement of the set aside as well. The proposed ordinance requires that all affordable units be constructed on site and be non-age-restricted.

A copy of the proposed zoning ordinance for the Clariant Site can be found in Appendix I.

AGE-RESTRICTED SENIOR RENTAL PROJECTS

Fair Lawn Senior Housing

Block 5834, Lot 1.02
18-25 River Road
56 credits – Under Construction

This project is an affordable senior living project that was granted approval in 2017 and is now

under construction. The project consists of 84 total units, with 79 of those units being age-restricted senior one-bedroom rental apartments, and 5 units being special needs one-bedroom units. The project was awarded Low Income Housing Tax Credits (LIHTC) to fund its construction and the acquisition of land for the project was funded by the Borough's affordable housing trust fund. As 23 credits of age-restricted senior rental units are being claimed in the Prior Round obligation, the remaining 56 senior rental units, and 5 units of supportive / special needs housing are being applied to the Borough's unmet need obligation.

A copy of the resolution of approval for this project can be found in Appendix E.

Coremark

Block 5724, Lots 1.02, 4, 4.01
1600 River Road
15 credits – Approved

The Coremark project recently received approval in November of 2019 from the Zoning Board of Adjustment to permit the construction of a 29-unit independent living senior residential facility, and an assisted living senior residential facility to consist of 70 units. Within the assisted living facility, 15 of the beds will be reserved for low- and moderate-income seniors. These 15 low/moderate-income assisted living beds will be applied to the Borough's unmet need obligation.

A copy of the resolution of approval from the Zoning Board of Adjustment can be found in Appendix E.

DM Capital Corp / 12-01 River Road

Block 5611, Lots 42-47
12-01 River Road
3 credits – Approved

This site on the corner of River Road and Berdan Avenue was recently approved in November of 2019 to construct a 16-unit apartment building as a part of a mixed use development. The residential component will include 8 two-bedroom units and 8 one-bedroom units, with each apartment being ADA compliant. As the site is within the River Road affordable housing overlay district, a set aside for affordable housing will be required. 3 affordable units will be required of this project, and those 3 units will be applied to the Borough's unmet need obligation.

A copy of the resolution of approval for this project can be found in Appendix E.

SUPPORTIVE / SPECIAL NEEDS PROJECTS

Fair Lawn Senior Housing

Block 5834, Lot 1.02
18-25 River Road
5 credits – Approved, LIHTC awarded

This project is an affordable senior living project that was granted approval in 2017 and is now under construction. The project consists of 84 total units, with 79 of those units being age-restricted senior one-bedroom rental apartments, and 5 units being special needs one-bedroom units. The project was awarded Low Income Housing Tax Credits (LIHTC) to fund its construction and the acquisition of land for the project was funded by the Borough's affordable housing trust fund. As 23 credits of age-restricted senior rental units are being claimed in the Prior Round obligation, the remaining 56 senior rental units, and 5 units of special / supportive needs housing are being applied to the Borough's unmet need obligation.

A copy of the resolution of approval for this project can be found in Appendix E.

Bergen County United Way / Madeline Housing Partners LLC

Block 5709.1, Lots 2-3
9-08, 9-12 Campbell Road
6 credits – Approved

This project was approved by the Borough's Planning Board in February of 2019. The project will consist of a 4-bedroom group home, with 2 attached independent living apartments. The site was owned by the Borough and has been sold to the BCUW and Madeline Housing Partners LLC to construct the group home facility. 6 credits will be applied to the Borough's unmet need obligation from this project.

A copy of the resolution of approval for this project can be found in Appendix E.

Vantage Health Systems Inc.

Block 3709, Lot 1, C518C
25-18 High Street Unit C
3 credits – Constructed

Vantage Health Systems operates three supportive needs housing facilities in the Borough, each of which is a townhouse unit within the Park Hill condominium complex. Each unit is a 3-bedroom unit and is constructed and occupied. The Borough will apply 3 credits to its unmet need obligation from this project.

All crediting documentation for supportive needs housing can be found in Appendix G.

Vantage Health Systems Inc.

Block 3721, Lot 1, C312B
23-12 Howard Avenue Unit B
3 credits – Constructed

Vantage Health Systems operates three supportive needs housing facilities in the Borough, each of which is a townhouse unit within the Park Hill condominium complex. Each unit is a 3-bedroom unit and is constructed and occupied. The Borough will apply 3 credits to its unmet need obligation from this project.

All crediting documentation for supportive needs housing can be found in Appendix G.

Vantage Health Systems Inc.

Block 3721, Lot 1, C316C
 23-16 Howard Avenue Unit C
 3 credits – Constructed

Vantage Health Systems operates three supportive needs housing facilities in the Borough, each of which is a townhouse unit within the Park Hill condominium complex. Each unit is a 3-bedroom unit. The Borough will apply 3 credits to its unmet need obligation from this project.

All crediting documentation for supportive needs housing can be found in Appendix G.

ZONING MECHANISMS

River Road Overlay District Expansion

Blocks: Portions of 5610, 5611, 5612, 5613, 5617, 5618, 5621, 5624, 5628
 River Road, from Fair Lawn Avenue to Legion Place
 Credits: To Be Determined – Proposed

Section 49-12 of the Borough’s Code currently outlines the provisions for the existing River Road affordable housing inclusionary overlay district, which covers all of the properties with frontage along River Road from Berdan Avenue to Fair Lawn Avenue. The overlay currently requires an affordable housing set aside of 20% for all for-sale units, and 15% for all rental units constructed at densities of 6 units/acre or greater.

The Borough proposes to expand the overlay district further north along River Road up to the intersection with Legion Place, as well as expand east and west along Fair Lawn Avenue to George Street and 6th Street to include properties with frontage along the entirety of that intersection. Additionally, the Borough proposes to increase the permitted density of the zoning in this overlay district to a sliding scale where larger development tracts are permitted greater densities in order to encourage assemblage of land to make projects more feasible. The proposed sliding scale density is as follows:

- Tracts less than 1 acre = 12 units/acre max density
- Tracts from 1.0 to 1.5 acres = 16 units/acre max density
- Tracts greater than 1.5 acres = 20 units/acre max density

With the majority of the area along River Road being built-out with smaller scale residential and commercial buildings, the increased density will help to attract potential development on any tracts that can be assembled. We estimate that at a full build out, the overlay could produce as many as 50 new affordable dwellings if over time each block is assembled and developed with new mixed-use buildings.

A draft of the proposed ordinance, and a map depicting the proposed boundaries for the expanded River Road Overlay District can be found in Appendix J.

Fair Lawn Avenue Overlay District

Blocks: Portions of 3605, 3609, 3722, 3726, 4601, 4619, 4701, 4701.01
 Fair Lawn Avenue, from Chandler Drive to Abbott Road
 Credits: To Be Determined – Proposed

The Borough proposes to create an additional affordable housing overlay district, which would cover approximately 8 blocks of Fair Lawn Avenue in the Radburn section, near the Radburn NJ Transit train station. Similar to the River Road overlay district, except that this district would require all new development to include an affordable housing set aside of 20% for all units. In order to encourage development and make inclusionary development more feasible the permitted density for mixed use projects in the overlay district shall be the same sliding scale as for the River Road district:

- Tracts less than 1 acre = 12 units/acre max density
- Tracts from 1.0 to 1.5 acres = 16 units/acre max density
- Tracts greater than 1.5 acres = 20 units/acre max density

This proposed overlay excludes the historically designated Radburn Plaza commercial building on the corner of Fair Lawn Avenue and Plaza Road. At full buildout, the district could yield as many as 50 new affordable units within new mixed-use inclusionary buildings.

A draft of the proposed ordinance, and a map depicting the proposed boundaries for the Fair Lawn Avenue Overlay District can be found in Appendix K.

Mandatory Set-Aside Ordinance

Borough-wide
 Credits: To Be Determined – Proposed

Section 49-2.D of the Borough’s affordable housing ordinance currently requires that all developments of residential projects that will have 5 or more new units, and a density of 8 units/acre or greater, to provide an affordable housing inclusionary set aside. The ordinance requires set asides of 20% for all for sale units, and 15% for all rental units.

The Borough will maintain this Borough-wide mandatory inclusionary ordinance, and proposes a one significant change to the current ordinance; payments in lieu of construction will only be accepted for fractions of units, or if the payment will go directly towards an approved municipally sponsored 100% affordable project;

A draft of the proposed updated affordable housing inclusionary ordinance can be found within the updated Affordable Housing Ordinance in Appendix H.

Summary of Unmet Need Projects:

Table 21 - Unmet Need Projects			
	Affordable Units/Credits	Unit Type	Status
24-19 Broadway LLC	2	Family Rental/For-Sale	Proposed
Coremark Site	15	Assisted Living	Proposed
Clariant Site	30	Family Rental	Zoning in Place (Proposed Updates)
River Road Overlay District	TBD	Family Rental/For-Sale	Zoning in Place (Proposed Updates)
Fair Lawn Ave Overlay District	TBD	Family Rental/For-Sale	Proposed
12-01 River Road / DM Capital	3	TBD	Approved 11/2019
Fair Lawn Senior Housing	56	Age-Restricted Rental	Approved 1/2017
Fair Lawn Senior Housing	5	Age-Restricted Special Needs	Approved 1/2017
BCUW / Madeline Housing Partners, LLC	6	Group Home	Approved 2019
Vantage Health System, Inc. C518C	3	Group Home	Constructed
Vantage Health System, Inc. C312B	3	Group Home	Constructed
Vantage Health System, Inc. C316C	3	Group Home	Constructed

A map of all unmet need projects, including existing and proposed overlay zoning, can be found in Appendix C.

SUMMARY OF FAIR SHARE PLAN

As indicated in the Borough's Vacant Land Analysis and Report found in Appendix B, Fair Lawn has considered all lands available within the Borough as potential sites suitable for the development of affordable housing. This Housing Plan Element and Fair Share Plan outlines the mechanisms currently in place, and those proposed to satisfy Fair Lawn's affordable housing obligations.

AFFORDABLE HOUSING ORDINANCES

The Borough has adopted several ordinances to implement its previous Housing Plan Element and Fair Share Plans, including inclusionary zoning ordinances to require affordable units within residential developments. The Borough will adopt amendments to the zoning ordinance as applicable to permit all proposed affordable projects listed in this Plan, and to implement the terms and conditions of the settlement agreement with Fair Share Housing Center.

The Affordable Housing Ordinance will require that at minimum, all new affordable housing developments provide 13 percent of the affordable units to households that qualify as very low income, and that at least half of the very low-income units are made available for families.

The Borough will also adopt an amendment to its Development Fee Ordinance to ensure that in addition to the affordable housing to be produced directly, funds are available to the Borough to implement its required affordability assistance measures and administer all affordable housing programs.

As noted above, the Borough is also amending the existing River Road overlay district standards to expand the boundaries of the overlay and increase the permitted number of units that can be built, in an effort to encourage development of affordable dwellings. A similar overlay district is being created for Fair Lawn Avenue in the vicinity of the Radburn area of the Borough. The Clariant site is also proposed for amended zoning to permit inclusionary affordable housing, consistent with the Settlement Agreement.

A copy of the amended Affordable Housing Ordinance can be found in Appendix H.

A copy of the amended Development Fee Ordinance can be found in Appendix L.

A copy of the proposed ordinances for the Clariant Site, the River Road Overlay, and the Fair Lawn Avenue Overlay, can be found in Appendices J, K, and L, respectively.

INCOME DISTRIBUTION

The Borough will require that at least 50% of all units addressing the Third Round Obligation will be available to very low, and low-income households. No more than 50% of units shall be available to moderate income households. The following table indicates the low and moderate income split of affordable family units; all supportive needs housing and senior housing is

excluded from the chart:

Table 22: Income Distribution				
	Total Credits	Very Low	Low	Moderate
Fair Lawn Commons	52		26	26
River House Condos	3	1	1	1
Crossings/Landmark at Radburn	33		17	16
River Lofts	4	4		
24-19 Broadway	2	1		1
12-01 River Road / DM	3	1	1	1
Clariant Site	30	6	9	15
Totals	127	13	54	60

When the supportive needs and senior housing units are excluded, the Borough will have 60 units out of 127 units available to moderate income households, and the remaining 67 units available to low or very low-income households.

A minimum of 13% of all units referenced in this Plan, except for those constructed or granted approval prior to July 2008, shall be made available to very-low-income households. At least half of those very low-income units are required to be available to families. Fair Lawn will comply with this requirement as follows:

Table 23 - Very Low Income Units			
Projects	Affordable Units/Credits	Very Low Income	Type of Unit
River House Condos	3	1	Family Rental
River Lofts	4	1	Family Rental
Landmark Site	33	0	For Sale
Clariant Site	30	6	Family Rental
Coremark Site	15	2	Senior Rental
Fair Lawn Senior Housing (Hadco/KEM)	84	11	Senior Rental
24-19 Broadway LLC	2	0	Family Rental
BCUW / Madeline Housing Partners, LLC	6	6	Supportive Needs
Vantage Health Systems (3 group homes)	9	9	Supportive Needs
Children’s Aid & Family Services, Inc.	4	4	Supportive Needs

Table 23 - Very Low Income Units			
Total	190	40	
Very Low-Income Units Required	190 x 0.13 = 25 units		
VLI Family Units Required	25 x 0.5 = 13		
Percentage of Very Low Units Provided	40 / 190 = 21.1%		
Total Family Very Low-Income Units Provided	8		

Fair Lawn will require that at least 13 percent of all affordable units in future unmet need projects or any project developed through the Borough-wide set aside ordinance to be very-low income units. In projects already constructed and proposed, Fair Lawn will provide 40 units of very low-income housing, which is greater than the 25 or 13 percent that is required. The Borough is required to provide at least half of the very-low income unit requirement as family units, which would be 13 units. The Borough will provide 8 units of family rentals that will be available to very-low income households. In order to potentially make up for this deficiency, Fair Lawn proposes to increase the very-low income unit requirements for all new developments within the River Road Affordable Housing overlay district, and within the proposed zoning for the Clariant site. Rather than requiring that 13 percent of affordable units be very-low income units, the proposed ordinances will require 20 percent of affordable units to be available to very-low income households.

A copy of the proposed ordinance amending the River Road Affordable Housing Overlay can be found in Appendix J.

BEDROOM DISTRIBUTION

Table 24 below indicates the mixture of 1-bedroom, 2-bedroom, and 3-bedroom units in each family project. All supportive needs housing, as well as senior housing are one-bedroom units and are excluded from this table.

Table 24: Bedroom Distribution				
	Total Credits	One Bed	Two Bed	Three Bed
Fair Lawn Commons	52	26	18	8
River House Condos	3	1	1	1
Crossings/Landmark at Radburn	33	6	20	7
River Lofts	4	3	1	
24-19 Broadway	2		2	
12-01 River Road / DM	3		3	

Table 24: Bedroom Distribution				
Clariant Site	30	6	17	7
Totals	127	42	62	23

Fair Lawn will ensure that all newly constructed affordable dwelling units to satisfy the Third Round Obligation and Unmet Need will be constructed to comply with the bedroom distribution requirements of the Uniform Housing Affordability Controls (UHAC) found at N.J.A.C. 5:80-26.1. This requires the following:

- A maximum of 25% of all units may be efficiency or one-bedroom units.
- A minimum of 25% of all units shall be three-bedroom units.
- A minimum of 50% of all affordable units shall be available to families (2 or 3-bedroom units).

Table 25 below shows the income and bedroom distribution together for each project, excluding the supportive needs housing and senior housing projects:

Table 25: Income and Bedroom Distribution										
		Very Low Income			Low Income			Moderate Income		
	Total Credits	One Bed	Two Bed	Three Bed	One Bed	Two Bed	Three Bed	One Bed	Two Bed	Three Bed
Fair Lawn Commons	52				13	9	4	13	9	4
River House Condos	3	1				1				1
Crossings/Landmark at Radburn	33				3	10	4	3	10	3
River Lofts	4	3	1							
24-19 Broadway	2		1						1	
12-01 River Road / DM	3		1			1			1	
Clariant Site	30	1	3	2	2	5	2	3	9	3
Totals	127	5	6	2	18	26	10	19	30	11

The Borough’s amended affordable housing ordinance will implement these terms.

AFFORDABLE HOUSING ADMINISTRATION

Each existing project within the Borough is currently administered by an entity appointed by the owner or manager of the development. The Borough will ensure that all future projects are administered by a qualified affordable housing professional and will appoint an Administrative Agent to administer all projects that do not have their own administrative agent, as well as to administer the Borough’s Rehabilitation Program.

A draft resolution to appoint a municipal Administrative Agent, as well as a draft Request for Qualifications (RFQ) for an Administrative Agent can be found in Appendix M.

Pursuant to N.J.A.C. 5:80-26.15(f), the Borough will adopt an updated Affirmative Marketing Plan to ensure that all available affordable units are marketed to the appropriate populations.

A draft copy of the Borough's Affirmative Marketing Plan can be found in Appendix N.

The Borough will appoint a municipal staff member as the designated Affordable Housing Liaison, who will be responsible for overseeing all affordable housing regulations and corresponding with administrative agent(s), the public, and all other related affordable housing professionals.

A draft resolution appointing a municipal Affordable Housing Liaison can be found in Appendix O.

The Borough Council will adopt by resolution an Affordable Housing Trust Fund Spending Plan, which will provide an outline of how the Borough intends to utilize its funds collected in the Affordable Housing Trust Fund to further the goals of this Plan, and provide additional opportunities for the rehabilitation, or construction of affordable housing in the Borough, or to make existing dwellings affordable to low and moderate income households.

A draft of the Borough's Spending Plan can be found in Appendix P.

The Borough will address the minimum affordability assistance requirements of the Affordable Housing Trust Fund in accordance with the Affordability Assistance Program that it will implement. A draft Affordability Assistance Program Manual can be found in Appendix Q.

APPENDICES

DOCUMENTS

Appendix A – Settlement Agreement with Fair Share Housing Center

Appendix B – Vacant Land Inventory and Analysis Report

Appendix C – Affordable Housing Site Maps

 Prior Round Sites

 Third Round / RDP Sites

 Unmet Need Project Sites

CREDITING DOCUMENTATION

Appendix D – Municipal Rehabilitation Program Manual and County Rehab Documentation

Appendix E – Development Approvals and Applications

Appendix F – Affordable Housing Deeds

Appendix G – Supportive and Special Needs Documentation

ORDINANCES AND RESOLUTIONS

Appendix H – Affordable Housing Ordinance

Appendix I – Clariant Site Zoning Ordinance

Appendix J – River Road Overlay Ordinance

Appendix K – Fair Lawn Avenue Overlay Ordinance

Appendix L – Development Fee Ordinance

Appendix M – Resolution Appointing Administrative Agent

Appendix N – Affirmative Marketing Plan and Resolution

Appendix O – Resolution Appointing Municipal Housing Liaison

Appendix P – Municipal Spending Plan and Resolution

Appendix Q – Affordability Assistance Manual

Appendix R – Resolution of the Planning Board Adopting HEPFSP

Appendix S – Resolution of the Governing Body Endorsing HEPFSP

Appendix A – Settlement Agreement with Fair Share Housing Center



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November 27, 2019

Jason Hyndman
DeCotiis, Fitzpatrick, & Cole
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31
Teaneck, NJ 07666

Re: **In the Matter of the Borough of Fair Lawn, County of Bergen, Docket
No. BER-L-9222-18**

Dear Mr. Hyndman:

This letter memorializes the terms of an agreement reached between the Borough of Fair Lawn (the "Borough" or "Fair Lawn"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Fair Lawn filed the above-captioned matter on December 27, 2018 seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Borough and FSHC have agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement terms

The Borough and FSHC hereby agree to the following terms:

1. FSHC agrees that the Borough, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round Obligation instead of doing so through plenary adjudication of the Third Round Obligation.

3. FSHC and Fair Lawn hereby agree that Fair Lawn's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report ¹)	42
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	152
Third Round (1999-2025) Obligation (per Mercer County Decision)	586

4. For purposes of this Agreement, the Third Round Obligation shall be deemed to include the Gap Period present need for new construction to address the affordable housing needs of households formed from 1999-2015, a need that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), and the Prospective Need, which is a measure of the affordable housing need anticipated to be generated between July 1, 2015 and June 30, 2025. The parties agree for purposes of settlement to establish 586 units as the Borough's Third Round Prospective Need Fair Share Obligation as the number that that multiple experts have used as an extrapolation pursuant to the methodology established by the Honorable Mary C. Jacobson, A.J.S.C., decision in the consolidated declaratory judgment proceedings: In the Matter of the Municipality of Princeton, Docket No. MER-L-1550-15 and In the Matter of West Windsor Township, Docket No. MER-L-1561-15, Superior Court of New Jersey, which is not otherwise binding on either party except by way of this Settlement Agreement.
5. The Borough's efforts to meet its Rehabilitation Share will include participation in the Bergen County Housing Rehabilitation Program in coordination with the County and through a supplemental municipally operated rehabilitation program that shall be available to rental units. Said municipal program shall meet the requirements in N.J.A.C. 5:93-5.2.
6. As noted above, the Borough has a Prior Round (new construction) Obligation of 152 units, which is met through the following compliance mechanisms:

Prior Round (Cycles I / II) Projects	Affordable Units/Credits	Bonus Credits	Unit Type	Status
Prior Cycle Credits				
Association for Retarded Citizens of Bergen and Passaic Counties, 0-07 Saddle River Road	4		Prior Cycle	Constructed
Total	4			
Rental				
Fair Lawn Commons* Block 4702 / Lot 1	38	3	Family Rental	Constructed and Occupied in 2000
River House Condos Block 5610 / Lots 33-38	3	3	Family Rental	Approved 11/2008, Constructed and Occupied in 2012
Fair Lawn Commons* Block 4702 / Lot 1	14		Age-Restricted Rental	Constructed and Occupied in 2000
Fair Lawn Senior Housing (HADCO / KEM) Block 5834 / Lot 1.02	23		Age-Restricted Rental	Approved 1/2017

¹ David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May, 2016.

Prior Round (Cycles I / II) Projects	Affordable Units/Credits	Bonus Credits	Unit Type	Status
Total	78	6		
Total Units and Bonus	84			
Supportive/Special Needs				
Alliance Against Homelessness of Bergen County, Inc. Block 3223.01 / Lot 17	4	4	Permanent Supportive Housing	Constructed
Allies, Inc. Block 2204 / Lot 4	5	5	Group Home	Constructed
Care Plus NJ, Inc. Block 5816 / Lot 9	5	5	Group Home	Constructed
Fair Lawn Mental Health Center / CarePlus Block 3703 / Lot 6	3	3	Group Home	Constructed
Heart to Heart Home Care / Jawonio NJ, Inc. Block 3220.01 / Lot 27	4	4	Group Home	Constructed
Jewish Association for Developmental Disabilities Block 3309 / Lot 12	6	6	Group Home	Constructed
Life Opportunities Unlimited Block 4411 / Lot 19	4	4	Group Home	Constructed
Total	31	31		
Total Units and Bonus	62			
For Sale				
Landmark at Radburn, LLC / Crossings at Radburn / Pulte Block 3610 / Lot 1.01	33		Family-for-Sale	Approved 4/2013 Under Construction
Total	33			
Prior Round Summary				
Total Credits Provided	183			
Total Obligation	152			
Shortfall	0			
Surplus (Fair Lawn Commons)*	31			
*Fair Lawn Commons is a 52-unit development with 38 family rental units and 14 senior rental units. As the Borough has 31 surplus prior round credits, 31 family rental credits from Fair Lawn Commons will be applied to the Borough's Third Round RDP.				

7. The Borough, has a realistic development potential (RDP) of 52 units, as calculated in Exhibit A. That RDP will be satisfied as follows:

Third Round RDP	Affordable Units/Credits	Bonus Credits	Unit Type	Status
Rental				
Prior Round Surplus (Fair Lawn Commons)*	31	13*	Family Rental	Constructed and Occupied in 2000
River Lofts Block 5616 / Lot 1	4		Family Rental/For-Sale	Approved 1/2019

Children's Aid & Family Services, Inc. Block 2316 / Lot 7	4		Group Home	Constructed
Total	39	13		
Total Units and Bonus	52			
*31 surplus credits of family rental housing from the prior round are being applied from Fair Lawn Commons. As family rental housing, these surplus credits are eligible for rental bonus credits.				

8. The RDP of 52, subtracted from the agreed upon Third Round Obligation of 586 units, results in an Unmet Need of 534 units, which shall be addressed through the following mechanisms:

Unmet Need/Projects	Affordable Units/Credits	Unit type	Status
24-19 Broadway LLC Block 3321 / Lots 16-22	2	Family Rental/For-Sale	Proposed
Coremark Block 5724 / Lots 1.02, 4, 4.01	12	Assisted Living	Proposed
Clariant Site* Block 5729 / Lot 2	30	Family Rental	Proposed
B-4/B-5 OR Overlay RIVER ROAD Various Blocks and Lots (expanded north)	TBD	Family Rental/For-Sale	Zoning in Place (Proposed Updates)
Fair Lawn Ave Overlay Blocks and Lots TBD	TBD	Family Rental/For-Sale	Proposed
Fair Lawn Senior Housing Block 5834 / Lot 1.02	56	Age-Restricted Rental	Approved 1/2017
Fair Lawn Senior Housing Block 5834 / Lot 1.02	5	Age-Restricted Special Needs	Approved 1/2017
BCUW / Madeline Housing Partners, LLC Block 5709.01 / Lots 2 & 3	6	Group Home	Approved 2019
Vantage Health System, Inc. Block 3709 / Lot 1, C518C	3	Group Home	Constructed
Vantage Health System, Inc. Block 3721 / Lot 1, C312B	3	Group Home	Constructed
Vantage Health System, Inc. Block 3721 / Lot 1, C316C	3	Group Home	Constructed

9. The Borough intends to address its unmet need in part through the following aspects of its plan that are not yet built, through the adoption of inclusionary zoning and 100% affordable projects, as noted below, on the following sites. Payments in lieu of constructing affordable units will only be permitted in the revised ordinances to be adopted for these sites if (1) the Borough wishes to use payments in lieu to address a fractional affordable housing unit in some or all circumstances (e.g. through the application of a 20% set-aside to a 6 unit development, the remaining 0.2 fraction could be addressed through an appropriate payment in lieu); or (2) if the payment in lieu is attributed to an approved municipally sponsored or 100% affordable project and at the time of application the applicant for development can demonstrate that the payment in lieu will create an

equivalent number of affordable units of the same type (e.g. family units if the market-rate development is a non-age-restricted development) and meeting the same bedroom distribution and very low income/low income/moderate income split that would be required on site, which units are otherwise consistent with the terms of this agreement; and the units can be constructed on a schedule consistent with what would be required by N.J.A.C. 5:93-5.6(d) for on-site units.

- a. Fair Lawn Senior Housing (Block 5834, Lot 1.02) – This project, consisting of 84 senior affordable units, received site plan approval from the Planning Board in January 2017. The developer has not yet applied for a construction permit, but was allocated Low-Income Housing Tax Credits in 2017. The location of this site is at 18-25 River Road.
- b. River Lofts (Block 5616, Lot 1) – The residential component of this mixed-use development will contain 4 affordable family rental units. The project received site plan approval from the planning board in January 2019. The project is currently under construction.
- c. Coremark (Block 5724, Lots 1.02 & 4.01) – This project will consist of two separate senior living developments, one will be 26 units of independent living apartments, and the other will be a 74 bedroom assisted living facility. Within the assisted living facility, 12 bedrooms will be dedicated to Medicaid patients and will be eligible for credits as senior units pursuant to the COAH regulations on assisted living. As per a settlement agreement between the Borough and Coremark Fair Lawn LLC, a site plan application has recently been submitted to the Borough's Zoning Bboard to grant a use variance to permit the project as described.
- d. 24-19 Broadway LLC – This site was proposed to be developed with 18 residential units including 2 affordable units. An application was made to the Planning Board for site plan approval, however during review it was determined that a d variance would be necessary to permit the project as proposed. As such, the jurisdiction for approval would be the zoning board. Currently, the developer of the site is in the process of preparing an application for a variance from the zoning board. The Borough agrees that if such a variance is not approved it will rezone the site to make the proposed development a conforming use.
- e. Clariant Site: The Clariant site, located in the western portion of the Borough, contains approximately 7 acres of developable land that is available for residential development. As this site is a brownfields site, the remaining acreage of the property is understood to be contaminated to a point beyond where it would be feasible to develop it with a residential use. The Borough proposes to rezone this property to permit up to 150 residential units, with a 20 percent set aside or 30 units being made affordable to very low, low, and moderate income households.
- f. River Road Overlay Expansion: As more fully described in Exhibit B to this agreement, the Borough will expand the inclusionary affordable overlay district which covers River Road, to include more properties to the north of Fair Lawn Avenue. The Borough will also amend the zoning overlay to incorporate a sliding scale density to encourage assemblage of parcels and incentivize greater density of development. The permitted densities will range from 12 units per acre to 20 units per acre.²

² The maximum permitted residential density shall be determined by the size of the development tract, in accordance with the following schedule:

- a. Tracts less than 1 acre – 12 units/acre
- b. Tracts from 1.0 to 1.5 acres – 16 units/acre

- g. Fair Lawn Avenue Overlay District: As more fully described in Exhibit B to this agreement, the Borough will amend its zoning ordinance to include a new affordable housing inclusionary overlay district along Fair Lawn Avenue near the Radburn section of the Borough. The regulations of the overlay would mirror those of the sliding scale densities of the River Road district, with 12 to 20 dwellings per acre being permitted, with a 20 percent affordable housing set aside being required.³
 - h. The Borough shall maintain Sec. 49-2(D) of the Borough Code which requires a mandatory set-aside in specified new development in the Borough, provided that the Borough, FSHC, and the Special Master shall collaborate during the compliance period to determine if any revisions are necessary to this section and if so the Borough shall implement such revisions during the compliance period.
10. The Borough agrees to require 13% of all units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements as follows:

Fair Lawn Borough: Very Low Income Units		
Projects	Affordable Units/Credits	Very Low Income
River House Condos Block 5610 / Lots 33-38	3	1
River Lofts Block 5616 / Lot 1	4	1
Landmark Site	33	0
Block 5729, Lot 2 (Clariant)	30	6
Block 5834, Lot 1.02 (Hadco/KEM) – or Block 4801, Lot 1.01	84	11
24-19 Broadway LLC Block 3321 / Lots 16-22	2	0
BCUW / Madeline Housing Partners, LLC Block 5709.01 / Lots 2 & 3	6	6
Block 3721, Lot 1 (Vantage Health System, Inc.)	4	4
Block 2316, Lot 7 (Children's Aid & Family Services, Inc.)	4	4
Total	170	33
Percentage of Very Low Units	19.4%	

The Borough shall also require 13% of all future affordable units developed in each unmet need site or in any project developed through the town-wide set aside ordinance to be very low income units. Additionally, the River Road Overlay District will require 20 percent of the affordable units in each development to be very low income units.

11. The Borough shall meet its Third Round Obligation in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 7 and 8 above:

c. Tracts greater than 1.5 acres – 20 units/acre.

³ Sec, n. 2, supra.

- a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
 - b. At least 50 percent of the units addressing the Third Round Obligation shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - c. At least twenty-five percent of the Third Round Obligation shall be met through rental units, including at least half in rental units available to families.
 - d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
 - e. The Borough agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.
12. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Bergen County Urban League, Bergen County Housing Coalition, and Supportive Housing Association, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide direct notice to those organizations of all available affordable housing units, along with copies of application forms. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
13. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, *et seq.*, or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in rental projects shall be required to be at 30 percent of median income, and in conformance with all other applicable law. The Borough, as part of its HEFSP, shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:
- a. Regional income limits shall be established for the Housing Region in which the Borough is located (in this case, Housing Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Borough's housing
-

region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- b. The income limits attached hereto as Exhibit C are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2019, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
 - d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement, the terms of which shall also be reflected in the Borough's Affordable Housing Ordinance.
14. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
 15. As an essential term of this Agreement, within one hundred twenty (120) days of the Court's approval of this Agreement, the Borough shall introduce an ordinance or ordinances providing for the amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and shall adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.
 16. The parties agree that if a decision of a court of competent jurisdiction in Bergen County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round Obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Borough may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Borough shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms set forth herein to address unmet need; and otherwise fulfilling fully the fair share obligations as established in this Agreement. The reduction of the Borough's Third
-

Round Obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its Third Round Obligation, the Borough may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

17. The Borough shall prepare a Spending Plan within the period referenced above, subject to review by FSHC and the approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute a "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment in this matter that includes approval of the Spending Plan in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through July 1, 2025, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
 18. On the first anniversary of the Court's entry of Final Judgment of Compliance and Repose, and every anniversary thereafter through the end of this Agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
 19. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the period of protection provided in this Agreement. The Borough agrees to comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
 - b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of Court's entry of Final Judgment of Compliance and Repose, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing
-

Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

20. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
 21. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
 22. The Borough agrees to pay FSHC's attorneys fees and costs in the amount of \$6,500 within thirty (30) days of the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing.
 23. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
 24. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Bergen County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
 25. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
 26. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
 27. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
-

28. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
29. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
30. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
31. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
32. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
33. No member, official or employee of the Borough shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
34. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
35. All Notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight carrier or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) Notices shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be effected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC:

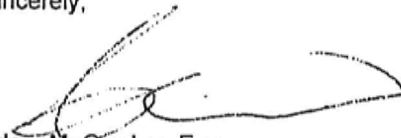
Adam M. Gordon, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE BOROUGH: Judy A. Verrone, Esq.
DeCotiis, Fitzpatrick, & Cole
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31
Teaneck, NJ 07666

**WITH A COPY TO THE
MUNICIPAL CLERK:** Fair Lawn Borough Clerk
8-01 Fair Lawn Avenue
Fair Lawn, NJ 07410


Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the Borough of Fair Lawn, with the authorization
of the governing body:



KURT PELUSO
Dated: 12-2-19

EXHIBIT C: 2019 INCOME LIMITS

2019 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - May 2019

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on AHPNJ.org

	1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rent** - Sole***	Regional Asset Limit****
Region 1 Bergen, Hudson, Passaic and Sussex	Median Moderate Low Very Low	\$66,607 \$53,286 \$33,303 \$19,982	\$71,365 \$57,092 \$36,682 \$21,409	\$76,122 \$60,898 \$38,061 \$22,837	\$85,637 \$68,510 \$42,819 \$25,691	\$95,153 \$76,122 \$47,576 \$28,546	\$98,959 \$79,167 \$49,479 \$29,688	\$102,765 \$82,212 \$51,382 \$30,829	\$110,377 \$88,302 \$55,189 \$33,113	\$117,989 \$94,391 \$58,995 \$35,397	\$125,602 \$100,481 \$62,801 \$37,680	2.6% 4.73% \$183,994
Region 2 Essex, Morris, Union and Warren	Median Moderate Low Very Low	\$70,537 \$56,430 \$35,269 \$21,161	\$75,576 \$60,460 \$37,788 \$22,673	\$80,614 \$64,491 \$40,307 \$24,384	\$90,691 \$72,553 \$45,345 \$27,207	\$100,767 \$80,614 \$50,384 \$30,230	\$104,798 \$83,838 \$52,399 \$31,439	\$108,829 \$87,063 \$54,414 \$32,649	\$116,890 \$93,512 \$58,445 \$34,857	\$124,952 \$99,961 \$62,476 \$37,485	\$133,013 \$106,410 \$66,506 \$39,904	2.6% 5.67% \$193,321
Region 3 Hunterdon, Middlesex and Somerset	Median Moderate Low Very Low	\$82,810 \$66,248 \$41,405 \$24,843	\$88,725 \$70,980 \$44,363 \$26,618	\$94,640 \$75,712 \$47,330 \$28,392	\$106,470 \$85,176 \$53,235 \$31,941	\$118,300 \$94,640 \$59,150 \$35,490	\$123,032 \$98,436 \$61,516 \$36,910	\$127,764 \$102,211 \$63,882 \$38,329	\$137,228 \$109,782 \$66,614 \$41,168	\$146,692 \$117,354 \$73,346 \$44,008	\$156,156 \$124,925 \$78,078 \$46,847	2.6% 9.64% \$225,261
Region 4 Mercer, Monmouth and Ocean	Median Moderate Low Very Low	\$72,165 \$57,732 \$36,082 \$21,649	\$77,319 \$61,855 \$38,680 \$23,196	\$82,474 \$65,979 \$41,237 \$24,742	\$89,783 \$69,979 \$44,237 \$26,285	\$103,092 \$82,474 \$51,546 \$28,335	\$107,216 \$85,773 \$53,608 \$30,402	\$111,340 \$89,072 \$55,670 \$32,165	\$119,587 \$95,670 \$57,946 \$34,876	\$127,834 \$102,268 \$63,917 \$38,350	\$136,082 \$108,665 \$68,041 \$40,825	2.6% 3.91% \$193,919
Region 5 Burlington, Camden and Gloucester	Median Moderate Low Very Low	\$53,070 \$50,456 \$31,535 \$19,921	\$57,575 \$54,060 \$33,788 \$20,273	\$62,080 \$57,664 \$36,040 \$21,624	\$68,080 \$64,872 \$40,545 \$24,327	\$90,200 \$72,680 \$46,050 \$27,030	\$93,704 \$74,963 \$48,852 \$28,311	\$97,208 \$77,846 \$48,654 \$29,192	\$104,516 \$83,613 \$52,258 \$31,355	\$111,724 \$89,379 \$55,862 \$33,517	\$118,932 \$95,246 \$59,466 \$35,680	2.6% 3.09% \$166,981
Region 6 Atlantic, Cape May, Cumberland, and Salem	Median Moderate Low Very Low	\$53,714 \$42,971 \$26,857 \$16,114	\$57,550 \$46,040 \$28,775 \$17,265	\$61,387 \$49,110 \$30,694 \$18,416	\$69,061 \$55,248 \$34,530 \$20,718	\$76,734 \$61,387 \$38,367 \$23,020	\$79,803 \$63,843 \$41,902 \$24,941	\$82,873 \$66,298 \$44,436 \$26,862	\$89,011 \$71,209 \$47,575 \$28,545	\$95,150 \$76,120 \$50,644 \$30,387	\$101,289 \$81,031 \$50,644 \$30,387	2.6% 5.15% \$143,713

* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.6(a).
 ** This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The increase for 2015 was 2.3%, the increase for 2016 was 1.1%, the increase for 2017 was 1.7%, and the increase for 2018 was 2.2%. The increase for 2019 is 2.6% (Consumer price index for All Urban Consumers (CPI-U): Region by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, 2017, or 2018 may increase rent by up to the applicable combined percentage including 2019 or 9.0% whichever is less in accordance with N.J.A.C. 5:97-9.3(d). In no case can rent for any particular apartment be increased more than one time per year.
 *** This column is used for calculating the pricing for rental increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last developed purchase price.
 **** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3).

Appendix B – Vacant Land Inventory and Analysis Report

Vacant Land Inventory and Analysis Report

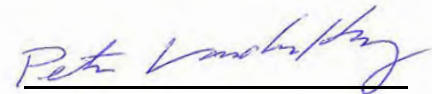
Prepared for:
Borough of Fair Lawn,
Bergen County, New Jersey

November 26, 2019

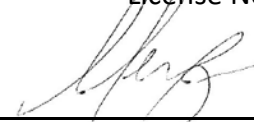
Prepared By:



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INTRODUCTION

Fair Lawn Borough is seeking to obtain a vacant land adjustment due to the built-out nature of the Borough and the limitations this puts on attempts to satisfy the Borough's affordable housing obligations. Council on Affordable Housing (COAH) regulations permit municipalities to request an adjustment of their housing need due to lack of available vacant and developable land. According to N.J.A.C. 5:93, "there may be instances where a municipality can exhaust a realistic opportunity for addressing the need for low and moderate income housing." In recognition of the need to provide the opportunity to adjust municipal affordable housing obligations, N.J.A.C. 5:93 outlines standards and procedures for municipalities to demonstrate that a municipal response to its housing obligation is limited by lack of land, water, or sewer. This report outlines the methodology and summarizes the results of the vacant land analysis prepared on behalf of Fair Lawn Borough by CME Associates.

Fair Lawn Borough is a built-out municipality of 5.2 square miles that consists primarily of medium and high density single-family dwellings and commercial businesses along the Fair Lawn Avenue corridor and the Broadway / Route 4 corridor highway commercial corridor. As such, there is limited vacant and developable land that the Borough can use to provide affordable housing. Nevertheless, the Borough will still actively pursue opportunities to satisfy its constitutional obligation to provide its fair share of affordable housing.

History

The Borough of Fair Lawn has a long history of working toward addressing its affordable housing obligation. The Borough was granted substantive certification from COAH on October 2, 1996 for its 152 unit obligation. This Prior Round obligation for the 1987-1999 period was reaffirmed by the amended Housing Element and Fair Share Plan that was adopted by the Planning Board on February 8, 2010. The Borough received a Judgement of Compliance and Repose on October 10, 2010 effective through December 31, 2018, with temporary immunity presently extended through August 30, 2019, for its Third Round obligation under the now-invalidated growth share methodology.

As noted above, the Borough's Prior Round obligation for the 1987-1999 period is 152 units. The Borough's 1999-2025 Third Round obligation as per the *New Jersey Affordable Housing Needs and Obligations Report* by Econsult, dated March 24, 2018, is 586 units.

The Borough of Fair Lawn received a vacant land adjustment in 1996 from COAH. As was the case in 1996, the availability of vacant land is limited, and current analysis of the vacant and available land is again warranted.

Executive Summary of Findings

In order to demonstrate the lack of vacant, developable land in Fair Lawn, the Borough has identified all vacant parcels currently existing within its borders through data from the Borough Tax Assessor's office, and has listed each parcel on the vacant land inventory table in accordance with N.J.A.C. 5:93-4.2(b) (see Appendix A). An existing land use map for the Borough has been appended to this report as Appendix E in accordance with N.J.A.C. 5:93-4.2(a). A vacant land map depicting vacant properties within the Borough is included as Appendix D.

CME Associates has analyzed the *Realistic Development Potential*, or RDP, of the remaining vacant lands within the Borough in accordance with the provisions of Subchapter 4 of N.J.A.C. 5:93. This analysis reveals that Fair Lawn Borough has 1 vacant, developable site which yields an RDP of 1 unit. However, as discussed further below, Fair Lawn has also applied credits from existing projects to generate a total RDP of 52 units.

PERMITTED EXCLUSIONS

N.J.A.C. 5:93 establishes criteria by which sites, or portions thereof, in a municipal land inventory may be excluded from a municipality's RDP. Environmentally sensitive areas, including flood hazard areas, areas outside of the Sanitary Sewer Service Area (SSA), wetlands, and areas characterized by steep slopes of greater than 15 percent that render a site unsuitable for affordable housing may be excluded from consideration. In addition, small or isolated lots lacking sufficient acreage to generate an affordable housing set-aside as part of an inclusionary development may also be excluded. Per the N.J.A.C. 5:93 regulations, an affordable housing site must be able to accommodate a minimum density of 6 units per acre with a maximum set-aside of 20 percent. Therefore, a site or parcel must be greater than 0.83 acres in order to provide a single affordable unit on that parcel. Vacant lots under development or properties for which site plan approval has been granted may also be excluded. Landlocked parcels or sites with limited or no access may also be excluded from the calculation of the Borough's RDP. Additionally, individual sites may be determined not suitable for low and moderate income housing and may be eliminated from the inventory. Finally, parcels engaged with the Green Acres program may also be excluded.

The vacant land inventory table in Appendix A provides a parcel-by-parcel description of exclusions that have been made pursuant to N.J.A.C. 5:93.

It should be noted that the Borough is permitted to reserve up to three percent of its total developed and developable acreage, less existing active municipal recreation areas, for future active municipal recreation and exclude this acreage from consideration as potential sites for low and moderate income housing pursuant to N.J.A.C. 5:93-4.2(e)4. Any such site designated for active recreation in accordance with this section must be purchased and limited to active recreational purposes within one year of substantive

certification. Although this calculation has not been completed as part of this analysis, the Borough reserves the right to revise this analysis to complete this calculation.

METHODOLOGY

STANDARD ANALYSIS

The methodology applied in this study is the standard authorized as per N.J.A.C. 5:93-4.1f. The minimum density to be applied to developable acres is 6 dwelling units per acre. Of the 112 vacant lots in the Borough, 92 are less than 0.83 acres, and therefore are excluded given their insufficient acreage to generate an affordable unit at 6 dwelling units per acre with a 20% set-aside. This analysis includes an examination of adjacent vacant lots in order to determine whether consolidation would achieve a lot size greater than 0.83 acres.

Of the lots with sufficient acreage for affordable development, 11 are the sites of existing or proposed affordable projects. Five (5) are common elements to multifamily or commercial developments. Block 3519, Lot 3 is already developed with a surface parking lot and Block 3441 Lot 2.A is NJ Transit-owned. The final remaining 2 vacant parcels, Lot 16 in Block 6801 and Lot 23 in Block 6901, have the minimum lot size necessary for development (0.9 and 1.1 acres, respectively), but are environmentally constrained by wetlands and special flood hazard areas such that the developable acreage is insufficient to produce an affordable unit on site (see Environmental Constraints Map in Appendix F). Based on the standards as set forth in N.J.A.C. 5:93, the Borough does not have vacant, developable sites to accommodate affordable housing.

SMALL LOT ANALYSIS

The Borough has reviewed parcels with a lot size between 0.33 acres and 0.83 acres for their potential to contribute to the Borough's RDP.

Twelve (12) additional parcels were identified in this analysis. Four (4) are the site of the Landmark at Radburn, LLC project, 2 are developed as surface parking lots, 2 are environmentally constrained by a waterbody, wetlands, and special flood hazard areas such that the developable acreage is insufficient to produce an affordable unit on site, 1 is a common element to the Radburn Association, 1 is developed with a residential home, 1 is environmentally contaminated and may not be remediated to residential standards, and 1 is unsuitable for development due to its irregular shape.

Although Lot 16 in Block 6801 was excluded using the standard methodology as outlined above, its developable acres of 0.61 acres falls within the range of this small lot analysis. While the existing zoning does not permit multifamily dwellings, a density of 12 dwelling units per acre has been applied to the parcel per the recommendations of the Special Master. The developable acreage of this lot yields an RDP of 1 unit (see Appendix B).

MUNICIPALLY-OWNED PARCEL ANALYSIS

Municipally-owned properties were reviewed for their potential to contribute to the Borough's RDP. There are 143 Borough-owned parcels. Of those, 74 have an acreage less than 0.33 acres. Out of the remaining 69 parcels, 36 are engaged with Green Acres, 17 are developed with municipal buildings or facilities, 11 are unsuitable for development due to irregular shape or lack of access, and 5 are environmentally constrained. Appendix C outlines the rationale for exclusion for each of these parcels.

POST-1999 CONSTRUCTION ANALYSIS

In addition to the calculation of vacant land, which yields an RDP of 1 unit, this VLA also takes into consideration multifamily projects that have been constructed in the Borough since 1999. Sites that were designated for the Third Round in the Borough's 2010 Housing Element and Fair Share Plan and new projects have been applied to the RDP at a number equal to a set-aside of 20% of the total number of units built or approved as follows:

- 1. Promenade, LLC:** This project is located at Block 4801, Lot 1. The developer provided a payment-in-lieu of the construction of affordable units. One hundred and fifty market rate units are provided at this site at a density of 15 units per acre. A set-aside of 20% generates an RDP of 30 units.
- 2. 13-09 River Road, LLC:** This project is located at Block 5610, Lots 27 and 28. The developer provided a payment-in-lieu of the construction of affordable units. Five market rate units are provided at this site at a density of 31 units per acre. A set-aside of 20% generates an RDP of 1 unit.
- 3. Barrister Land Development Corp.:** This project is located at Block 1702, Lots 5 and 6. Twenty-four market rate units are under construction at this site at a density of 6 units per acre. A set-aside of 20% generates an RDP of 5 units.
- 4. AE Developers, LLC:** This project is located at Block 6601, Lot 8.01. Forty-three market rate units were approved at this site at a density of 32 units per acre. A set-aside of 20% generates an RDP of 9 units.
- 5. River Lofts:** This project is located at Block 5616, Lot 1. Twenty-six units were approved at this site at a density of 35 units per acre. A set-aside of 20% generates an RDP of 6 units.

As noted above, the Borough has applied a set-aside of 20% to affordable development sites proposed for the Third Round based on the 2010 Housing Element and Fair Share Plan and projects that emerged since adoption of that Plan. These sites generate an RDP of 51 units.

It is important to note that the Borough reserves the right to amend the RDP calculation approach and projects that comprise the 51-unit RDP calculation above through the

course of work on the Housing Element and Fair Share Plan, in order to reflect any changes in the status of these projects, and/or any changes in application regulations, policies or court decisions that are pertinent to the Borough. As such, the amendments to this portion of the VLA may require an adjustment that increases or decreases the RDP to accurately correspond with the pending Fair Share Plan.

SUMMARY & CONCLUSION

The vacant land analysis conducted herein reveals that Fair Lawn Borough does not have sufficient acreage to accommodate its Third Round obligation of 586 units. After following the procedures for a vacant land adjustment, pursuant to N.J.A.C. 5:93, it has been determined that Fair Lawn Borough has a Realistic Development Potential of 1 unit based on vacant land. When incorporating the RDP of existing development projects, the Borough's RDP is an additional 51 units, pending the update of the Fair Share Plan as noted above. ***The total RDP is therefore 52 units. The remaining obligation from the Third Round shall be subsumed by the Borough's unmet need obligation.***

APPENDICES

APPENDIX A
Vacant Land Inventory Table

VACANT PARCELS

BLOCK	LOT	ADDITIONAL LOTS	PROPERTY LOCATION	PROPERTY OWNER	OWNER ADDRESS	TOTAL ACREAGE	COMMENTS
1105	30		48 S BROADWAY	PIAZZA, SALVATORE & APRILE A	40 WAYNE RD, FAIR LAWN, NJ	0.0987	Insufficient Acreage
1106	6		50 S BROADWAY	GONZALEZ, LUIS	50 S BROADWAY, SADDLE BROOK, NJ	0.1093	Insufficient Acreage
1106	7		S BROADWAY REAR	HENRY, DONALD & MILDRED	4 CLARK CT, LODI, NJ	0.023	Insufficient Acreage
1202	2		SADDLE RIVER RD	GORGA, FIORE C/O GORGA, GLORIA	PO BOX 846, WESTWOOD, NJ	0.77	Environmentally Constrained (0.2 developable acres)
1205	50.02		0-86 SADDLE RIVER RD	RYS, ANNA	248 HAYWARD PL, WALLINGTON, NJ	0.1969	Insufficient Acreage
1205	53		SADDLE RIVER RD & BWAY	CASPIAN REALTY OF NJ LLC	40-26 BROADWAY, FAIR LAWN, NJ	0.18	Insufficient Acreage
1211	15.02		WILCOX PL	SAADAH, RASEM	1 WILCOX PL, FAIR LAWN, NJ	0.3	Insufficient Acreage
1306	18		PELLINGTON DR REAR	PLACA, GANDOLFO S & MILDRED	38-12 PELLINGTON DR, FAIR LAWN, NJ	0.62	Environmentally Constrained (0.12 developable acres)
1406	20	21	ELIZABETH ST	ZAROUR, SIMON	32 OCEAN AVE, MONMOUTH BEACH, NJ	0.0918	Insufficient Acreage
1604.01	40		MALTESE DR	SADDLE RIVER PK EST HOMEOWNERS ASSN	142 TOTOWA RD, TOTOWA, NJ	2.73	Common Element
1702	5.01		BARRISTER HOME CONSTRUCTION, INC.	BARRISTER CT			Development Project - Barrister Land Development Corp.
1805	3		HEROLD DR	MURPHY, THOMAS J & ELIZABETH T	47 HEROLD DR, GLEN ROCK, NJ	0.0528	Insufficient Acreage
1806	8		HEROLD DR REAR	CHUNG, WON-SEC (THOMAS) & ANNA	REAR HEROLD DR, FAIR LAWN, NJ	0.109	Insufficient Acreage
1806	9		HEROLD DR REAR	ROYAK, JULES D & PAULA L	22 HEROLD DR, GLEN ROCK NJ	0.0826	Insufficient Acreage
1808	6.01		SADDLE RIVER RD	909 GLEN ROCK LLC	909 PROSPECT ST, GLEN ROCK, NJ	0.1399	Insufficient Acreage
1808	6.02		41-32 NAUGLE DR	MALHOTRA, MANOJ		0.1767	Insufficient Acreage
2204	9		RYAN RD	CORCORAN KEVIN M & JULIET A	75 WILSON WAY, SADDLE BROOK, NJ	0.05	Insufficient Acreage
2211	16.01		0-188 YERGER RD	MAIKIS, KATHLEEN & CORCORAN, LILLIAN	0-188 YERGER RD, FAIR LAWN, NJ	0.0169	Insufficient Acreage
2402	43		WILSON ST	SHVARTSMAN, GRIGORY & IRINA	38-11 WILSON ST, FAIR LAWN, NJ	0.0918	Insufficient Acreage
2603	3	4	FAIR LAWN AVE	CAPITAL INVEST LLC% VALUE ASSET MGT	1122 CLIFTON AVE, CLIFTON NJ	5.8	Common Element
2802	7		GARVEY PL	GREENBERG, RITA	29 GARVEY PL, GLEN ROCK, NJ	0.0011	Insufficient Acreage
2802	8		40-16 GARVEY PL	GARCIA, DANILO & EDNA	40-16 GARVEY PL, FAIR LAWN, NJ	0.0861	Insufficient Acreage
3214.01	23		PELLACK DRIVE	C & P LAND MANAGMT LLC	0-94 26TH ST, FAIR LAWN, NJ	0.109	Insufficient Acreage
3224.01	4.01		ARCADIA RD	IKRAM, NAZIA	23-34 ARCADIA RD, FAIR LAWN, NJ	0.0281	Insufficient Acreage
3310	19	20	28TH ST	KIM, YONG RYEO & LEE, JAE YEON	3-12 28TH ST, FAIR LAWN, NJ	0.0918	Insufficient Acreage
3311	20		28TH ST	MARINO OSCAR & LYNNE	39-09 MONROE ST, FAIR LAWN, NJ	0.0574	Insufficient Acreage
3312	7		28TH ST	LUCKNER, JOSEPH L & SUSAN T	1-29 27TH ST, FAIR LAWN, NJ	0.0574	Insufficient Acreage
3312	39		1-33 27TH ST	SORANNA, FRANCESCA	1-35 27TH ST, FAIR LAWN, NJ	0.0574	Insufficient Acreage
3312	40		1-35 27TH ST 1X	SORANNA, FRANCESCA	1-35 27TH ST, FAIR LAWN, NJ	0.0574	Insufficient Acreage
3321	20	21	24-17 BROADWAY	24-19 BROADWAY LLC	48 WEST WILDWOOD, SADDLE RIVER, NJ	0.051	Insufficient Acreage
3321	22		24-13 BROADWAY	24-19 BROADWAY LLC	48 WEST WILDWOOD, SADDLE RIVER, NJ	0.051	Insufficient Acreage
3322	24		RAPHAEL ST	SIDNEY, J & E C/O D CUTHBERTSON	17 VALENTINE CT, MAHWAH, NJ	0.0574	Insufficient Acreage
3322	44		HARTLEY PL	PERKINS, JOHN L JR & JANET E	3-39 HARTLEY PL, FAIR LAWN, NJ	0.0861	Insufficient Acreage
3411	2.A		2ND CLASS PROPERTY	NJ TRANSIT C/O BLUE RIDGE LUMB		2.0	State Property
3411.01	1		2ND CLASS PROPERTY	NEW JERSEY TRANSIT	MCCARTER HWY&MKT BX 10009, NEWARK, NJ	0.26	Insufficient Acreage
3414	20	36	RT 208	UNKNOWN OWNER C/O BORO OF FAIR LAWN	DO NOT MAIL- BORO LIEN, FAIR LAWN, NJ	0.547	Unsuitable for Development - Irregularly Shaped
3517	21		PLANTING STRIP RTE 208	FAIR LAWN 208N 21ST ST LLC	PO BOX 9, WYCKOFF, NJ	0.1739	Insufficient Acreage
3519	3		8-10 22ND ST	PAM REALTY, LLC C/O RONALD BARNA	76 LEHMAN ST, MAHWAH, NJ	2.6	Developed - Surface parking lot
3601	1		29-22 FAIR LAWN AVE	RADBURN ASSN	29-22 FAIR LAWN AVE, FAIR LAWN, NJ	0.2296	Insufficient Acreage
3606	25		WARREN RD PK	RADBURN ASSOC	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	0.3	Insufficient Acreage
3609	1		PARK AREA	RADBURN ASSOC	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	1.79	Development Project - Landmark at Radburn, LLC
3609	15	16	FAIR LAWN AVE	O'HARA, E I & K J & T M OHARA (EST)	132 RIDGE RD, NORTH ARLINGTON, NJ	0.4662	Environmentally Constrained (Contamination)
3610	1.01		PLAZA RD	PULTE HOMES OF NJ, LP		3.315	Development Project - Landmark at Radburn, LLC
3610	1.02		PLAZA RD	BERGEN DEVELOPMENT GROUP, LLC		2.0644	Development Project - Landmark at Radburn, LLC
3610	1.03		PLAZA RD	BERGEN DEVELOPMENT GROUP, LLC		2.1766	Development Project - Landmark at Radburn, LLC
3610	1.04		PLAZA RD	BERGEN DEVELOPMENT GROUP, LLC		0.6312	Development Project - Landmark at Radburn, LLC
3610	1.05		PLAZA RD	BERGEN DEVELOPMENT GROUP, LLC		0.3362	Development Project - Landmark at Radburn, LLC
3610	1.06		PLAZA RD	BERGEN DEVELOPMENT GROUP, LLC		0.6164	Development Project - Landmark at Radburn, LLC
3610	1.07		PLAZA RD	BERGEN DEVELOPMENT GROUP, LLC		0.6235	Development Project - Landmark at Radburn, LLC
3610	1.08		PLAZA RD	BERGEN DEVELOPMENT GROUP, LLC		0.3155	Development Project - Landmark at Radburn, LLC
3625	5		SANDFORD RD REAR	RADBURN BUILDERS % RADBURN ASS'N	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	0.09	Insufficient Acreage
3625	8		RUTGERS TER REAR	RADBURN INC % RADBURN ASSOC	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	0.23	Insufficient Acreage
3702	18		ALDEN TER REAR	RADBURN ASSOC	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	1.45	Common Element
3702	19		HOWARD AVE	RADBURN ASSN	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	0.31	Insufficient Acreage
3707	1		ABERDEEN PL	RADBURN ASSN PK AREA	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	2.9	Common Element
3712	1		BURLINGTON PL	RADBURN ASSOC PARK AREA	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	0.91	Common Element
3726	4		310 PLAZA RD N	THE RADBURN ASSOC.	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	0.1	Insufficient Acreage
3726	5		14-34 PLAZA RD N	FRANKEL M,KINZLER MH,REDLICH B,& T	14-18 PLAZA RD, FAIR LAWN, NJ	0.1148	Insufficient Acreage
3726	6		21-01 FAIR LAWN AVE	KINZLER(TRUSTEE), MORTON H	C/O 14-18 PLAZA RD, FAIR LAWN, NJ	0.08	Insufficient Acreage
3803	4	5	RADBURN RD PARK AREA	RADBURN ASSOCIATION	29-20 FAIR LAWN AVE, FAIR LAWN, NJ	0.6261	Common Element
3818	19		381 PLAZA RD N 1X	BOOKSTABER, D & G C/O STEVE	12248 ST,ILL MEADOW DR, CLERMONT, FL	0.4029	Developed - Residence
3903	2		28 BERWYN PL	TURCO LOUISE A	28 BERWYN PL, GLEN ROCK NJ	0.0964	Insufficient Acreage
3903	3		43 NOTTINGHAM RD	SIMONE PAUL & LORI	41 NOTTINGHAM RD, GLEN ROCK NJ	0.0964	Insufficient Acreage

3907	14		NOTTINGHAM RD	HEADRICK, FIRA	77 NOTTINGHAM RD, FAIR LAWN, NJ	0.186	Insufficient Acreage
3908	5		RADBURN RD	RONQUILLO F J & R M LILNZA	134 RADBURN RD, GLEN ROCK NJ	0.0662	Insufficient Acreage
3909	1		42 NOTTINGHAM RD	TRANSCON GAS PIPE LINE	PO BOX 4600 MD 46-4, TULSA, OK	0.2762	Insufficient Acreage
4302	14	15,16,17	BROADWAY	A ZEREGAS SONS INC	20-01 BROADWAY, FAIR LAWN, NJ	0.3095	Insufficient Acreage
4313	26	27	1-11 SUMMIT AVE 1X	FAIR LAWN CC INVESTMENTS LLC	16-01 BROADWAY, FAIR LAWN, NJ	0.1148	Insufficient Acreage
4321	15	16-21 SEE 4317/12	14-17 BROADWAY	15-01 CONDOMINIUM ASSOCIATION INC	33 CLINTON RD, WEST CALDWELL, NJ	0.3444	Developed - Surface parking lot
4410	5.01		FAIRHAVEN PL	KWARTLER, DAVID & MITCHEL, CAREN	4-12 CYRIL AVE, FAIR LAWN, NJ	0.068	Insufficient Acreage
4519	13		12TH ST	MILLER IGOR & MARINA	8-09 12TH ST, FAIR LAWN, NJ	0.0138	Insufficient Acreage
4526	24		11-08 ALEXANDER AVE	BACON, STEPHEN J & KAREN	8-10 12TH ST, FAIR LAWN, NJ	0.0344	Insufficient Acreage
4601	49		RTE 208	SANER, CHRISTOPHER & SICINSKI, JULIE	12-20 EASTERN DR, IVE FAIR LAWN, NJ	0.2856	Insufficient Acreage
4708	14		ELMARY PL	FAIR LAWN 16-00 ROUTE 208 LLC	64 E MIDLAND AVE, STE 7, PARAMUS, NJ	0.1343	Insufficient Acreage
4804	4		16-00 POLLITT DR	POLLITT DRIVE VENTURES LLC	65 HARRISTOWN RD, ST 308, GLEN ROCK, NJ	0.64	Developed - Surface parking lot
4903	4		RTE 208	R & L MC LLC	266 HARRISTOWN RD, #301, GLEN ROCK, NJ	0.314	Insufficient Acreage
5405	12.01		3RD ST	SPINUZZI, ANTHONY & LORRAINE	5-29 3RD ST, FAIR LAWN, NJ	0.0184	Insufficient Acreage
5405	16.01		MORLOT AVE	GORDON, STEPHEN & MERYL	5-33 3RD ST, FAIR LAWN, NJ	0.0115	Insufficient Acreage
5406	42		3RD ST	STEHNACH, MARY & WILLIAM M	5-16 3RD ST, FAIR LAWN, NJ	0.0574	Insufficient Acreage
5412	26		RIVER RD	DEERFIELD HOMES INC	DO NOT MAIL - BORO LIEN PATERSON NJ	0.287	Insufficient Acreage
5506	24	25	9-12 RIVER RD	WENSELL, JOSEPH	9-12 RIVER RD, FAIR LAWN, NJ	0.1148	Insufficient Acreage
5513	16.01		6-09 3RD ST	301 FAIR LAWN, LLC C/O R. DAWO		0.1905	Insufficient Acreage
5513	16.02		6-11 3RD ST	611 FAIR LAWN, LLC C/O R. DAWO		0.1492	Insufficient Acreage
5609	41		BERDAN AVE	SHAH PARAG & LEENA P	8-05 BERDAN AVE, FAIR LAWN, NJ	0.0459	Insufficient Acreage
5615	27	L28	12-67 5TH ST 1X	MCGINLEY, ELIZABETH	12-67 FIFTH ST, FAIR LAWN, NJ	0.1148	Insufficient Acreage
5709	4		CAMPBELL RD	MACKANIN TODD & JULIETTE	16-01 GEORGE ST, FAIR LAWN, NJ	0.0574	Insufficient Acreage
5709	6		GEORGE ST REAR	REICHERT, PAUL R & LORIA	16-17 GEORGE ST, FAIR LAWN, NJ	0.0574	Insufficient Acreage
5709	7		PARMELEE AVE REAR	KUIKEN, RICHARD R	16-14 PARMELEE AVE, FAIR LAWN, NJ	0.1148	Insufficient Acreage
5709	8		CAMPBELL RD	BERGER, HAROLD I & NORA I	16-21 GEORGE ST, FAIR LAWN, NJ	0.0574	Insufficient Acreage
5709	11		PARMELEE AVE REAR	GULATI KIRAN & BATISH NAINA	16-30 PARMELEE AVE, FAIR LAWN, NJ	0.0953	Insufficient Acreage
5709	12		GEORGE ST REAR	ALBERT, JAMES L	11 WREN PLACE POMPTON PLAINS, NJ	0.0436	Insufficient Acreage
5716	9		RIVER RD	NOORIGIAN, J&E % ST TIRE & SUPPLY CO	14-32 RIVER RD, FAIR LAWN, NJ	0.124	Insufficient Acreage
5723	4		17-36 RIVER RD	PUBLIC SERVICE ELECTRIC & GAS CO	80 PARK PL, TAX DEPT T-6B, NEWARK NJ	0.287	Insufficient Acreage
5809	14	L15	19-13 ONTARIO AVE	MENDELSON, KYLE C. & PEREZ, J.	9-02 HENDERSON BLVD, FAIR LAWN, NJ	0.0918	Insufficient Acreage
5809	16		HENDERSON BLVD REAR	O'LEARY, CORNELIUS & TERESA A	9-06 HENDERSON BLVD, FAIR LAWN, NJ	0.0275	Insufficient Acreage
5818	32.01		CHESTER ST	LEMBKE, CHRISTOPHER	8-58 CHESTER ST, FAIR LAWN, NJ	0.0115	Insufficient Acreage
5819	59	L60	8-03 CEDAR ST	DIENNO ANTHONY III	8-22 HENDERSON BLVD, FAIR LAWN, NJ	0.1148	Insufficient Acreage
5820	15		CEDAR ST	ORPILLA, MARIA LUISA	8-36 CEDAR ST, FAIR LAWN, NJ	0.0631	Insufficient Acreage
5822	2		OAK ST	DWORETZKY WILLIAM & KATHERINE A TST	8-49 OAK ST, FAIR LAWN, NJ	0.25	Insufficient Acreage
5832	30	L31,32,33	MAPLE AVE	OWL & I, LLC	6-18 MAPLE AVENUE, FAIR LAWN, NJ	0.225	Insufficient Acreage
5833	30	L31,32	LAKE ST	WARD, JOHN M	8-18 LAKE ST, FAIR LAWN, NJ	0.1722	Insufficient Acreage
5834	1.02		18-25 RIVER RD	BOROUGH OF FAIR LAWN	8-01 FAIR LAWN AVE, FAIR LAWN, NJ	1.55265	Development Project - Fair Lawn Senior Housing
5834	2.01		MAPLE AVE	OWL I LLC	6-18 MAPLE AVE, FAIR LAWN, NJ	0.09	Insufficient Acreage
5836	1		RIVER RD	RIVER SIMON ASSOC LLC	315 S MAPLE AVE, RIDGEWOOD, NJ	0.1099	Insufficient Acreage
5904	9		MAPLE AVE REAR	MAPLE SIMON ASSOC. L.L.C.	315 S. MAPLE AVE, RIDGEWOOD, NJ	0.1033	Insufficient Acreage
5904	14.01		MAPLE AVE	TSS REALTY INC A DEL CORP	1187 TEANECK RD, TEANECK, NJ	0.1529	Insufficient Acreage
6511	3	L4	0-10 BELLAIR AVE	SOLTYS, RICHARD & BARBARA	0-10 BELLAIR AVE, FAIR LAWN, NJ	0.1426	Insufficient Acreage
6801	15		OFF MAPLE AVE	FAIR LAWN INDUSTRIES LP	39 AVE, C PO BOX 8, BAYONNE, NJ	0.04	Insufficient Acreage
6801	16		16-30 MAPLE AVE	BERNARD OSTER INC	429 SYLVAN AVE, PO 1708, ENGLEWOOD CLIFFS, NJ	0.9	Partially Developable (0.61 developable acres)
6803	22		POMONA AVE REAR	FAIR LAWN INDUSTRIES LP	39 AVE, C PO BOX 8, BAYONNE, NJ	0.29	Insufficient Acreage
6807	42	L43	65 LINCOLN AVE	59 LINCOLN AVE LLC	59 LINCOLN AVE, FAIR LAWN, NJ	0.1171	Insufficient Acreage
6901	23	L24	HEMLOCK AVE REAR	OSTER FAIRLAWN PROPERTIES LLC	429 SYLVAN AVE, ENGLEWOOD CLIFFS, NJ	1.1	Environmentally Constrained (0 developable acres)

APPENDIX B
Potential Developable Parcels Table

POTENTIAL DEVELOPABLE PARCELS						
BLOCK	LOT	PROPERTY LOCATION	PROPERTY OWNER	OWNER ADDRESS	TOTAL ACREAGE	DEVELOPABLE ACREAGE
6801	16	16-30 MAPLE AVE	BERNARD OSTER INC	429 SYLVAN AVE, PO 1708, ENGLEWOOD CLIFFS, NJ	0.9	0.61
					Total Developable Acreage	0.61
					Realistic Development Potential (@12 DU/A)	7.32
					Affordable Units @ 20% Set-Aside	1

APPENDIX C
Municipally-Owned Parcels Table

MUNICIPALLY-OWNED PARCEL ANALYSIS

BLOCK	LOT	ADDITIONAL LOTS	PROPERTY LOCATION	PROPERTY OWNER	FACILITY NAME	TOTAL ACREAGE	COMMENTS
1107	13		0-79 Blue Hill Ave	Borough of Fair Lawn	Reserved for Drainage	0.1033	Insufficient Acreage
1110	4	5	Sycamore Dr	Borough of Fair Lawn	Brookdale Park	5.36	Green Acres
1201	7		Rtes 4 & 208	Borough of Fair Lawn	Vacant	0.197	Insufficient Acreage
1206	18		39-60 Broadway	Borough of Fair Lawn	Vacant	0.216	Insufficient Acreage
1301	21		1-21 Saddle River Rd	Borough of Fair Lawn	Utility	0.28	Insufficient Acreage
1302	15		Planting Strip Rte 208	Borough of Fair Lawn	Planting Strip	0.5	Unsuitable for Development - Irregularly Shaped
1305	1		Beaver Dam Park D	Borough of Fair Lawn	Beaver Dam Park	3.73	Green Acres
1305	24		Brookside Ave Footway	Borough of Fair Lawn	Brookside Ave Footway	0.023	Insufficient Acreage
1306	18.01		Beaver Dam Park	Borough of Fair Lawn	Beaver Dam Park	0.39	Green Acres
1306	19		Pellington Dr Ft Way D	Borough of Fair Lawn	Pellington Dr Footway D	0.023	Insufficient Acreage
1306	20		Pellington Dr Ft Way	Borough of Fair Lawn	Pellington Dr Footway	0.023	Insufficient Acreage
1412	12	13	Monroe St	Borough of Fair Lawn	Vacant	0.1129	Insufficient Acreage
1412	18	19	Monroe St	Borough of Fair Lawn	Vacant	0.1136	Insufficient Acreage
1515	20		Elaine Ter	Borough of Fair Lawn	Elaine Terrace Spur (Walkway)/Saddle River County Park	0.7	Green Acres
1702	4		41-41 Dunkerhook Rd	Borough of Fair Lawn	Naugle House	0.6	Historic Site/Green Acres
1702	10		42-19 Dunkerhook Rd	Borough of Fair Lawn	Naugle Land	1.2	Historic Site/Green Acres
1801	3	4, 5	Saddle River Rd	Borough of Fair Lawn	Fair Lawn Public Works	11.03	Developed
1801	9	10, 11	Saddle River Rd Sewer Pl	Borough of Fair Lawn	Fair Lawn Public Works	4.7	Developed
1802	8		19-25 Saddle River Rd	Borough of Fair Lawn	Fair Lawn Public Works	0.207	Insufficient Acreage
1802	8.01		20-05 Saddle River Rd	Borough of Fair Lawn	Fair Lawn Public Works	0.1073	Insufficient Acreage
1802	9		20-05 Saddle River Rd	Borough of Fair Lawn	Fair Lawn Public Works	0.1641	Insufficient Acreage
1803	1	2	Saddle River Rd Rear	Borough of Fair Lawn	DPW Sewer Plant	1.64	Developed
1803	3	4	Saddle River Rd Rear	Borough of Fair Lawn	Fair Lawn Police Academy	5.7	Developed
2220	10		Brookdale Park D	Borough of Fair Lawn	Brookdale Park	1.8	Green Acres
2310	1		Southern Dr	Borough of Fair Lawn	Vacant	0.2908	Insufficient Acreage
2313	1		Southern Dr	Borough of Fair Lawn	Planting Strip	0.1816	Insufficient Acreage
2313	15		Planting Strip Rte 208	Borough of Fair Lawn	Planting Strip	0.3	Insufficient Acreage
2318	12		Rte 208	Borough of Fair Lawn	Planting Strip	0.3	Insufficient Acreage
2326	21		Planting Strip Rte 208	Borough of Fair Lawn	Planting Strip	0.6428	Unsuitable for Development - Irregularly Shaped
2328	7		Beaver Dam Park D	Borough of Fair Lawn	Beaver Dam Park	0.6	Green Acres
2402	50		Dorothy & Wilson Sts	Borough of Fair Lawn	Wilson Footpath	0.0149	Insufficient Acreage
2409	34		Planting Strip Rte 208	Borough of Fair Lawn	Planting Strip	0.59	Unsuitable for Development - Irregularly Shaped
2409	37		Planting Strip Rte 208	Borough of Fair Lawn	Planting Strip	0.0053	Insufficient Acreage
2409	38		Floodway	Borough of Fair Lawn	Beaverdam Brook Floodway	1.98	Floodway
2411	8		Gordon Pl	Borough of Fair Lawn	Fair Lawn Water Tank	0.287	Insufficient Acreage
2415	11		Planting Strip Rte 208	Borough of Fair Lawn	Planting Strip	0.31	Insufficient Acreage
2416	8		Floodway	Borough of Fair Lawn	Beaverdam Brook Floodway	0.64	Floodway
2416	9		Wilson St	Borough of Fair Lawn	Vacant	0.0918	Insufficient Acreage
2501	34		Berdan Ave	Borough of Fair Lawn	Planting Strip	0.0376	Insufficient Acreage
2504	1	2-19	Van Riper Pl	Borough of Fair Lawn	Thomas Jefferson Park	1.0359	Green Acres
2505	29		Pershing St	Borough of Fair Lawn	Thomas Jefferson Park	0.0574	Insufficient Acreage
2505	72		Van Riper Pl	Borough of Fair Lawn	Thomas Jefferson Park	0.0459	Insufficient Acreage
2506	48	49, 50, 51	37-01 Morlot Ave	Borough of Fair Lawn	Thomas Jefferson Park	0.1837	Insufficient Acreage
2506	89	90	Pershing St	Borough of Fair Lawn	Vacant	0.0918	Insufficient Acreage
2516	17		Victoria Rd	Borough of Fair Lawn	Thomas Jefferson Park Footpath	0.042	Insufficient Acreage
2528	2	1.01	W of Vanore Dr D	Borough of Fair Lawn	Thomas Jefferson Park	4.2	Green Acres
2602	2		Hillside Terrace Floodway	Borough of Fair Lawn	Jordan Brook Floodway	0.34	Floodway
2603	8		Sampson Rd D	Borough of Fair Lawn	Sampson Park	1.6	Green Acres
2702	2	4	Fair Lawn Ave	Borough of Fair Lawn Edison Pl	Edison Park	2.8	Green Acres
2702	5		Edison Park D	Borough of Fair Lawn	Edison Park	2.99	Green Acres
2703	6		Edison Park D	Borough of Fair Lawn	Edison Park	2.57	Green Acres
2704	1	2	Edison Park D	Borough of Fair Lawn	Edison Park	2.9698	Green Acres
2705	1.01		High St	Borough of Fair Lawn	Radrock Park	0.36	Green Acres
2706	1.01		Off Well Dr	Borough of Fair Lawn	Radrock Park	1.5	Green Acres
2707	1.01		Rear Well Drive	Borough of Fair Lawn	Radrock Park	0.7	Green Acres
2707	13.01		Well Dr Rear	Borough of Fair Lawn	Vacant	0.07	Insufficient Acreage
2711	21	24	Edison Park D	Borough of Fair Lawn	Edison Park	5.56	Green Acres
2711	23		Jordon R	Borough of Fair Lawn	Edison Park Footpath	0.023	Insufficient Acreage
2714	23		Mandon Pl	Borough of Fair Lawn	Edison Park Footpath	0.023	Insufficient Acreage

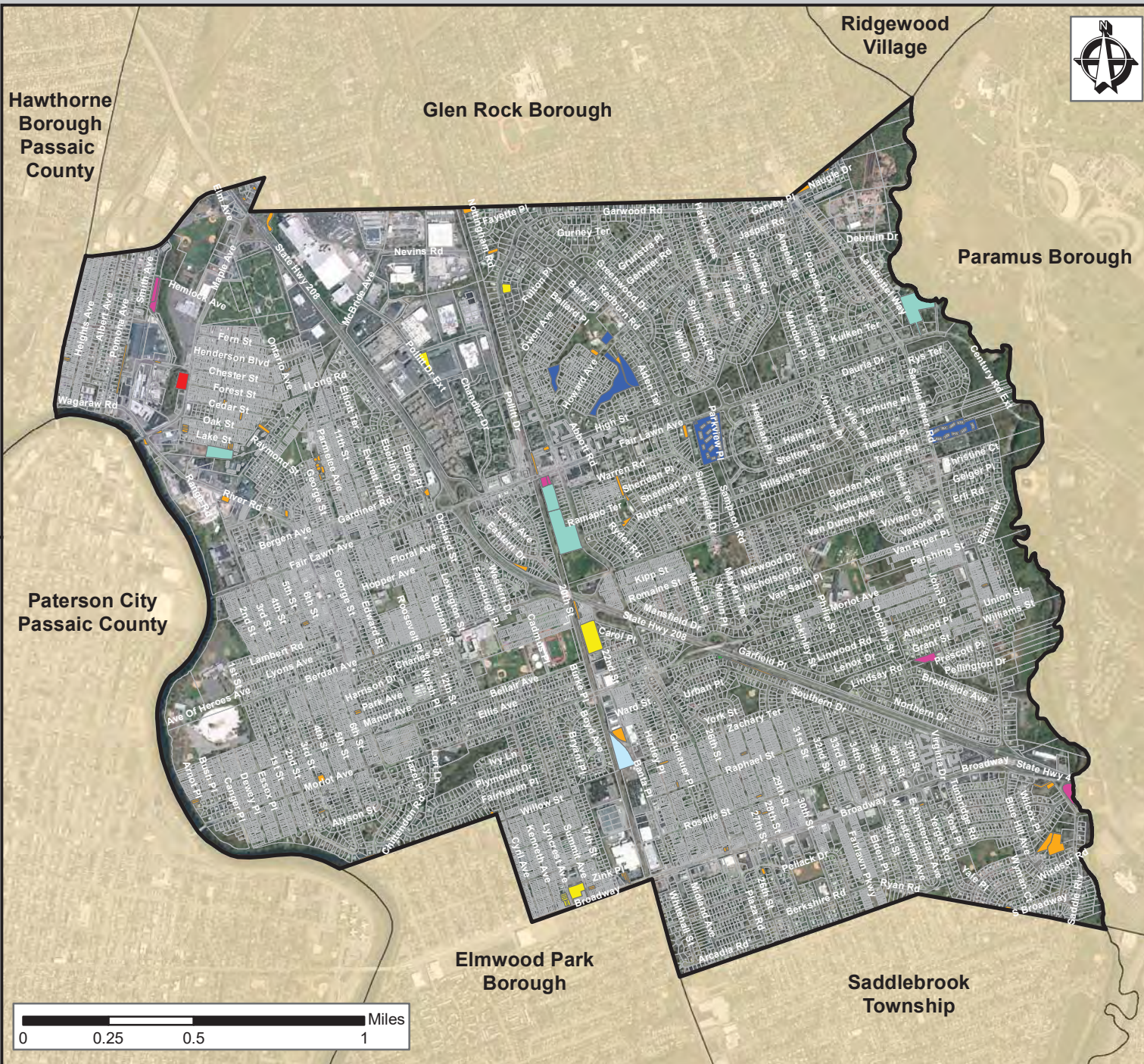
2803	1.01		Hunter Pl R	Borough of Fair Lawn	Radrock Park	0.55	Green Acres
2804	1.01		Heywood Ave	Borough of Fair Lawn	Radrock Park	0.8	Green Acres
2818	19		Glen Fair Rd	Borough of Fair Lawn	Vacant	0.1197	Insufficient Acreage
3204.01	1		30th St D	Borough of Fair Lawn	Warren Point Annex Park	0.1722	Insufficient Acreage
3205.01	3		N Broadway D	Borough of Fair Lawn	Warren Point Annex Park	2.96	Green Acres
3207.01	4		29th St	Borough of Fair Lawn	Warren Point Annex Park	0.2755	Insufficient Acreage
3210.01	6		27-09 Pellack Dr	Borough of Fair Lawn	Vacant	0.0976	Insufficient Acreage
3211	1.01		Pellack Dr	Borough of Fair Lawn	Residential Home	0.0344	Insufficient Acreage
3218	8		Plaza Rd	Borough of Fair Lawn	Sewage Pump Station	0.0758	Insufficient Acreage
3405	1	1.01	Garfield Pl	Borough of Fair Lawn	Planting Strip	0.1756	Insufficient Acreage
3416	7		Urban Pl Rear D	Borough of Fair Lawn	Gregory Park	0.3	Insufficient Acreage
3416	10		Southern Dr Rear	Borough of Fair Lawn	Gregory Park	2.445	Green Acres
3504	1		Berden GRV D	Borough of Fair Lawn	Berden Grove	11.75	Green Acres
3524	29	30, 31	Morlot Ave & Route 208	Borough of Fair Lawn	Planting Strip	0.64	Unsuitable for Development - Irregularly Shaped
3701	22	23	Heywood Ave	Borough of Fair Lawn	Vacant	0.6	Unsuitable for Development - No Road Access
3701	26		High St	Borough of Fair Lawn	Vacant	0.2767	Insufficient Acreage
3810	14		Gentner Rd	Borough of Fair Lawn	Cresthill Park Footpath	0.0459	Insufficient Acreage
3811	14		Grunstra Pl	Borough of Fair Lawn	Cresthill Park Footpath	0.0459	Insufficient Acreage
3812	14		Godwin Ave	Borough of Fair Lawn	Cresthill Park Footpath	0.0459	Insufficient Acreage
3813	19		Cresthill Park D	Borough of Fair Lawn	Cresthill Park	1.5941	Green Acres
3816	43		Radburn Rd	Borough of Fair Lawn	Genter Footpath	0.0459	Insufficient Acreage
3817	25		Plaza Rd N Rear	Borough of Fair Lawn	Little Diamond Brook Floodway/Footpath	0.0555	Insufficient Acreage
4314	5		Well 8 Willow St	Borough of Fair Lawn	DPW Well 8	0.1722	Insufficient Acreage
4405	49		Lyncrest Park D	Borough of Fair Lawn	Lyncrest Park	8.81	Green Acres
4407	19		Plymouth Dr	Borough of Fair Lawn	Ivy Footpath	0.0689	Insufficient Acreage
4502	1	2-7, 38-43	10-10 20th St	Borough of Fair Lawn	Fair Lawn Recreation Center	0.8035	Developed
4504	3		20th St & Erie RR	Borough of Fair Lawn	Vacant/Railroad Buffer	0.64	Unsuitable for Development - Irregularly Shaped
4509	21.01		16-01 Romaine St	Borough of Fair Lawn	Fair Lawn Heavy Rescue Services	0.3444	Developed
4510	1	2-20	Center Rec Field D	Borough of Fair Lawn	Center Park	0.7461	Green Acres
4511	1.01		9-14 Cadmus Pl	Borough of Fair Lawn	Center Park	11.72	Green Acres
4511	1.03		9-21 Burbank St	Borough of Fair Lawn	Utility and Parking Lot	0.1756	Insufficient Acreage
4524	20		Berden Ave-Pathway	Borough of Fair Lawn	Rosewood Footpath	0.0491	Insufficient Acreage
4601	47		Rte 208	Borough of Fair Lawn	Planting Strip	1.87	Unsuitable for Development - Irregularly Shaped
4612	30		Planting Strip Rte 208	Borough of Fair Lawn	Planting Strip	0.31	Insufficient Acreage
4614	28		Planting Strip Rte 208	Borough of Fair Lawn	Planting Strip	0.4	Unsuitable for Development - Irregularly Shaped
4619	29		20th St	Borough of Fair Lawn	Vacant	0.1359	Insufficient Acreage
4700	10		Elliott Ter D	Borough of Fair Lawn	Everett/Mayfair Park	0.5165	Green Acres
4701	1		Pollitt Dr	Borough of Fair Lawn	Parking Lot	0.56	Developed
4701.01	2		Pollitt Dr	Borough of Fair Lawn	Parking Lot	0.38	Developed
4800	23		Elliott Terr & Eberlin D	Borough of Fair Lawn	Everett/Mayfair Park	1.39	Unsuitable for Development - Irregularly Shaped
4803	1		Rte 208 D	Borough of Fair Lawn	Henderson Park	2.01	Green Acres
4805	25	26	Edison Ct-Footway	Borough of Fair Lawn	Edison Path	0.64	Unsuitable for Development - Irregularly Shaped
5404	9.01		5th St	Borough of Fair Lawn	Vacant	0.0115	Insufficient Acreage
5407	39	40	2nd St	Borough of Fair Lawn	Vacant	0.0574	Insufficient Acreage
5407	44		4-50 2nd St	Borough of Fair Lawn	Dube Property	0.1619	Insufficient Acreage
5409	43		Dewey Pl	Borough of Fair Lawn	Vacant	0.0574	Insufficient Acreage
5410	17		5-07 Canger Pl Syphon	Borough of Fair Lawn	Vacant	0.1837	Insufficient Acreage
5410	18		Canger Pl	Borough of Fair Lawn	DPW Facility	0.0459	Insufficient Acreage
5410	40		Sewer Pump Sta	Borough of Fair Lawn	Sewer Pump Station	0.1148	Insufficient Acreage
5609	45		George St	Borough of Fair Lawn	Vacant	0.023	Insufficient Acreage
5610	1.01		7-16 Fair Lawn Ave	Borough of Fair Lawn	Parking	0.2663	Insufficient Acreage
5611	24.03		George St	Borough of Fair Lawn	Vacant	0.1974	Insufficient Acreage
5611	25	25.01, 26	George St	Borough of Fair Lawn	Green Acres Open Space	0.2296	Insufficient Acreage
5611	27		Well 9	Borough of Fair Lawn	DPW Well 9	0.2152	Insufficient Acreage
5625	23		2nd St	Borough of Fair Lawn	Vacant	0.0028	Insufficient Acreage
5702	15		11-05 Gardiner Rd	Borough of Fair Lawn	Fair Lawn Senior Center	0.9986	Developed
5706	13	14, 15, 16	10-11 Fair Lawn Ave	Borough of Fair Lawn	Fair Lawn Office of Emergency Management	0.233	Insufficient Acreage
5709.01	1.01		Borough Parking	Borough of Fair Lawn	Parking Lot	1.077	Developed
5709.01	2	subdiv from lot 1	Campbell Rd	Borough of Fair Lawn	Vacant	0.1435	Insufficient Acreage
5709.01	3	subdiv from lot 1	Campbell Rd	Borough of Fair Lawn	Vacant	0.1435	Insufficient Acreage
5710	11		Westmoreland Water	Borough of Fair Lawn	Westmoreland Water Plant	0.3	Insufficient Acreage

5712	1		8-01 Fair Lawn Ave	Borough of Fair Lawn	Fair Lawn Municipal Building	1.84	Developed
5802	9	10, 11, 12, 13, 14.01	Park Area	Borough of Fair Lawn	Vacant	0.33	Environmentally Constrained (0.003 developable acres)
5806	2	3--40	Westmoreland Water	Borough of Fair Lawn	Water Plant	1.8365	Developed
5807	1		11th St	Borough of Fair Lawn	Utility	1.29	Developed
5808	1	31, 32, 33, 34	Parmelee	Borough of Fair Lawn	Vacant	1.8635	Unsuitable for Development - Irregularly Shaped
5809	2	3--13	Well House 11	Borough of Fair Lawn	DPW Well 11	1.1019	Developed
5810	1	2--22	Westmoreland Well Field	Borough of Fair Lawn	Westmoreland Well Field	1.056	Developed
5811	1	2-5, 26-38	Westmoreland Water	Borough of Fair Lawn	Water Plant	1.2374	Developed
5812	4	5, 6, 7, 8, 9, 10	Well House 12	Borough of Fair Lawn	DPW Well 12	0.3214	Insufficient Acreage
5818	34	35, 36, 37, 38, 39	Chester & Ontario	Borough of Fair Lawn	Vacant	0.3489	Insufficient Acreage
5835	2		River Rd	Borough of Fair Lawn	Utility	0.127	Insufficient Acreage
5902	11	13, 17	24-00 Rte 208	Borough of Fair Lawn	Fair Lawn Fire Co. No.2	0.7197	Developed
5903	31		90 Harristown Rd	Borough of Fair Lawn	Dobrow Sports Complex/Columbia Park	15.94	Green Acres
5905	1		Harristown Rd & Maple	Borough of Fair Lawn	Vacant	0.0138	Insufficient Acreage
6501	1		Memorial Park D	Borough of Fair Lawn	Memorial Park	19	Green Acres
6507	4		Bellair Ave	Borough of Fair Lawn	Vacant	0.06	Insufficient Acreage
6602	1		Memorial Park D	Borough of Fair Lawn	Memorial Park	10.9	Green Acres
6802	5		440 Wagaraw Rd	Borough of Fair Lawn	Maple Ave	0.1687	Green Acres
6802	8		442 Wagaraw Rd	Borough of Fair Lawn	Maple Ave	0.1835	Green Acres
6802	9		550 Wagaraw Rd	Borough of Fair Lawn	Utility	0.1014	Insufficient Acreage
6806	59	60, 61	97 Heights Ave	Borough of Fair Lawn	Heights	0.1377	Green Acres
6901	18		Smith Ave	Borough of Fair Lawn	Vacant	0.2	Insufficient Acreage
6901	21		Harristown Rd	Borough of Fair Lawn	Vacant	3.65	Environmentally Constrained (0.018 developable acres)

APPENDIX D
Vacant Land Map

VACANT LAND MAP

FAIR LAWN, N.J.



VACANT LAND ADJUSTMENT

FAIR LAWN BOROUGH
BERGEN COUNTY
NEW JERSEY

Legend

Analysis Criteria

- Common Element
- Developed
- Development Project
- Environmentally Constrained
- Insufficient Acreage
- Potentially Developable
- State Property
- Unsuitable for Development
- Parcels

Source: NJGIN Information Warehouse, NJOGIS



CONSULTING & MUNICIPAL ENGINEERS

3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
1460 ROUTE 9 SOUTH HOWELL, N.J. 07731
3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852
ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

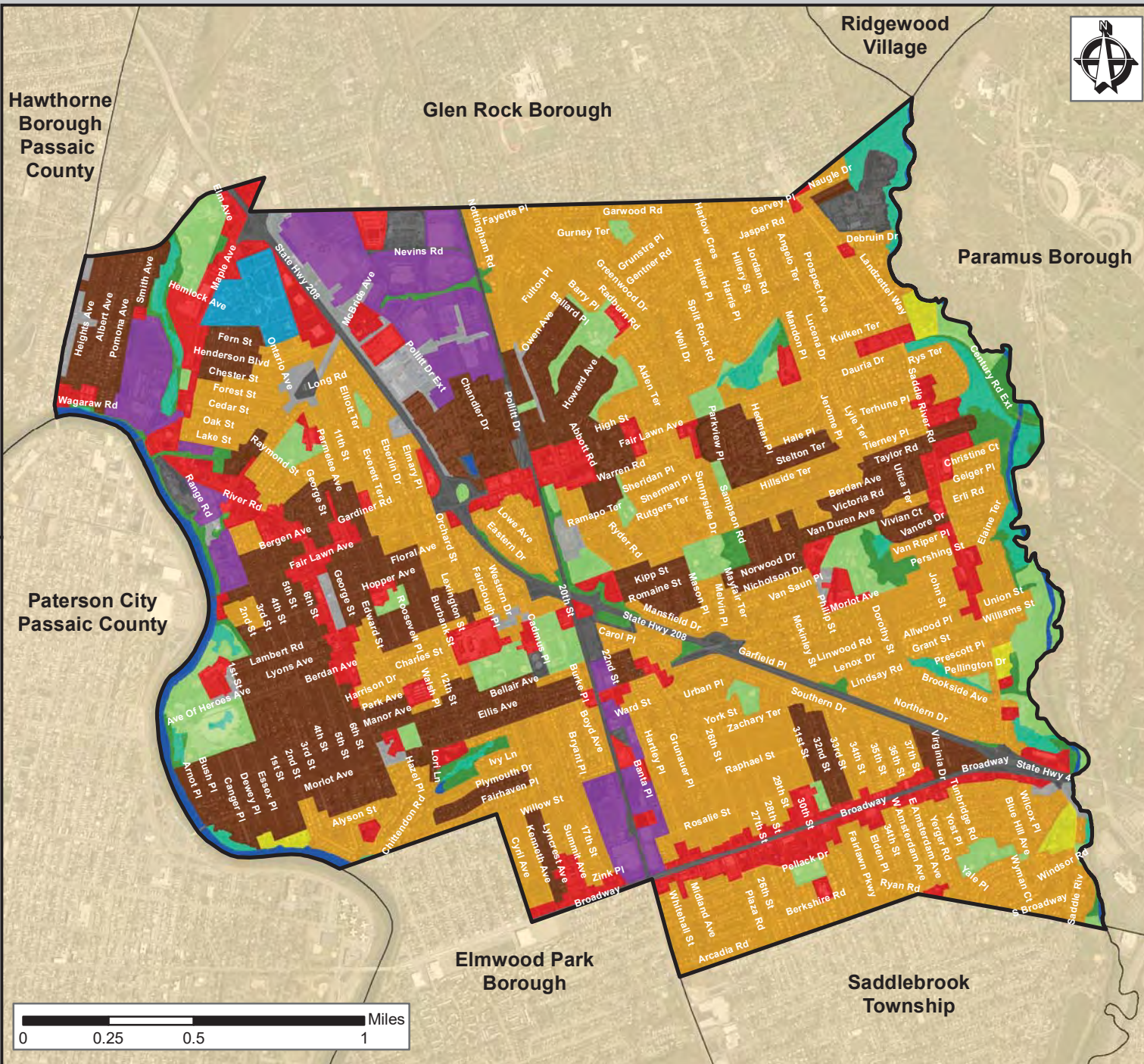
WWW.CMEUSAL.COM

DATE 2/15/2019	SCALE 1 inch = 2,250 feet	LAST REVISED 5/22/2019	CREATED BY JB
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APPENDIX E
Existing Land Use Map

LAND USE MAP

FAIR LAWN, N.J.



VACANT LAND
ADJUSTMENT

FAIR LAWN BOROUGH
BERGEN COUNTY
NEW JERSEY

- ### Legend
- #### Land Use Classification
- Residential, Low Density
 - Residential, Medium Density
 - Residential, High Density
 - Commercial
 - Industrial
 - Other Urban
 - Transportation / Utilities
 - Recreational / Horticultural
 - Cemetery
 - Wooded Areas
 - Wetlands
 - Water

Source: NJDEP, NJGIN Information Warehouse, NJOGIS

CME ASSOCIATES
CONSULTING & MUNICIPAL ENGINEERS

3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
1460 ROUTE 9 SOUTH HOWELL, N.J. 07731
3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852
ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM



DATE 2/4/2019	SCALE 1 inch = 2,250 feet	LAST REVISED N/A	CREATED BY JB
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APPENDIX F
Environmental Constraints Map

ENVIRONMENTAL CONSTRAINTS MAP

FAIR LAWN, N.J.



VACANT LAND ADJUSTMENT

FAIR LAWN BOROUGH
BERGEN COUNTY
NEW JERSEY

Legend

- ▲ Known Contaminated Sites
- Streams
- Waterbodies
- Wetlands
- 50 ft. Buffer
- Special Flood Hazard Area**
 - Zones AE, AO
 - 0.2% Annual Chance
- Vacant Parcels
- Parcels

Source: FEMA, NJDEP, NJGIN Information Warehouse, NJOGIS



CONSULTING & MUNICIPAL ENGINEERS

3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
1460 ROUTE 9 SOUTH HOWELL, N.J. 07731
3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852
ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM

DATE 2/4/2019	SCALE 1 inch = 2,250 feet	LAST REVISED 5/22/2019	CREATED BY JB
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APPENDIX G
RDP Projects Map

RDP PROJECTS MAP

FAIR LAWN, N.J.



VACANT LAND ADJUSTMENT

FAIR LAWN BOROUGH
BERGEN COUNTY
NEW JERSEY

Legend

- RDP Sites
- Parcels

Source: NJGIN Information Warehouse, NJOGIS



CONSULTING & MUNICIPAL ENGINEERS

3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
1460 ROUTE 9 SOUTH HOWELL, N.J. 07731
3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852
ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM

DATE 5/22/2019	SCALE 1 inch = 2,250 feet	LAST REVISED 6/17/2019	CREATED BY JB
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APPENDIX G
RDP Project Approval Resolutions

PLANNING BOARD
BOROUGH OF FAIR LAWN

RESOLUTION 5-2013

AMENDED SITE PLAN APPROVAL

In the Matter of the Application of

**Fair Lawn Promenade, LLC
16-31 Route 208 North
Block 4801 Lot 1**

WHEREAS, FAIR LAWN PROMENADE, LLC by and through their attorneys, Wells, Jaworski & Liebman, LLP, Stuart D. Liebman, Esq. appearing, has applied to the Fair Lawn Planning Board for Amended Final Site Plan Approval to incorporate the following changes to Prior Resolution Approval: 1. The Relief from the obligation to build 38 Affordable Housing Units; 2. The Applicant, in return for being permitted to build market rate units in lieu of Affordable Housing units, will pay the Borough's Affordable Housing Trust Fund \$1.5 million dollars to fund affordable housing and 3. Minor change in the configuration of the proposed road way in the area of the property at Pollitt Drive to address a conflict with an existing Verizon easement which contains a switching system.

NOW, THEREFORE, on this 12th day of August, 2013, be it resolved that the Fair Lawn Planning Board makes the following findings of fact:

I. PURPOSE AND SCOPE OF APPLICATION

The Applicant is the owner of the property, Lot 1, Block 4801. Previously, the Borough of Fair Lawn Economic Development Corporation (EDC) prepared the "Route 208 Corridor Planning Study" dated October 2, 2007, which study was presented to and accepted by the Borough of Fair Lawn. Among other changes to the zoning and land use in the area of the study, Ordinance #2172-2010 which was adopted by the Borough of Fair Lawn on February 16, 2010, created a new affordable housing district known as the MU Mixed-Use Planned Development District which applies to the Applicant's property.

The Applicant's property, which is 9.96 acres in size, was identified in the study as one which could serve as a new "gateway" from Route 208 to this section of the Borough of Fair Lawn. The MU Zone was created in order to encourage Mixed Use Development including residential and commercial uses, along with an affordable housing need for the Borough.

The Housing Element and Municipal Fair Share Plan Rounds I-III (1987-2018) adopted December 2008, and amended February 8, 2010, includes the aforementioned Ordinance #2172-2010, creating the MU Zone, in its implementing ordinances.

A Site Plan and Variance Application submitted by the Applicant for a multi-use development was approved by the Fair Lawn Planning Board by Resolution dated February 14, 2011. As part of the approval, 150 residential units were permitted with 38 of those units set aside for affordable housing.

Subsequently, the Borough entered into a contract to purchase 18-35 River Road (the "River Road Property") from Hadco Company, LLC. The Borough would then partner with Fair

Lawn Housing, L.P. in the development of the River Road Property as a 64 unit affordable age restricted (senior) housing project.

The Applicant agreed to contribute \$1.5 million to the Borough's Affordable Housing Trust Fund in lieu of constructing the 38 affordable housing units at the property. These funds are intended to be used by the Borough towards the Borough's purchase of the River Road Property.

In order to effectuate this process, the Borough amended the zoning ordinances for the MU Zone to allow a payment-in-lieu to the Borough's Affordable Housing Trust Fund instead of the actual construction of affordable housing units on site. The Superior Court of New Jersey has determined that the Borough's purchase and proposed development of the River Road Property and the Applicant's payment in lieu both serve a public purpose and granted the Borough the right to take such action by Order to Amend the Order and Final Judgment of Compliance and Repose dated March 20, 2013.

The Applicant is now requesting amended site plan approval from the Planning Board to include 150 market rate residential units in lieu of the on-site affordable units included in the prior approval, along with the \$1.5 million dollar payment-in-lieu of construction as approved and ordered by the Court in its March 20, 2013, Amended Order.

The Applicant is also requesting a slight modification to the design of a drive aisle and parking spaces located in the rear of the property at Pollitt Drive.

II. SITE DESCRIPTION

The subject property is identified as Block 4801, Lot 1 on the tax map of the Borough of Fair Lawn and is a 9.96 acre property in question, located on the eastern side of NJ Route 208, approximately 700 feet south of McBride Avenue. The property contains 700 feet of Route 208 frontage and a similar amount of Pollitt Drive frontage. The property is located in the mixed use ("MU") Zone, and the proposed use is permitted within the MU Zone.

The property is located in the MU Zone which permits the following uses:

1. Town houses,
2. Multi-family units,
3. Retail trade,
4. Services/recreation/entertainment,
5. Office and related business services,
6. Health services, and
7. Public uses.

III. APPLICANT'S PROPOSALS

The Applicant's proposal is to amend the prior approved plans and Resolution of approval as follows:

1. Applicant proposes a site plan with 150 market rate residential units in lieu of the 38 on-site affordable units included in the prior approval as shown on the Appel Design Group Architural plans dated March 24, 2010, last revised June 25, 2012;

2. Applicant proposes a payment-in-lieu of \$1.5 million dollars to the Borough's Affordable Housing Trust Fund to be used in accordance with the Affordable Housing Plan of the Borough;

3. Applicant proposes a slight modification to the design of a drive aisle and parking spaces located in the rear of the property at Pollitt Drive as shown on the Langan Engineering Site Plan dated August 20, 2010, and last revised June 24, 2013.

As a result, the within application seeks to amend the approval to allow all 150 units to be developed as market rate and to make a minor amendment to the site plan so an internal roadway can be adjusted to accommodate a Verizon utility easement.

IV. HEARINGS

The following persons testified:

Scott Loventhal, Managing Member of Fair Lawn Promenade, LLC

1. He described the plan wherein Applicant would now be able to construct 150 market rate units and be relieved of the obligation to construct 38 affordable housing units in return for a \$1.5 million contribution to the Borough's Affordable Housing Trust Fund.
2. A minor plan amendment from the original approval was also described at the northeast corner of the property, in order to accommodate an easement for the Verizon switching station located in that area.
3. The roadway and parking spaces were slightly reconfigured so they would not interfere with the easement of Verizon.
4. The Verizon equipment will also be protected by a retaining wall to be installed.

5. The \$1.5 million payment in lieu will be made by Applicant pursuant to its Agreement with the Borough and the Affordable Housing Plan of the Borough.
6. The site plan and approvals will remain the same in all other respects.
7. No variances are required for this proposal.

The following exhibits were entered into evidence by applicant:

A-1 Resolution of Approval #18-2010 dated February 14, 2011.

A-2 Judge Martinotti Order to Amend the Order and Final Judgment of Compliance and Repose as to the "Hadco/Kem" and "Fair Lawn Promenade" sites only, the HE&FSP, Implementing Ordinances and any other Plan of Compliance Documents filed March 20, 2013

Discussion

8. The amended site plan presents only a minor change in the configuration of an internal roadway, which the Board finds to be de minimus.
9. The increase in the number of market rate units on site has no material affect on the site plan, and applicant has satisfied its affordable housing obligation through transferring its affordable housing obligation to the "River Road Property" and the payment of \$1,500,000 (One Million Five Hundred Thousand Dollars) to The Borough Affordable Housing Trust Fund .

NOW, THEREFORE, the Planning Board of the Borough of Fair Lawn by a vote of ___ to ___ grants the aforementioned application for Amended Final Site Plan approval, with the following conditions:

10. The Applicant shall be required to obtain all necessary permits and approvals from the Construction Official, Fire Subcode Official and such other municipal departments as may be necessary
11. The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Fair Lawn which shall include payment to the Borough's professionals for the review of the application and the inspection of work to be performed incidental thereto.
12. Applicant to pay \$1.5 million dollars to the Borough of Fair Lawn Trust Fund pursuant to its Agreement with the Borough and The Affordable Housing Plan of the Borough.
13. The applicant shall remain compliant with all conditions of the prior resolution of approval Number 18-2010 dated February 14th 2010 except as specifically addressed herein.

BE IT FURTHER RESOLVED, that the Applicant pay the costs of the Borough of Fair Lawn Engineer, Planner and Borough of Fair Lawn Planning Board Attorney associated with this application, and release of escrows for escrows posted authorized upon receipt of sign off letters from all borough professionals.

THE BOROUGH OF FAIR LAWN is hereby directed to mail a copy of this Resolution to the Applicant's attorney and to file a copy of this Resolution with the Borough of Fair Lawn Clerk, and to cause notice of these determinations of the Planning Board to be published in the official newspaper of the Borough of Fair Lawn within ten (10) days of the date hereof and thereafter published according to law.

ATTEST:


Secretary

FAIR LAWN PLANNING BOARD


Chairperson

PLANNING BOARD
BOROUGH OF FAIR LAWN

RESOLUTION 6-2013

SIGNAGE APPROVAL WITH VARIANCES

In the Matter of the Application of

**Fair Lawn Promenade, LLC
16-31 Route 208 North
Block 4801 Lot 1**

WHEREAS, FAIR LAWN PROMENADE, LLC, by and through their attorneys, Wells, Jaworski & Liebman, LLP, Stuart D. Liebman, Esq. appearing, has applied to the Fair Lawn Planning Board for Signage Approval with Variances to install signs for the entire development.

Variances and Approvals Required:

Retail A1 Building

North Elevation

Description	Permitted	Proposed
Maximum Sign Letter Height	16 inches	36 inches (V)
Awning Sign Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each tenant may have one wall sign per tenant elevation. In addition, each awning on a tenants façade may have a sign on it unless the awning is directly under a wall sign.

South Elevation

Description	Permitted	Proposed
Awning Sign Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each awning on a tenants facade may have a sign on it.

East Elevation

Description	Permitted	Proposed
Awning Sign Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each awning on a tenants facade may have a sign on it.

West Elevation

Description	Permitted	Proposed
Maximum Sign Letter Height	16 inches	36 inches (V)
Max. Awning Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each tenant may have one wall sign per tenant elevation. In addition, each awning on a tenants facade may have a sign on it unless the awning is directly under a wall sign.

Office/Retail A2 Building

Office Portion

South Elevation

Description	Permitted	Proposed
Second Floor Sign	Single window sign of single color and limited to two lines - each line limited to 6 inches in height and max. distance of	36" x 144" wall sign on second story elevation for second floor tenant TKL (V)

	separation of 4 inches between lines for any business second floor sign	
Awning Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each awning on a tenants façade may have a sign on it.

East Elevation

Description	Permitted	Proposed
Second Floor Sign	Single window sign of single color and limited to two lines - each line limited to 6 inches in height and max. distance of separation of 4 inches between lines for any business second floor sign	32" x 144" wall sign on second story elevation for second floor tenant TKL (V)
Awning Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each awning on a tenants façade may have a sign on it.

West Elevation

Description	Permitted	Proposed
Awning Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Second Floor Sign	Single window sign of single color and limited to two lines – each line limited to 6 inches in height and max. distance of separation of 4 inches between lines for any business second floor sign	42" x 180" wall sign on second story elevation for second floor tenant TKL (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each awning on a tenants façade may have a sign on it.

Retail A2 Portion

North Elevation

Description	Permitted	Proposed
Maximum Sign Letter Height	16 inches	36 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Awning Sign Letter Height	8 inches	24 inches (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each tenant may have one wall sign per tenant elevation. In addition, each awning on a tenants façade may have a sign on it unless the awning is directly under a wall sign.

East Elevation

Description	Permitted	Proposed
Maximum Sign Letter Height	16 inches	36 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Awning Sign Letter Height	8 inches	24 inches (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each tenant may have one wall sign per tenant elevation. In addition, each awning on a tenants façade may have a sign on it unless the awning is directly under a wall sign.

West Elevation

Description	Permitted	Proposed
Maximum Sign Letter Height	16 inches	36 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Awning Sign Letter Height	8 inches	24 inches (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each tenant may have one wall sign per tenant elevation. In addition, each awning on a tenants facade may have a sign on it unless the awning is directly under a wall sign.

Retail Building B

South Elevation

Description	Permitted	Proposed
Maximum Sign Letter Height	16 inches	36 inches (V)
Maximum Sign Width	Not to exceed 75% of the store front or wall of that portion of building to be occupied	One tenant will have a sign length of 80% of the elevation width (V)
Awning Sign Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each tenant may have one wall sign per tenant elevation. In addition, each awning on a tenants facade may have a sign on it unless the awning is directly under a wall sign.

East Elevation

Description	Permitted	Proposed
Awning Sign Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each awning on a tenants facade may have a sign on it.

West Elevation

Description	Permitted	Proposed
Maximum Sign Letter Height	16 inches	36 inches (V)
Awning Sign Letter Height	8 inches	24 inches (V)
Awning Sign Width (Length)	33% of the width (length)	50% of the width (length) (V)
Number of Signs	No more than one principal sign for each retail establishment or permitted use	Each tenant may have one wall sign per tenant elevation. In addition, each awning on a tenants facade may have a sign on it unless the awning is directly under a wall sign.

(V) - Variance Required

* No Wall Signs shall exceed 75 square feet in size. However, any façade less than 25 feet shall have a maximum wall sign size of 50 square feet.

* Each tenant entrance will be permitted to have a blade sign which is 22 ¼" (length) x 12" (height) where signs cannot extend more than 10" from the façade.

I. APPLICANT'S PROPOSAL

The Applicant is proposing a signage program for the entire development and seeking variances and approval for the proposed signs and building elevations.

II. SITE DESCRIPTION

The subject property is identified as Block 4801, Lot 1 on the tax map of the Borough of Fair Lawn and is a 9.96 acre property in question, located on the eastern side of NJ Route 208, approximately 700 feet south of McBride Avenue. The property contains 700 feet of Route 208 frontage and a similar amount of Pollitt Drive frontage. The property is located in the Mixed Use ("MU") Zone, and the proposed use is permitted within the MU Zone.

The property is located in the MU Zone which permits the following uses:

1. Town houses,
2. Multi-family units,
3. Retail trade,
4. Services/recreation/entertainment,
5. Office and related business services,
6. Health services, and
7. Public uses.

III. HEARINGS

The following persons testified:

Scott Loventhal, Managing Member of Promenade, LLC

1. Provided an overview of the signage program designed to control the look and maintain the quality of the Promenade concept.
2. The project will have mixed uses with amenities on site.

Thomas Schneider - Principal, Bergen Sign Company

3. Qualified as an expert in signage for mixed uses.
4. The witness described the sign program as depicted on plans entitled "Fair Lawn Promenade" prepared by Bergen Sign Company marked as Exhibit A-3 (the "Plans").
5. The names employed on the plan were fictitious with the exception of TKL, which is an actual anchor tenant for the site.
6. Tenants will be permitted to have one (1) wall sign per tenant elevation. However, wall signs are prohibited on the north side of Building B, the east and south sides of Building A1 and on the first floor of the portion of Building A used for office use. Tenant may also have signs on each awning so long as the awning is not directly below a wall sign.
7. Allowing each tenant to have choices in their sign configuration will serve to break up the building frontage and foster a downtown feel to the project.
8. Variety will give unique feel to the Promenade development.
9. As shown on the Plans, the Applicant is proposing three wall signs on the 2nd story of Building A. The signs will be used by TKL, a tenant occupying the entire second floor of that building. One sign will be located on the West, East and South elevations.

10. There was no specific sign criteria developed for the MU Zone.
11. Accordingly, Applicant analogized its Plan to the newly enacted signage ordinances for the Borough's B2 zone.
12. Each building will have its own uniform awning color.
13. Additional monument directory signs within the interior of the site were also described. Monument Signs 1, 2 and 3, as shown on the Plans, were also described for informational purposes only in order for the Board to get a sense of the entire sign program. These three monument signs were previously approved by the Board and did not require any further approval from the Board by way of this application.
14. Blade signs projecting perpendicular to the facade of the building are proposed at one per tenant entrance.
15. The channel letter wall signs will not be a uniform color and will conform to the style of the individual tenant.
16. No external lighting directed onto the blade signs is proposed, but the Applicant reserves the right to install some external gooseneck lighting on the building and directed at the awning signs which are not internally illuminated.
17. The wall signs will be internally illuminated and will be controlled by a timer. The awnings will have periodic maintenance.
18. The plans will be corrected and resubmitted for technical corrections on the zoning schedule.
19. Blade signs will be located at a height at or over 7 feet.

20. The permitted number of signs per tenant, whether wall or awning, will be added to the Plan notes to avoid any confusion regarding the multiple appearance of signs and awnings depicted on the Plans.
21. Height of lettering on the previously approved Monument Sign 1 will be 4 inches. Street number address panels will also be added to the bottom of Monument Signs 1 and 2.

Brigitte Bogart - Professional Planner

22. Testified as to the variances required and her familiarity with the signage ordinances and the Borough of Fair Lawn Master Plan.
23. Three characteristics of the site were referenced.
24. First, it is a unique site due to its location (on Route 208), surrounding development pattern (multi-family and, light industrial buildings with more modern uses) and the multiple vehicle access points being provided for the commercial and residential components found on-site. These features require unique way finding signs.
25. Secondly, the site is the lone property which was specifically rezoned as the MU Zoning District.
26. It was rezoned to be a cohesive mixed use development with a comprehensive design and a variety of uses; however, it was not given its own sign standards. The existing sign requirements do not take the uniqueness of this zone into account.
27. Third, the site design is a hybrid, it is not a strip mall single entrance, but you have multiple access points with a mixture of uses, which constitutes a hybrid package.
28. Design therefore is based generally on the Broadway (B2) Zone, but will be conformed to meet the specific needs of this unique site.

29. The way finding sign package will enable vehicles to properly identify the entrances to the site, as well as to efficiently maneuver within the site to find their destination.
30. Wall signs and blade signs will provide further identification and will assist with pedestrian traffic.
31. The five variances: 1) the 36 inch wall letter height versus the 16 inch height normally permitted is justified by the distance from the roadway as per USSC standards; 2) the deviations for awning sign height and width sought is consistent with the size of the proposed wall signs per USSC Standards; 3) the second story building signs are appropriate due to the large amount of wall area available, is preferable to using a window for that purpose, and is in keeping with the architectural design of the building. The three signs proposed also serve three different vantage points since the building is surrounded by 2 roadways and a parking lot. 4) The fourth variance for internal directory or way finding signs is appropriate and will avoid confusion; 5) Allowing each tenant to have more than one sign as discussed herein promotes the mixed use development contemplated by the ordinances and provides for better visibility to vehicular and pedestrian traffic. The blade signs on the face of the building are necessary and helpful for pedestrian foot traffic and allow shoppers to stay closer to the stores without having to step out away from the building to find the store that they are looking for.
32. In examining the criteria of the Municipal Land Use Law (MLUL), she found that overall, these variances are warranted under C (2) analysis.
33. It furthers the goals of the zoning ordinance in providing a comprehensive, cohesive design for the site.

34. The proposed signage also advances the purposes of the Municipal Land Use Act (MLUL).
35. This is an appropriate development for this site as it improves circulation and promotes vehicular and pedestrian safety on the site.
36. It also provides a desirable visual environment and uniformity in development.
37. As a planned unit development, it represents the best uses of design with residential usage.
38. Signage enhances what is there by creating a uniform design.
39. There are no substantial detriments as it is an organized, cohesive sign program, respects the design of the buildings.
40. As far as negative criteria, there is no detriment to the public good.
41. Way finding also promote the public good as they encourage the appropriate flow of traffic (public safety).
42. As the site is isolated from other properties, there is no visual impact beyond this development.
43. The proposed sign package encourages mixed use planned development which is the goal of the MU Zone. Since there are no specific sign standards for this zone, the sign program is modeled after the newly enacted sign ordinances for the B2 Zone, with some modifications to account for the uniqueness of the site and its development. Therefore, there is no substantial detriment to the intent of the Borough's Master Plan.
44. The benefits outweigh the detriments and the proposal constitutes a better zoning alternative and planning alternative and provides an aesthetic benefit.

Board Analysis

The Board recognizes that this is a unique development within the Borough. The project revitalizes a property along the Route 208 Corridor by transforming an outdated property into a mixed use development which serves as a gateway from Route 208 to the Borough. The Board also recognizes that the signage program standards were not developed for the MU Zone and given the uniqueness of the site appropriate signage which varies from the Borough's standard signage ordinances needs to be considered. In this regard the board finds that the Applicant modeling its signage after the specific signage requirements for the B-2 Zone is appropriate.

Turning to the variances proposed, the board concurs with the testimony of the Applicant and its professionals in that they are necessary and appropriate for this site. Multiple points of access to this type of mixed use development present unique conditions that this proposal addresses. As one travels through the site from various access points, the way finding signs and directories are necessary for proper vehicular and pedestrian circulation. The variances for the size of the wall and awning signs, contribute to easy identification of the stores, given the setback from the roadway. Furthermore, the blade signs facilitate identification of the stores for pedestrian travelling the sidewalk immediately in front of the establishment. The Board also finds that the proposed number of signs lends itself to the uniqueness of the proposed development and will not be excessive. The variances further the purpose of advancing the goals of the zoning ordinance by providing a comprehensive plan for a mixed use development. The signage also advances purposes a,h,i, and k of the M.L.U.L. There are no substantial detriments to the proposal, and it is consistent with the Borough's Master Plan and Ordinances. The board finds no substantial detriment to the public good. The benefits of the proposal clearly outweigh the

detriments and relief can be granted as there is no detriment to the intent of the Borough's Master Plan or Ordinances.

NOW, THEREFORE, the Planning Board of the Borough of Fair Lawn by a vote of ___ to ___ grants the aforementioned application for Site Plan approval with variances, with the following conditions:

CONDITIONS

45. The Applicant shall be required to obtain all necessary permits and approvals from the Construction Official, Fire Subcode Official and such other municipal departments as may be necessary
46. The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Fair Lawn which shall include payment to the Borough's professionals for the review of the application and the inspection of work to be performed incidental thereto.
47. The Applicant shall be and shall remain liable for any and all damages or money loss occasioned by the Borough of Fair Lawn or its officers or agents by any neglect, wrongdoing, omissions or commissions by the Applicant arising from the making of improvements, and shall save, indemnify, and hold harmless the Borough of Fair Lawn or Board, its officers, agents, employees and all charges, judgments, costs or counsel fees arising from such damages or loss. The Applicant agrees not to commit any public or private nuisance by reason of dirt, dust, debris, air pollution, noise pollution, gas, smoke,

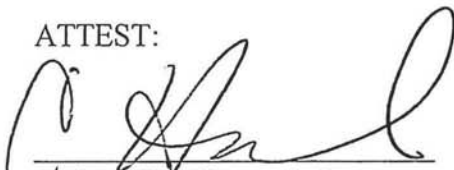
or other occurrences resulting from the construction or installation authorized by the approval of this plan or any building permit issued in pursuit thereof.

48. The Applicant shall revise the Plans to conform to all items approved by the Board. The Plans shall be submitted to Board Planner and shall be used as a guide for the sign permitting for the site.

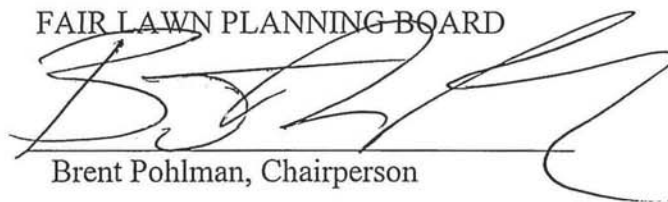
BE IT FURTHER RESOLVED, that the Applicant pay the costs of the Borough of Fair Lawn Engineer, Planner and Borough of Fair Lawn Planning Board Attorney associated with this application, and release of escrows for escrows posted authorized upon receipt of sign off letters from all borough professionals.

THE BOROUGH OF FAIR LAWN is hereby directed to mail a copy of this Resolution to the Applicant's attorney and to file a copy of this Resolution with the Borough of Fair Lawn Clerk, and to cause notice of these determinations of the Planning Board to be published in the official newspaper of the Borough of Fair Lawn within ten (10) days of the date hereof and thereafter published according to law.

ATTEST:


Cathryn Hochkeppel, Secretary

FAIR LAWN PLANNING BOARD


Brent Pohlman, Chairperson

Date: August 12, 2013

PLANNING BOARD
BOROUGH OF FAIR LAWN

RESOLUTION 6-2016

AMENDED MAJOR SITE PLAN APPROVAL WITH VARIANCES

In the Matter of the Application of

**13-09 River Road, LLC
13-09 River Road
Block 5610 Lots 27 & 28**

WHEREAS, 13-09 River Road, LLC, by and through their attorney, Jeffrey Kantowitz, Esq., appearing, has applied to the Fair Lawn Planning Board for Major Site Plan Approval to construct a three-story mixed use building; and

WHEREAS, the applicant was granted Major Site Approval with Variances to construct a three-story mixed use, memorialized as Borough of Fair Lawn Planning Board Resolution 2-2015; and

WHEREAS, the applicant has returned to the Planning Board seeking to be relieved of its obligation set forth as Paragraph 11 of the Resolution to provide an affordable housing unit on site as a part of the project; and

WHEREAS, it has proposed that a payment to the Borough of Fair Lawn Affordable Housing Trust Fund in lieu of constructing a unit on site be substituted to satisfy its affordable housing obligation;

NOW, THEREFORE, the Borough of Fair Lawn Planning Board makes the following findings of fact:

I. JURISDICTION

The application is properly before the Planning Board as the Applicant seeks modification and amendment to a prior Major Site Plan Approval with variances. All persons required to receive notice within 200' and all utilities as required to receive notice, as required by the New Jersey Municipal Land Use Law have been notified and proof of same has been filed with the Planning Board giving the Planning Board jurisdiction to hear this Application.

II. SITE DESCRIPTION

The subject property is 7,048 square feet (s.f.) in area and is located on the east side of River Road between Hopper Avenue and Fair Lawn Avenue. The site occupies Block 5610, Lots 27 & 28 and is located in the B-4 River Road Business Zone. Lots 27 & 28 contain a one-and-one-half story dwelling with a detached frame garage.

III. APPLICANT'S PROPOSALS

The Applicant proposes to construct a three-story mixed use building with retail on the first floor and apartments on the second and third floors. The Applicant proposes to provide a twelve (12) space parking area and stormwater improvements.

IV. PRIOR APPLICATION

An application by this applicant was heard by the Planning Board on July 28, 2014, seeking a mixed use of residential and commercial development. The Board, upon reviewing the application filed in 2015, found it to be sufficiently different in size, scope and variance relief requested as to not be res judicata. Accordingly, in the Board's discretion, found the application

could be heard for a determination upon the merits. The Board approved the proposal on February 9, 2015 and memorialized on March 9, 2015 as Resolution 2-2015 which applicant seeks to amend.

The following person(s) spoke in favor of the amendment.

Jeffrey Kantowitz, Esq. as the representative of the applicant made the following representations:

1. There will be no changes to the prior approval aside from those requirements that it will no longer be required to dedicate one of the residential units onsite for affordable housing.
2. The applicant's obligations will be satisfied by a payment in lieu to the Borough's Affordable Housing Trust Fund.
3. As a result, all residential units on site will be market rate.
4. The figure of \$45,000.00 was provided to Mr. Kantowitz by the Borough of Fair Lawn after discussion with the Borough Attorney and the Borough Planner.
5. The money will provide flexibility to the Borough in the manner in which it chooses to satisfy its affordable housing obligations.
6. A confirmation letter regarding the amount of the contributions was sent from the applicant's counsel to the Borough Attorney and marked as Exhibit A-1.
7. The Borough of Fair Lawn has taken no position on the amended application under consideration.

Discussion:

8. The Board is satisfied that based upon the representations of counsel that the amount of the payment in lieu is sufficient to satisfy the applicant's obligation and based upon

representation of counsel is at least comparable to the value of the unit if constructed on site.

9. Furthermore, it does allow the town the flexibility in the choice and method of satisfying the Borough's housing obligations which has been done previously in town as noted with the promenade.

NOW, THEREFORE, the Planning Board of the Borough of Fair Lawn hereby grants the relief requested by the applicant to relieve it of the obligation to provide one affordable housing unit on site as set forth under Condition Eleven as set forth in the original Resolution of Approval. The applicant, in lieu of building the affordable unit on site, shall contribute \$45,000 to the Borough of Fair Lawn Affordable Housing Trust Fund.

CONDITIONS

10. The Applicant shall comply with all representations and stipulations made during the hearing on this Application including of the stipulations enumerated above.
11. All other conditions of Resolution Number 2-2015 not specifically amended herein remain in effect.
12. Applicant shall pay 50% of the payment to the Borough of Fair Lawn Affordable Housing Trust Fund in lieu within 10 days of adoption of the memorializing resolution.

The balance of the payment in lieu shall be paid upon the issuance of a certificate of occupancy for the building at 13-09 River Road.

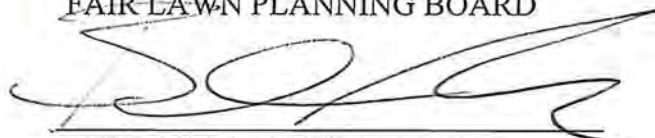
THE BOROUGH OF FAIR LAWN is hereby directed to mail a copy of this Resolution to the Applicant's attorney and to file a copy of this Resolution with the Borough of Fair Lawn Clerk, and to cause notice of these determinations of the Planning Board to be published in the

official newspaper of the Borough of Fair Lawn within ten (10) days of the date hereof and thereafter published according to law.

ATTEST:



Cathryn Hochkeppel, Secretary

FAIR-LAWN PLANNING BOARD


Brent Pohlman, Chairperson

Date: September 12, 2016

**PLANNING BOARD
BOROUGH OF FAIR LAWN**

RESOLUTION #7-2016

MAJOR SITE PLAN PRELIMINARY AND FINAL APPROVAL

**In the Matter of the Application of Barrister Land Development Corp.
41-25 Dunkerhook Road and 41-29 Dunkerhook Avenue
Block 1702 Lots 5 and 6**

WHEREAS, Barrister Land Development Corp., by and through their attorney, Russell Huntington, Esq., appearing, has applied to the Fair Lawn Planning Board for Major Site Plan approval with Variances to construct a 24-unit townhouse development.

DESCRIPTION	REQUIRED	PROPOSED
Minimum Lot Area (AC)	2.4	3.5
Minimum Lot Width (FT)	120	125
Minimum Lot Depth (FT)	200	630
Minimum Front Yard (FT)	20	20
Minimum Side Yard - Interior (FT)	15	20
Minimum Side Yard - Street (FT)	25	N/A
Maximum Building Height (Stories)	2-1/2	2-1/2
Maximum Building Height (FT)	30	30
Maximum Building Coverage (%)	25	20.1
Minimum Distance Between Buildings (FT)	20	25
Maximum Impervious Coverage (%)	45	44.1
Total Parking	2.25/unit	3.35 unit
Total Parking	52 spaces	77 spaces
Maximum Density (DWLG. UNIT/AC)	7 DWLG/ACRE	6.57 DWLG/ACRE
Buffer to Residential Uses (FT)	35	35

NOW, THEREFORE, on this 12th day of December, 2016, be it resolved that the Fair Lawn Planning Board makes the following findings of fact:

I. JURISDICTION

The application is properly before the Planning Board as the Applicant seeks Preliminary and Final Approval for Major Site Plan Application . All persons required to receive notice within 200' and all utilities as required to receive notice, as required by the New Jersey Municipal Land Use Law have been notified and proof of same has been filed with the Planning Board giving the Planning Board jurisdiction to hear this Application.

II. SITE DESCRIPTION

The subject property known as Block 1702, Lots 5 and 6, 41-25 and 41-29 Dunkerhook Road (the "Site"). The site is a total of 3.5 acres in area and is located on the north side of Dunkerhook Road between Saddle River Road and Century Road Extension. The site currently contains one (1) 2-story and one (1) 1-1/2 story dwelling plus two (2) wood sheds and a chicken coop. The site is cited in the R-5-1 Townhouse Residential District.

III. APPLICANT'S PROPOSALS

The applicant proposes combining the two (2) existing lots, demolishing the existing 1-1/2 story dwelling, wood sheds and chicken coop and constructing a 24-unit townhouse development. The twenty-three (23) units will consist of six (6) building structures. The 2-story dwelling will be incorporated into one (1) of the building structures, Building 22-23.

IV. HEARINGS

The following persons testified on October 10, 2016:

Robert Milanese

1. Described the site consisting of 3.5 acres.

2. Lot 6 Block 1702 contains the dilapidated house on approximately .5 acres.
3. He is contract purchaser of 3 acres adjacent Lot 5 Block 1702.
4. The property is bordered by Landzettel Way and Dunkerhook Park.
5. There is a 30 foot right of way through to the Naugle house.
6. Six townhome buildings are proposed.
7. Exhibit A2 was described depicting approximately 2,200 square foot two-bedroom unit.
8. Exhibit A1 depicts the two proposed units (22, 23) with attached historic portion (existing two story building).
9. All units will be age restricted for 55 years and over, which will be memorialized in the deed of conveyance.
10. The existing Vanderbeck home will be open to the public and usable by the Historical Commission.
11. The applicant consulted with the commission to establish terms of the usage.
12. Exhibit A4 was submitted as the letter of understanding with the commission dated September 20, 2016.
13. The association will meet annually with the commission to discuss the terms of usage.
14. The application is variance free.
15. The building material to be used and the preservation and restoration of the historic building were discussed.
16. The applicant stipulated that it will vacate the existing easement to the Naugle house.
17. Approximately 65 percent of the historic portion will be untouched and the remainder will be restored and replicated to its original construction as best as possible.
18. The building materials for the new townhome units were described.

19. There will be no decks and patios will be on grade.
 20. A walkway to the river is proposed for the public access.
 21. Condominium common element of the units will require master deed and deeds of conveyance to contain covenants to preserve and maintain the historic building, which will be open to the public.
 22. These covenants run with the land.
 23. The reconstructed portion of the building will use old stone.
- Andrew Missey P.E. Lapatka Associates Engineering Paramus, New Jersey
24. Testified as to A1 plans consisting of 7 sheets.
 25. The design standard complies with the zoning ordinance for design standards.
 26. To the south is Dunkerhook Park where access and egress continues into Paramus onto Century Road.
 27. The Saddle River borders the easterly side.
 28. The site is suitable for development as the elevation change from the Saddle River to the development is 23 feet, which protects the buildings from flooding from the Saddle River.
 29. The garages and parking for the units were described.
 30. There are 78 spaces inclusive of garage spaces.
 31. The fencing and landscaping was described.
 32. Most existing trees will remain.
 33. Sixty-two evergreen replacement trees are proposed for the parking buffer.
 34. Ground cover and streetscaping were described.

35. The design of the drainage system addresses the two 10 and 100-year storms and was described along with the soils.
36. There will be no increase in runoff affecting the neighbors.
37. The 78 spaces are provided which are more than adequate.
38. All the bulk requirements for the zone were explained in detail and all comply with the zoning requirements.
39. A sewer easement will be acquired.
40. Applicant will request a restriction of left turn only during peak hours.
41. The engineer's letter of October 5, 2016 was addressed.
42. Deer resistant plants to be planted along fences.
43. The border fences will be plastic.
44. There will be retention areas at units 1 to 4, 5 to 9 and 10 to 13.
45. The six-foot retaining wall located near units 22 and 23 was described.
46. The handicap spot by the historic building will be relocated.

November 7, 2016 testimony

Andrew Missey, P.E. -continued

47. Exhibit A4 revised 10/19/16 Sheet 1 of 7 depicting access to the Vanderbeck house as well as decks and sitting areas for the units was introduced.
48. The zoning chart changes was reviewed, building coverage changed to 20.1% and impervious coverage was changed to 44.1.
49. The ADA compliant space was relocated for improved access to the Vanderbeck house.
50. Wood chip path is located at the northeast corner.
51. Sheet two depicting the sewer relocation was described.

52. The grading plan was described.
53. All sheets of the plan set will be updated to comport with the changes described.
54. A water main is proposed to be installed and is compliant as applicant does not wish to loop the system.
55. The sewer is relocated to the front of units 18-21 for improved access.
56. If there is a logistical problem with the water system, it will be relocated with the approval of the borough engineer.
57. All other comments in the Boswell letter to be complied with.
58. Safety fencing to be installed where needed.
59. The topographical waiver request was discussed.
60. The relocated handicap space and ramp were described.
61. "Fall protective" safety fencing will be installed.

Robert Milanese -continued

62. The proposed site was walked to determine the possible existence of gravesites and artifacts of family members. and he is open to walking the property with an expert on these issues.
63. Any artifacts will be provided to the historic commission.
64. Relocating the handicap ramp will make it less visible and will recover two spaces near the Vanderbeck house for visitors.
65. Handicap spaces would be relocated subject to the planning board engineer's approval.
66. The property would be fenced with a wood product.
67. The roof will be repaired and replaced on the historical portions as needed while restoration is performed.

68. Existing stone of the home will be retained and matched where needed and the structure will have clapboard siding and a brownstone facade.
69. The applicant will continue to work with the historic commission during this process of restoration.
70. Applicant will vacate the easement to the Naugle property.
71. There will be deed covenants which will also be set forth in the condominium statement which require that the condominium association preserve the historic portion of the Vanderbeck house in perpetuity and provide access to the public.
72. This covenant will run with the land.
73. Applicant will allow the historic society to provide access to observe excavation of the site.
74. There is little of the right side of the building which is salvageable, but attempts will be made to preserve wood work and re-use the stone.
75. Applicant reconfirmed it will abide by the applicable laws governing grave sites when discovered.
76. Applicant will work with the commission and any expert it would retain to preserve artifacts discovered.
77. Applicant will work with the commission and the family regarding gravesites.

Peggy Norris - One 15th Street, Elmwood Park

78. Expressed this is a better project than the assisted living use initially proposed and hoped the easement to the Naugle property would be extinguished.

Mark Collier - 39-08 Van Durn Avenue Fair Lawn

79. Expressed concern over runoff to the Naugle house site.

80. He further expressed concern over the routes taken by construction vehicles to the site.

81. Finally, he expressed disappointment with the project.

Pamela Coles - 13-34 George Street Fair Lawn

82. Stated that the intention to promote cultural resources through preservation conflicted with the ordinance adopted by the governing body to permit this use.

83. If the project was approved, the site would lose its historic designation.

Discussion

84. The project as proposed is variance free under the standards set forth in Ordinance 2383-2016.

85. During the course of the hearing, the applicant requested and was granted a submission waiver requiring topography of off site properties.

86. In addition to compliance with zoning standards, this project constitutes a compromise which preserves a building of historical significance to this community while allowing the applicant to make reasonable use of the remainder of the property.

87. Absent the representations and stipulations agreed to by the applicant to restrict the property in perpetuity to preserve and maintain the historic portion of the home by the condominium association or the successors, the entire house could be demolished and the property developed by the applicant.

88. While it was expressed that the project may result in the loss of a legal designation of historical status for the home, it has gained significant legal protections from these stipulations.

89. The board is convinced that 1) this conforming project is beneficial and 2) it provides a significant benefit to the cultural preservation of the community which warrants approval.

NOW, THEREFORE, the Planning Board of the Borough of Fair Lawn by a vote of ___ to ___ grants the aforementioned application for Site Plan approval, with the following conditions:

CONDITIONS

1. The Applicant shall be required to obtain all necessary permits and approvals from the Construction Official, Fire Subcode Official and such other municipal departments as may be necessary, as well as all requisite county, state or federal approvals.
2. The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Fair Lawn which shall include payment to the Borough's professionals for the review of the application and the inspection of work to be performed incidental thereto.
3. The Applicant shall be and shall remain liable for any and all damages or money loss occasioned by the Borough of Fair Lawn or its officers or agents by any neglect, wrongdoing, omissions or commissions by the Applicant arising from the making of improvements, and shall save, indemnify, and hold harmless the Borough of Fair Lawn or Board, its officers, agents, employees and all charges, judgments, costs or counsel fees arising from such damages or loss.
4. The Applicant agrees not to commit any public or private nuisance by reason of dirt, dust, debris, air pollution, noise pollution, gas, smoke, or other occurrences resulting from the

construction or installation authorized by the approval of this plan or any building permit issued in pursuit thereof.

5. The applicant shall comply with all representations made during the course of the hearing.

Special Conditions

6. NJDEP Wetlands Letter of Interpretation
7. NJDEP Wetlands General Permit for Outfall (Outfall Structure at Saddle River).
8. NJDEP Flood Hazard Area Individual Permit include Water Quality and Stormwater Management
9. NJDEP Treatment Works Approval for a Sanitary Sewer Extension.
10. Bureau of Safe Drinking Water Connection Permit.
11. Bergen County Planning Board
12. Bergen County Soil Conservation District
13. Passaic Valley Sewerage Commission
14. Barrister Land Development Corp. (Developer) shall have the right, subject to the approval of the Planning Board Engineer, to move handicap spaces to different parking locations on site as may be needed for specific unit owners, but in no event shall the number of handicap parking spaces be reduced.
15. Developer shall redesign accessible route (ramp) to the Vanderbeck House and provide two (2) parking spaces, one of which to be designated as a handicap space, substantially as shown on the original Site Plan submitted to the Planning Board the revised design of which is subject to the Planning Board Engineer's approval.


16. Developer shall vacate existing right of way easement across adjacent Borough lands (Naugle House property). Developer shall provide deed for Planning Board attorney's review and approval.
17. Developer shall include language in the "Master Deed for Barrister Court Townhomes at Dunkerhook" to be approved by Planning Board attorney guaranteeing that the historic section of the Vanderbeck House can never be demolished or substantially changed without further Planning Board approval.
18. Developer shall include language in the Master Deed and Public Offering Statement indicating that although the Vanderbeck House will be a common element of the Association for their use as the Association sees fit and customary for buildings of historical significance, the Fair Lawn Historic Preservation Commission shall have the right to use the Vanderbeck House at agreed times and open it up to the public in accordance with the attached memorandum of understanding dated September 20, 2016 and revised September 22, 2016.
19. As a further condition of approval, Developer agrees to maintain and restore the Vanderbeck House to the maximum extent practicable in order to retain this historic and cultural resource.
20. The Developer Agreement shall include a provision permitting a representative of the Historic Preservation Commission to be on site to observe the excavation or professional testing to determine the existence of any artifacts and grave sites that may be hidden beneath the surface. The representative of the Historic Preservation Commission shall not unreasonably delay the development of the site.

21. Developer shall submit revised plans and comply with all conditions and required site plan changes set forth in Boswell Engineering report dated November 2, 2106.


NOW, THEREFORE, the Planning Board of the Borough of Fair Lawn by a vote of 7 to 0 grants Preliminary and Final Major Site Plan approval.

THE BOROUGH OF FAIR LAWN is hereby directed to mail a copy of this Resolution to the Applicant's attorney and to file a copy of this Resolution with the Borough of Fair Lawn Clerk, and to cause notice of these determinations of the Planning Board to be published in the official newspaper of the Borough of Fair Lawn within ten (10) days of the date hereof and thereafter published according to law.

ATTEST:


Cathryn Hochkeppel, Secretary

FAIR LAWN PLANNING BOARD


Brent Pohlman, Chairperson

1309

100x100
4 Lots.

Level Lot.
25' Lots.

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT**

**RESOLUTION OF FINDINGS OF FACT
AND CONCLUSIONS OF LAW
GRANTING USE VARIANCE, SITE PLAN,
AND RELATED APPROVALS
WITH RESPECT TO THE APPLICATION OF**

AE DEVELOPERS, LLC

APPLICATION NO.: 16-046 (the "Application")

APPLICANT: AE DEVELOPERS, LLC

APPLICANT'S ADDRESS: 242 Oradell Avenue, Paramus, New Jersey

PREMISES: 0-02 Fair Lawn Avenue
Block 6601, Lot 8.01 (the "Property")

DECIDED: March 27, 2017

RESOLUTION APPROVED: April 24, 2017

Merged
2010

WHEREAS, AE Developers, LLC (the "Applicant") made Application to the Borough of Fair Lawn Zoning Board of Adjustment (the "Board"), for preliminary and final site plan approval, use variance, height variance, bulk variances and waivers to permit the construction of a five story, multi-family residential apartment building containing a total of 47 dwelling units with onsite parking for 78 vehicles on the Property which is located in the Borough's B-5 River Road Business Zone for real property identified on the municipal tax maps of the Borough of Fair Lawn as Block 6601, Lot 8.01, which Application as filed sought the following relief:

1. Preliminary and Final Site Plan approval.
2. A use variance under and pursuant to N.J.S.A. 40:55D-70(d)(1) to permit a multi-family residential use not permitted in the B-5 zone.
3. A height variance under and pursuant to N.J.S.A. 40:55D-70(d)(6) to permit a building height of five stories and 63.5 feet where the maximum height is two stories and 26 feet.
4. A variance and RSIS waiver under and pursuant to N.J.S.A. 40:55D-70(c) to permit a total of 78 parking spaces where 89 parking spaces are required.

1977

Block 6601
not changed

1449-35
342397_1

- Website
(Engineering) Tom necessary Dept.

- Bruce Thy. Assoc. Meeting

5. A variance and RSIS waiver under and pursuant to N.J.S.A. 40:55D-70(c) to provide a maximum front yard setback of 10 feet where 99.3 feet is proposed.
6. A variance under and pursuant to N.J.S.A. 40:55D-70(c) to permit a rear yard setback of 23.1 feet where 95.5 feet is required.
7. A variance under and pursuant to N.J.S.A. 40:55D-70(c) to permit a maximum wall height of 10 feet where a maximum of 6 feet is permitted.
8. A variance under and pursuant to N.J.S.A. 40:55D-70(c) to permit off street parking spaces situated beneath or within the foot print of a building.
9. Any such other additional variances, exceptions, design waivers or other approvals which have been reviewed and discussed with the Board and required by the plans presented; and

WHEREAS, with respect to the instant Application, the Applicant, having paid the proper fees in connection therewith, and having submitted satisfactory evidence of the payment of taxes due and owing on the Property, to the date of the Application; and

WHEREAS, the Applicant has submitted satisfactory evidence of authority to prosecute this Application in the name of the Applicant; and

WHEREAS, the Applicant has submitted satisfactory evidence of the jurisdiction of the Board to hear and decide the instant Application, including notice to property owners within 200 feet of the Property and publication in a newspaper of general circulation in Fair Lawn; within ten (10) days of the date of the public hearing, pursuant to N.J.S.A. 40:55D-12; and

WHEREAS, the Application was duly considered by the Zoning Board of Adjustment at a public hearings held on December 19, 2016, February 6, 2017 and March 27, 2017, during which hearings the Board heard the arguments of counsel and sworn testimony of the Applicant's representatives, and the Board's representatives; and

WHEREAS, the Board opened the Application to the public and received commentary and questions from the public relating to this Application.

NOW, THEREFORE, the Board having reviewed the Application and considered the same with respect to the Fair Lawn Zoning Ordinance and Municipal Land Use Law and Borough Master Plan, and having taken and heard the sworn testimony of the Applicant's representatives and witnesses, as well as all members of the public who appeared and desired to address the Board, the Board makes the following findings of fact and conclusions of law:

A. THE PROPERTY

1. The Property is identified on the current tax map, Sheet 66 as Lot 8.01 in Block 6601.
2. The Property is situated in the B-5 River Road Business Zone District.
3. The Property possesses street frontage along Fair Lawn Avenue.
4. The Property is currently owned by Power Tech, Inc. and contains a two-story metal building utilized for industrial manufacturing purposes and associated office areas.
5. The Property is situated in B-5 River Road Business Zone District and contains a two way driveway for ingress and egress to the site from Fair Lawn Avenue, a county owned collector roadway. Lot 8.01 has a total area of 58,149 square feet (1.335 acres) and is presently developed with the following improvements and/or topographic features situated thereon:
 - (i) Two story metal building with a loading ramp on the eastside of the building
 - (ii) A drum storage shed
 - (iii) A liquid nitrogen storage tank
 - (iv) A macadam driveway and parking area
 - (v) Reinforced concrete retaining wall at a maximum height of 10 feet located along the easterly limits of the paved parking area
 - (vi) Chain link perimeter fencing a varying heights along the northerly, easterly, and southerly limits of the Property
 - (vii) Several mature trees along the easterly, westerly boundaries of the site
6. *Location ** The Property abuts residential properties to the east, Fair Lawn Board of Education lands to the south containing the Memorial Middle School and is bounded by the Passaic River to the west.

B. THE PROJECT

The Applicant is seeking a use variance under and pursuant to N.J.S.A. 40:55D-70(d)(1) in connection with the demolition of the existing improvements, development, as originally proposed, of a 47 unit multifamily residential building. The Project as originally proposed, would include 24 one-bedroom units and 23 two-bedroom units. The proposed height of the building would be 63.5 feet and 5 stories compromised of ground level parking and 4 stories above ground level parking.

The Applicant's proposal also called for a parking area of 78 parking spaces including 4 handicapped accessible spaces.

C. THE APPLICATION SUBMISSION

The Applicant seeks a use variance and height variance, with the construction of a five story multifamily residential apartment building, preliminary and final site plan approval, parking variance and other dimensional variances, exceptions and design waiver as may be required, the Applicant submitted to the Board the following items as part of its Application:

1. Development Checklist, undated
2. Zoning Board of Adjustment Application Form Z-1, undated
3. Zoning Board of Adjustment Notice of Public Hearing, undated
4. Zoning Board of Adjustment Affidavit of Proof of Service, Form Z-3, undated
5. Zoning Board of Adjustment on-site inspection statement, Form Z-5, undated
6. Exhibit A portions of Contract of Purchase of Sale
7. Exhibit B description of application
8. Exhibit C individuals owning 10% or more of Applicant
9. A document entitled "125-70F, Environmental Impact Preliminary Statement," undated, with attached memorandum to the Borough Zoning Board of Adjustment
10. A drawing entitled "Boundary and Topographic Survey, Block 6601 – Lot 8.01, Borough of Fair Lawn, Bergen County, New Jersey", dated June 8, 2005, revised through November 23, 2016 as prepared by Keller & Kirkpatrick, Morris Plains, New Jersey
11. Set of drawing entitled "Preliminary and Final Major Site Plan for Lexington Riverview, Block 6601- Lot 8.01 – 0-2 Fair Lawn Avenue, Borough of Fair Lawn, Bergen County, New Jersey", consisting of 7 sheets, as prepared by MCB Engineering Associates, LLC of Totowa, New Jersey, dated October 6, 2016
12. A set of architectural drawings entitled "Proposed 47 Unit Residential Building, Lexington Riverview, Lot 8.01, Block 6601, Fair Lawn Avenue, Fair Lawn, New Jersey", comprised of 3 sheets, as prepared by Virgona & Virgona Architects and Planners, Edgewater, New Jersey, dated September 28, 2016

D. THE EXHIBITS

The following documents were marked for identification and accepted into evidence at the time of the hearings:

A-1 Topographic survey dated November 23, 2016, prepared by Keller and Kirkpatrick, Morris Plains, New Jersey

A-2 Site Plans drawings prepared by MCB Engineering Associates, Totowa, New Jersey, consisting of 7 sheets, dated October 6, 2016

A-3 Alternate Site Plan prepared by MCB Engineering Associates, Totowa, New Jersey, dated February 6, 2017

A-4 Architectural plans SK-1, SK-2 and SK-3, prepared by Virgona & Virgona Architects and Planners, Edgewater, New Jersey, dated September 28, 2016.

A-5 Color rendering of architectural elevation SK-1, prepared by Virgona & Virgona, undated.

A-6 Plan entitled "Subject Site and Surrounding Development" prepared by Brigitte Bogart, Planning and Design Professionals, LLC, dated December 19, 2016.

E. THE REPORTS

The Board was furnished and guided, in part, by the following reports and/or memos in connection with the Application:

1. December 14, 2016 report of Paul Azzolina, of Azzolina & Feury Engineering, Inc., the Board's appointed engineer.
2. Report dated November 12, 2016 by Peter Van den Kooy, Matrix New World Engineering, the Board's appointed planner.
3. November 12, 2016 report of Frank Miskovich, of Miskovich Consulting Engineers, LLC, the Board's appointed traffic engineer.
4. Memorandum dated January 26, 2017, February 6, 2017 and March 16, 2017 from Borough of Fair Lawn Fire Department.
5. Memorandum dated February 6, 2017 from Fair Lawn Historic Preservation Commission.

F. THE WITNESSES AND EXPERTS

1. **Paul Azzolina**, a Professional Engineer, licensed in the State of New Jersey, was sworn and accepted by the Board as an expert in the field of engineering. Mr. Azzolina testified on the Board's behalf with respect to engineering issues.
2. **Peter Van den Kooy**, a Professional Planner licensed in the State of New Jersey, was sworn and accepted by the Board as an expert in the field of planning. Mr. Van den Kooy testified on the Board's behalf with respect to planning issues.
3. **Frank Miskovitch**, a Professional Engineer licensed in the State of New Jersey, was sworn and accepted by the Board as its traffic consultant. Mr. Miskovitch testified on the Board's behalf with respect to parking and traffic issues.
4. **Matthew G. Clark**, a Professional Engineer, licensed in the State of New Jersey, was sworn and accepted by the Board as an expert in the field of engineering. Mr. Clark testified on the Applicant's behalf.

5. **Louis Luglio**, a Professional Engineer licensed in the State of New Jersey was sworn and accepted by the Board as an expert in the field of traffic consultant. Mr. Luglio testified on the Applicant's behalf with respect to traffic and parking demand issues.
6. **Raymond Virgona**, an Architect licensed in the State of New Jersey, was sworn and accepted by the Board as an expert in the field of architecture. Mr. Virgona testified on the Applicant's behalf.
7. **Brigitte Bogart**, a Professional Planner licensed in the State of New Jersey, was sworn and accepted by the Board as an expert in the field of municipal planning. Ms. Bogart testified on the Applicant's behalf with respect to the use variance, height variance and other variances requested by the Application.

G. THE HEARINGS

The Applicant was represented by **Stuart Leibman**. Mr. Leibman reviewed with the Board the general aspects of the Application. Mr. Leibman noted that the Applicant proposes to remove the existing non-conforming industrial use and replace it with a multi-family apartment building containing a total of 47 units. He stated that the proposal calls for a four story apartment building over one story of parking. Mr. Leibman further noted, that the site was somewhat unique and challenging in that it is the last property in Fair Lawn before the Passaic River and Fair Lawn Avenue bridge. He further noted, that the Property drops in grade approximately 10 feet and that the topography of the Property, its proximity to the Passaic River and other factors affect the proposed building and configuration.

Matthew Clark, a professional engineer licensed in the State of New Jersey, testified on behalf of the Applicant. Mr. Clark initially reviewed with members of the Board the topographic and boundary survey prepared by Keller & Kirkpatrick, marked into evidence as exhibit A-1. Mr. Clark testified the Property is an irregular L shaped lot. He noted the topographic aspects of the site emphasizing that the eastern most portion is elevation 54 and the farthest west portion is elevation 36 creating a drop of 18 feet across the entire property. Mr. Clark further noted that the property abuts the Passaic River to the west and that this proximity to the Passaic River impacts the engineering and site design of the project. Mr. Clark further noted that the Applicant had met with the State DEP regarding the proposed development concept. He emphasized that the Property is also located in the flood plain and requires the project to comply with the 25 foot no disturbance area from the top bank of the Passaic River.

Mr. Clark testified that the Application proposes a single means of ingress and egress to the Property with a full functioning full turning movement driveway. He testified that the Application called for collecting and storing refuse within the building. He further testified that as proposed, the Application will provide 78 RSIS compliant parking stalls both under the building, adjacent to the building and to the west of the parking area. He noted that the drive aisles themselves will comply with minimum RSIS standard of 24 feet. Mr. Clark further testified that based upon his calculations, the height of the building would be 63.23 feet and requires a height variance.

Mr. Clark also reviewed with the Board the grading and utility plan. He noted that because of the location of the Passaic River being adjacent to the Property in a flood plain, the Applicant was required to deal with 0% net fill. He noted that the design of the project is to cantilever the building over the flood plain and add additional columns to help support the parking deck. Mr. Clark emphasized that the design of the building will allow the project to comply with new DEP regulations governing flood water. With respect to site impervious coverage, Mr. Clark noted that the project is going to reduce the overall impervious area. Mr. Clark also testified with respect to the existing retaining wall located on the Property. He noted that the Applicant requires a variance with respect to a retaining wall at a height of 10 feet where 6 feet is permitted. Mr. Clark emphasized that the height of the wall was required given the severe slope of the Property, but that it would have no visible impact to any abutting residential buildings. He also emphasized that the retaining wall will preserve the landscaping and existing buffering that exists rather than proposing new terracing which would cause an elimination of existing vegetation.

Mr. Clark also reviewed the landscape and lighting plan. He noted that the project would call for a series of pole mounted lights with standard LED fixtures. Mr. Clark also noted that the board engineer, Paul Azzolina, had asked his office to provide a point-by-point analysis to show further compliance with lighting requirements of the borough ordinance. Mr. Clark confirmed that the analysis had been done and would be provided to the board engineer.

Mr. Clark also testified with respect to the proposed landscaping. He emphasized that the project will fully comply with the Borough's tree mitigation ordinance and will, in fact, exceed the ordinance requirements. He noted that the project will maintain the existing buffer of mature plantings which exist on the Property today. Mr. Clark also emphasized that there will be no dumpster located on site because there will be a compactor located inside the building. Mr. Clark also testified that the project called for an emergency generator to be located on the easterly side of the Property. He emphasized that the generator will be fully compliant with all federal, state and local emission and noise requirements.

Board member Avi Naveh asked Mr. Clark to testify with respect to the visual impact of the building on adjoining residences. Mr. Clark emphasized that the residences are anywhere from 170 to 180 feet or more to the east of the buildings. He further noted that based upon the topography and the existing mature trees located to the east of the site, neighbors would only see approximately 2 ½ stories of the building.

Finally, Mr. Clark testified that he had reviewed the engineering and other reports of the Board professionals. He indicated that the Applicant will comply with these requirements, except for the Board Engineer's recommendation for additional stormwater management.

Louis Luglio, P. E. was proffered by the Applicant as an expert in the field of traffic engineering and was accepted by the Board as an expert in that capacity. Mr. Luglio testified that he had been retained for the purpose of determining trip generation during peak hours, parking, public transportation assessment, access to and from the site and sight distance required for ingress and egress of the site as well as overall circulation. He further testified that with

respect to traffic trip generation, he looked at the Institute of Traffic Engineers ("ITE") for various studies with respect to land use characterizations. Based upon the proposal for 47 units, Mr. Luglio testified he had concluded that the Project will generate a total of 33 vehicles in the a.m. peak hour comprised of 11 ingress movements and 22 egress movements, with the p.m. peak generating 34 vehicles comprised of 17 ingress movements and 17 egress movements. He further testified the peak hour analyzed was the 60 minute period occurring 7 a.m. and 9 a.m. and the 60 minute period between 4 p.m. and 6 p.m. on a weekday basis.

Mr. Luglio testified that from a residential standpoint these numbers are low and that historically, residential land uses are a low intensity type of use with respect to traffic generation pertaining to ingress and egress movements from the site. Mr. Luglio also testified that in conducting his trip generation analysis, he considered an office building that could also be constructed on the property of approximately 40,000 square feet. He testified that the a.m. peak hour for such an office building would have 92 vehicle trips and 123 PM trips.

Mr. Luglio also testified with respect to the proposed parking for the project and the requested waiver from the RSIS standards. He testified that based on RSIS, 89 parking spaces are required for the site. He testified that his analysis included the percentage of proposed occupants of the multifamily building who would be using public transportation in Fair Lawn. He noted that given the proximity of the Property along Fair Lawn Avenue, approximately 12% would be using some type of public transportation. He also testified that his analysis looked at the percentage of car ownership. He noted that the proposal called for four (4) tandem parking spaces on site which would be assigned to two of the two-bedroom units. The other 45 units would have one parking space assigned to each unit which would be 45 total parking spaces plus 4 parking spaces for tandem of 49 parking assigned to residents. The balance of 29 parking spaces would be open for visitor and other resident parking. Mr. Luglio testified that based upon his analysis, 78 parking spaces would fully serve the occupants and visitors of the project.

Mr. Luglio also testified with respect to the proposed site circulation and location of the driveway. Mr. Luglio testified that with respect to sight distance standpoint the proposed single ingress/egress drive would provide adequate sight distance for vehicles proposing a right turn movement out of the Property. However, Mr. Luglio acknowledged that the proposed ingress/egress driveway did not meet the sight distance requirement for vehicles looking to make a left turn maneuver because of the location of the Fair Lawn Avenue bridge structure.

The Board's professional traffic engineer, **Frank Miskovich**, testified with respect to the parking census data proffered by **Mr. Luglio** as well as a proposed single ingress/egress driveway configuration. Mr. Miskovich requested additional information with respect to car census data. He further recommended that the Applicant consider relocating the proposed driveway further easterly so as to improve sight distance.

Based upon the recommendations of the Board's traffic consultant, **Mr. Miskovich**, and concerns raised by the Board members, the Applicant amended its plan so as to relocate the main driveway 80 feet to the east. The alternate site plan, dated February 6, 2017, was introduced into evidence as Exhibit A-3. As proposed, the alternate site plan would still provide an emergency ingress/egress driveway located to the west in the location of the originally proposed main

ingress/egress driveway. The alternate site plan proposed would also cause the elimination of two parking spaces so that the total proposed by the Application was 76.

Mr. Luglio testified with respect to the revised site plan as well as additional information requested by **Mr. Miskovich**. With respect to the relocated driveway, **Mr. Luglio** noted that by relocating the main driveway approximately 80 feet to the east, additional site distance will be provided, especially for vehicles making a left turn movement toward the west. He further noted, that the Fair Lawn Avenue bridge structure would not be as obstructive and that there would be an improvement to overall sight lines.

In response to the request by **Mr. Miskovich**, **Mr. Luglio** also provided supplemental testimony at the February 6, 2017 hearing with respect to parking demand for the project. He testified that he had analyzed three other methods for determining the parking requirements of the project. First, he looked at the ITE fourth generation parking manual based on the number of units at the site. He testified that this methodology considers low, medium rise apartment structures in an urban environment. Based upon this methodology, the average peak period parking demand is 1.2 vehicles per unit which translates to a requirement of 57 parking spaces. **Mr. Luglio** also analyzed the parking requirements for the project based upon owner allocation of spaces. He testified that for 45 units there would be dedicated one parking space and that two of the two bedroom units would have tandem parking for an additional 4 spaces or a total of 49 with 24 parking spaces or .5 space per unit be assigned to visitors and the balance for a total of 73 required.

Finally, **Mr. Luglio** analyzed census tracts data for Fair Lawn and specifically for this area of Fair Lawn. He testified that the analysis indicates that 3.72% of residents in the area work from home so that they are not traveling during the day or during peak hours. He noted that 13.62% use public transportation and that there was an average of 2.11 persons per household. He further testified that based upon the census data, 5.36% do not own a car, 41% own one car and 53.57% own two cars. Based upon this census data and 47 units, the total number of 69 parking spaces would be required. **Mr. Luglio** concluded by noting that even in the worst case scenario, 73 parking spaces would be required and, therefore, the proposed 76 parking spaces would be adequate.

The Board's professional traffic engineer, **Frank Miskovich**, testified that he, too, had reviewed some of the census data referred to by **Mr. Luglio** in his testimony. **Mr. Miskovich** concurred with the general overall analysis proffered by **Mr. Luglio** noting that the parking requirement for the project would be in the range of a low 60s to mid 60s number.

Raymond Virgona testified on the Applicant's behalf as a licensed architect. He reviewed with the Board a colored rendering of the project introduced as Exhibit A-5. **Mr. Virgona** testified that the front elevation of the building would provide a lobby and that the entrance drive into the parking spaces under the building and to the rear is approximately the center of the building and that the parking would have a 9 foot clearance. He further testified that the building would be a combination of horizontal siding with stone at the base. He emphasized that the building would have differentiated roof lines with a combination of dormers and somewhat colonial treatment to the building. **Mr. Virgona** noted that the parking level

needed to be elevated in order to provide for flood storage below. He noted that above the parking there are four residential floors with each floor containing 12 dwelling units with the exception of the first floor which will have a fitness area amenity. With respect to the units, Mr. Virgona testified that all units would have washers and dryers and the unit sizes would vary from approximately 800 square feet to 1150 square feet.

Mr. Virgona also testified with respect to fire safety of the building. He noted that the entire building will be fully sprinklered. He further testified that the project will have fire stairs and masonry construction. He testified that the project would have a 13 system versus a 13R system and that the 13 system meets a higher fire rating standard. He testified that a 13 system means every space has to be sprinklered including closets, certain concealed spaces providing a higher level of fire protection. Mr. Virgona also testified that the Applicant had met with the Borough's Fire Code officials and that, as a result of these meetings, additional modifications of the plan will be made including increasing areas of refuge as well as increasing window sizes so as to provide large windows for fire department entry.

With respect to trash removal, **Mr. Virgona** testified that there will be a compactor room on each floor and that the compactor will discharge into a dumpster for trash pickup approximately once or twice a week.

Mr. Virgona also testified with respect to the visual impact of the building on residences located to the east. He testified that because of the topography of the site and the way in which the Property has been designed, the visual impact is diminished as result of the topography of the Property in the direction of the neighbors on Second Street.

Board member **James Lowenstein** asked **Mr. Virgona** to testify with respect to handicap suitability of units. In response to Mr. Lowenstein's inquiry, Mr. Virgona testified that the units will be handicap adaptable. He further explained that handicap adaptability means that the design of kitchens and cabinets could be removed so as to make them wheelchair accessible. He further testified that bathroom design is also of a proper size to accept a wheelchair.

Brigitte Bogart, a licensed professional planner in the State of New Jersey testified as to the D(1) use variance, D(6) height variance and other variances and waivers requested by the Applicant. Ms. Bogart reviewed with the Board Exhibit A-6. She testified that the Property itself is 58,149 square feet in area and noted that this is more than 10 times the minimum size of lot area required in the district. She testified that from a planning perspective, the fact that the Property is 10 times the minimum lot area constitutes a unique characteristic of the Property. She further noted the irregular shape of the lot being an L shaped configuration with substantial frontage on Fair Lawn Avenue narrowing down and having a long extension and lot depth with 177 feet of frontage along Fair Lawn Avenue and an average lot depth of 269 feet.

Ms. Bogart further testified that a portion of the western site is located within the flood plain which also causes an issue with lot development. She emphasized that the topography of the site also constitutes an important consideration for the grant of the variances. She noted that single family homes are located to the east and that the majority of these homes are situated towards the front portion of the lots. She emphasized that the parking area for the project is

approximately 38 feet elevation or 15 feet below the average backyards or properties on Second Street. Mr. Bogart also testified with respect to the existing improvements on the Property. She noted the site has an existing two story industrial building set back 210 feet from the property line which is a non-conformity and that the site is currently an asphalt parking lot and fully paved. With respect to the surrounding land uses, Ms. Bogart noted that to the north is the Clariant property, which was zoned I-3 and now zoned for multifamily use.

Ms. Bogart also reviewed with the Board the proposed project. She testified that a five story multifamily residential building is proposed and that for residents on Second Street, the view will be two to two and one half stories of development because of the extreme topographic difference. She also noted a substantial tree line approximately 20 feet in height exists which will also shield the view of the project from the properties on Second Street.

With respect to the proposed occupancy, Ms. Bogart emphasized that the project will not provide amenities for children such as playgrounds and that the development will be geared towards singles, couples and seniors. Ms. Bogart specifically testified with respect to the possible impact of school children that the project could have on the community. She testified that she had considered the data generated by Rutgers University which was a state wide standard for understanding the impact of development. She testified that it is anticipated that 88 residents will be living in the project and that based upon the Rutgers study there could be approximately 8 school children. However, Ms. Bogart testified that she found the Rutgers data to be outdated and, as a result, she performed her own analysis relying on projects located in the vicinity of Fair Lawn. She considered the Promenade located within the Borough of Fair Lawn and determined that it would equate to a ratio to .08 public school children per unit and that based upon this analysis, the project could generate approximately 3.6 children. Ms. Bogart testified that she had analyzed anticipated public school children from Park Ridge as well as a radius of 5 miles for elevator buildings as well as buildings with affordable housing units. She testified her survey included 20 municipalities and that the ratio was approximately .14. She testified that based upon her analysis, the project should generate approximately 4 school children disbursed from kindergarten through grade 12.

Ms. Bogart also testified with respect to the proposed use variance required to permit the multifamily apartment building in the B-5 zone. She first noted that the B-5 zone does permit multifamily uses, but this requires retail below and a maximum height of 26 feet which the Applicant will exceed. She further testified that the use variance could be granted if the Applicant could prove positive and negative criteria. With respect to the positive criteria, she testified with respect to how the Project meets the purposes of zoning. She testified that the project would provide sufficient space and an appropriate location to meet the needs of citizens in that the Property is located across the street from the Clariant property which is zoned for multifamily use. Secondly she testified that a purpose of zoning is to promote appropriate population densities that contribute to the well-being of persons, neighborhoods and communities. She testified that the site is appropriate for residential, multifamily residential given the buffers and the surrounding land use. She further testified that a further purpose of zoning that would be met by the project would be to promote desirable visual environment through creative development technique and good civic design on the basis that the overall

architectural improvements proposed when compared with what currently exists would be a substantial aesthetic improvement to the site.

In addition to the purposes of zoning under the Municipal Land Use Law, **Ms. Bogart** also testified with respect to the goals and objectives of Fair Lawn's Master Plan which will be met by the Project. She testified the site is classified as the River Road Improvement District from the 2014 Master Plan and the goals associated with that plan are to provide a balance of a variety of residential, commercial, industrial, recreational, and public land uses. She testified that the site is appropriate for residential use rather than industrial or commercial of the type contemplated by the B-5 zone inasmuch as the site is not a downtown location which would support a mixed use. She further testified that second goal of the Borough Master Plan is to promote aesthetic improvements in the major commercial and industrial areas of the Borough. She noted that the project would be a significant improvement to the site which is also consistent with the proposed multifamily housing on the Clariant property. She further testified that another goal of the Master Plan would be to decrease storm related runoff damage from flooding and increase capacity of flood plains, which the project would accomplish by a reduction in impervious coverage and improving storm related runoff design. Ms. Bogart concluded her use variance testimony by noting that the Application satisfied the enhanced criteria set forth under the Medici case in that the project was not inconsistent with the goals of the Master Plan.

Ms. Bogart also testified with respect to the Applicant's request for a height variance. She noted that the standard for review of the variance was addressed in the case of Grasso v. Spring Lake Heights. She noted that under Grasso special reasons must be established by demonstrating an increase in height of the building does not offend the height restriction which relate to provisions of adequacy of light and air to surrounding properties. With respect to the height variance, Ms. Bogart testified that the properties located on Second Street each have a depth of nearly 200 feet. She further testified that there is a significant drop of height between the properties on Second Street to the subject Property of more than 13 feet. She emphasized that given the tree line and topography, residents on Second Street would see approximately two stories of residential building on the subject Property. She also emphasized that apart from the properties on Second Street, the Property is surrounded by the Passaic River, school fields and an industrial site zoned for multifamily housing across the street on the Clariant site.

Ms. Bogart also testified with respect to the Applicant's request for "c" variances as well as an RSIS waiver with respect to the proposed parking spaces. Ms. Bogart testified with respect to the variance required to permit parking under a building. She noted that the variance arises because of the need to provide parking out of the flood plain. She testified that the benefits of providing this variance by allowing residents to be above a flood plain and allowing a site to be developed with economic utility would outweigh any detriment. She emphasized that this design would also allow the Applicant to decrease the overall impervious coverage by 4,000 square feet. Ms. Bogart also testified with respect to the front yard setback variance. She testified that the code requires that there be a maximum of 10 feet from the property line. With respect to this variance, Ms. Bogart noted that this applies to a downtown redevelopment situation where you want a building right up to the front property line. Given the project and the location of the Fair Lawn Avenue bridge, Ms. Bogart emphasized that you want to be able to pull this property

further back and have parking. The benefit to this variance also allows the project to be further offset from Fair Lawn Avenue, thereby reducing any visual impact.

With respect to the proposed rear yard variance to permit 23 feet where 96 feet is required, **Ms. Bogart** testified that the properties located to the rear are school recreational fields and that the benefits of pulling the building back outweigh any detriment.

Ms. Bogart also testified with respect to the requested parking variance. She noted that whereas RSIS requires 89 parking spaces, given the nature of the project, its location proximity to public transportation and census data, the number of parking required for the site is between 53 and 73 spaces. **Ms. Bogart** emphasized that the demographics of the community are changing and that the proposed occupants of the project will most likely be millennials, singles, couples and seniors who do not necessarily have the same types of vehicular demands as single family residential dwellings.

Ms. Bogart concluded her testimony by emphasizing the project will have no substantial detriment to the public good and that the site is unique from a number of perspectives having to do with topography, site location, minimal impact on surrounding residential neighborhoods. She further noted that there will be not be substantial impairment to the zone plan and that the project will, in fact, meet several of the goals of the Borough's Master Plan.

Board member **Richard Seibel** asked the Board's planner, **Mr. Van den Kooy**, to testify with respect to the significance of the rezoning of the Clariant site. In response to Board member **Seibel's** inquiry, **Mr. Van den Kooy** indicated that the rezoning of the adjacent property is significant with respect to the redevelopment of the subject Property. **Mr. Van den Kooy** further noted that there would be little reason for retail on the subject Property given its proximate location and lack of adequate frontage along the River Road corridor. **Mr. Van den Kooy** further agreed that the project would meet several of the goals of the Borough's Master Plan including providing a greater mix of housing types to meet the needs of a variety of household types and life styles.

Board members **Kevin Puzio**, **James Lowenstein** and other board members expressed concerns with respect to the proposed number of school age children and questioned the methodologies by which the anticipated number of school children was determined.

At the conclusion of the Applicant's presentation, and prior to a vote by the Board, the Applicant elected to amend its Application. As amended, the Application eliminates four of the two bedroom units. As a result, the amended Application will provide for a total of 43 units instead of 47 units. The amendment also eliminates the need of 8 additional parking spaces under RSIS, thereby requiring 81 parking spaces with 76 provided. The Applicant further agreed that the square footage eliminated will be utilized for common space and common areas within the building.

H. RELIEF SOUGHT BY APPLICANT

As part of its amended Application, the Applicant has requested the following relief:

1. A use variance pursuant to N.J.S.A. 40:55D-70(d)(1) so as to permit a multi-family residential apartment building containing a total of 43 dwelling units consisting of 24 one-bedroom units and 19 two-bedroom units.
2. A height variance pursuant to N.J.S.A. 40:55D-70(d)(6) to permit 5 stories (4 stories over ground level parking deck) and a height of 63.2 feet.
3. A parking variance pursuant to N.J.S.A. 40:55D-70(c) and waiver from RIS standards to permit the 76 on-site parking spaces where 81 parking spaces are required.
4. Preliminary and final site plan approval.
5. A variance under and pursuant to N.J.S.A. 40:55D-70(c) to provide a maximum front yard setback of 10 feet where 99.3 feet is proposed.
6. A variance under and pursuant to N.J.S.A. 40:55D-70(c) to permit a rear yard setback of 23.1 feet where 95.5 feet is required.
7. A variance under and pursuant to N.J.S.A. 40:55D-70(c) to permit a maximum wall height of 10 feet where a maximum of 6 feet is permitted.
8. A variance under and pursuant to N.J.S.A. 40:55D-70(c) to permit off-street parking spaces situated beneath or within the footprint of the building.
9. Any such other additional variances, exceptions, design waivers or other approvals which have been reviewed and discussed with the Board and required by the plans presented and amended.

I. FINDINGS BY THE BOARD

The foregoing facts are made a part hereof as if set forth at length herein.

1. The proceedings in this matter were stenographically transcribed. The foregoing facts in this resolution are not intended to be all-inclusive, but merely a summary and highlight of the complete record made before the Board.
2. The Board finds that the Applicant properly published notice of the hearing and duly served all persons required to be served with notice of the hearing and proof thereof has been filed with this Board.

3. The Board finds and concludes that the Property is particularly suitable for the proposed five-story multi-family residential apartment building. The Board is specifically familiar with the Fair Lawn Avenue corridor and the River Road Improvement District. The Board finds credible the testimony proffered by the Applicant's Planner, Ms. Bogart, as well as the testimony proffered by the Board's Planner, Peter Van den Kooy, that the desired goal of the zoning of the property to require mixed retail and residential is not suitable for the subject property. Rather, the Board finds the proposed multi-family residential development is particularly suitable given the proximity of the Property to the Passaic River on the west, the Memorial School fields to the south, the Clariant multi-family zoned property to the north, and residences located on Second Street to the east, which are more than 150 feet away from the subject property. The Board finds further finds the property is particularly suitable for the proposed use given its severe slope and topography.
4. The Board is further satisfied that the proposed multi-family apartment use would advance the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. as follows:
 - (a) N.J.S.A. 40:55D-2(e) by promoting the establishment of appropriate population densities and concentration that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment to the extent that the Application will be adequately buffered from surrounding land uses; and
 - (b) N.J.S.A. 40:55D-2(i) by promoting a desirable visual environment through creative development techniques and good civic design and arrangement to the extent the Applicant contemplates the demolition of the existing dilapidated non-conforming industrial building and construction of aesthetically attractive building utilizing modern design elements.
5. The Board further finds the Application meets the intent and purpose and zone plan and Master Plan to promote aesthetic improvements in the major commercial industrial areas, in that the existing non-conforming industrial power tech buildings are aesthetically unappealing, dilapidated and have outlived their economic utility.
6. The Board further finds that the project will also meet the goals of the Borough's Master Plan to promote a balance of variety of residential, commercial, industrial, recreational and public land uses, in that both industrial and commercial uses are inappropriate for the site. Finally, the project will meet the goal of the Borough's Master Plan to decrease storm-related runoff damage from flooding and increase capacity of flood plains, and further reduction of impervious coverage. The project will reduce existing impervious coverage and improve the storm-related runoff design.

7. The Board has specifically considered the testimony of the Applicant's expert witnesses, including the Applicant's professional engineer, Matthew Clark, the Applicant's traffic consultant, Louis Luglio, and the Applicant's planner, Brigette Bogart, as well as the Board's professionals with respect to each of the enumerated items in the Borough's Master Plan. The Board accepts as credible the testimony proffered by each of the witnesses that the proposed project will not adversely affect traffic, noise, aesthetics or stormwater management. The Board specifically finds the overall architectural design proposed by the Application constitutes an aesthetic improvement over the existing site conditions. The Board specifically finds the project will not impact lighting, glare or adversely impact adjacent residential neighbors.
8. The relief sought by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinances of the Borough of Fair Lawn. The Board recognizes the statute's use of the term "substantial." There are no substantial negative consequences from this Application. The Board accepts the credible testimony proffered by the Applicant's traffic engineer, Louis Luglio, regarding the potential increase in the number of vehicular trips associated with the project during the surrounding roadway peak periods. The Board specifically accepts the testimony proffered by Mr. Luglio with respect to the on-site parking demands that will be generated by the project, and finds this testimony credible.
9. The additional bulk variance relief sought by the Application will not substantially negatively impact surrounding properties, nor will it adversely affect the land use purposes or intent of the Zoning Ordinance of Fair Lawn. The Board specifically notes that the bulk variances required arise as a result of the zoning of the lot being in the B-5 River Road Improvement District. The Board finds that the B-5 Zoning was intended to allow for downtown redevelopment, and the Board finds that the bulk variances are mitigated by the significant topographic differences on the site when compared to the River Road corridor as well as the proximity of the site to the Passaic River.
10. With respect to the D(6) height variance, the Board finds that the Applicant has satisfied the criteria set forth in Grasso v. Spring Lake Heights, in that any impact from the proposed height variance is mitigated by the topography of the site and the dramatic differential in grade between the subject property and surrounding residential properties located on Second Street. The Board accepts as credible the testimony proffered by the Applicant's engineer, planner and architect that the view of properties along Second Street will be limited to no more than 2 and 1/2 stories and will be further shielded by the existing mature plantings located within the buffer area of the subject property and adjoining properties.
11. The Board finds the granting of the requested variance relief subject to the conditions set forth in this Resolution and as stipulated to by the Applicant accords with the principles of sound land use and planning.

NOW, THEREFORE, pursuant to the authority and jurisdiction conferred upon the Board by N.J.S.A. 40:55D-1 et seq., the Amended Application for use variance and height variance approval, bulk variance approval, design waivers and preliminary and final site plan approval is hereby **GRANTED**, subject to the following conditions, terms, provisions, limitation and restrictions:

1. The findings of fact and conclusions of law are hereby incorporated herein by reference.

2. The Board is satisfied that statutory criteria for the grant of the proposed variances and site plan has been met by the Applicant;

3. This Application is granted expressly conditioned upon the following conditions of approval:

4. The within approval is subject to all submissions, exhibits, reports and testimony of or on behalf of the Applicant, as modified, amended, altered or restricted by the Board's representatives and consultants, and the representatives and consultants of Fair Lawn, as well as the conditions, terms, provisions, limitations and restrictions thereof, including but not limited to the

- i. Borough Engineer;
- ii. Board Engineer;
- iii. Board Planner; and
- iv. Fair Lawn Zoning Officer
- v. Borough Fire Code official

The Applicant specifically agrees to amend the site plan and other plans to reduce the project size from 47 units to 43 units, by eliminating four (4) , two (2) bedroom units.

5. Variance approval is subject to all Federal, State, County, Regional and Municipal statutes, ordinances, rules, regulations and the like, including, but not limited to the following:

- i. New Jersey Department of Environmental Protection;
- ii. New Jersey Department of Transportation;
- iii. Bergen County Planning Board;
- iv. Bergen County Soil Conservation District;
- v. Fair Lawn Zoning Board of Adjustment; and
- vi. Borough of Fair Lawn.

6. Applicant shall obtain all necessary permits, approval and licenses as may be required to satisfy the requirements of this variance approval.

7. This grant of approval shall not serve as authority for the issuance of a building permit or any other work on the Property.

8. Subject to payment of all escrow fees and professional fees.

9. Applicant acknowledges that this approval does not provide for nor permit construction on the Property.

10. A copy of the signed Resolution shall be forwarded to the Applicant, the Board Professionals and the Borough Clerk/Administrator.

11. The variances granted by this Board are valid for a period not to exceed 12 months and shall then terminate if not implemented or otherwise extended by the Board.

12. Nothing herein contained shall be deemed to affect, alter or rescind any privately imposed restrictive covenant or private agreement, which this Board cannot and will not enforce.

13. Applicant must comply with the necessary requirements of the Zoning Ordinance of the Borough of Fair Lawn and the Municipal Land Use Law of the State of New Jersey.

14. The Applicant shall develop, prepare and improve the subject premises so as to conform to all the details as shown on the plans submitted with the application, as memorialized herein and in public record, and in accordance with all applicable building codes.

15. This Application is granted expressly conditioned upon Applicant showing satisfactory proof that all taxes and assessments are current at the time of the approval or that the Applicant will pay all of the appropriate taxes and assessments within 15 days of the date hereof, and that for the failure to pay same within this frame, this resolution shall be null and void.

16. The Applicant shall comply with any Affordable Housing Obligations which may be imposed upon the project by any federal, state or local law, judicial order or as may be required by the Mayor and Council of the Borough.

17. If required by the Board Engineer, the Applicant shall be required to execute a Developer's Agreement in a form acceptable to the Board of Adjustment, Mayor and Council of the Borough, said agreement to be prepared by the Board Attorney at Applicant's cost and expense.

Motion to Approve: March 27, 2017

MOTION: Kevin Puzio

SECOND: Sam Racenstein

IN FAVOR: Kevin Puzio, Yelena Perchuk, Richard Seibel, James Lowenstein, Avé Naveh and Sam Racenstein

OPPOSED: Alexander Lazarev

This Resolution was voted upon by the Board pursuant to N.J.S.A. 40:55D-10(g) and adopted at a meeting held on April 24, 2017 as follows:


MOTION: *Mr. Puzio*

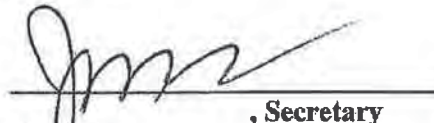
SECOND: *Mr. Racenstein*

IN FAVOR: 7

OPPOSED: 0

ABSTAIN:


Richard Seibel, Chairman
Borough of Fair Lawn Zoning
Board of Adjustment


, Secretary
Board of Adjustment

**IN THE MATTER OF THE
APPLICATION OF RIVER LOFTS, LLC, 12-28 and
12-44 RIVER ROAD- LOT 1 BLOCK 5616**

RESOLUTION 19-01

WHEREAS, application has been made by River Lofts, LLC, the contract purchaser of the Property (defined below) with consent of the property owner of the subject property, to the Fair Lawn Planning Board (the “Board”) for preliminary and final major site plan and variance approval to construct a new mixed use structure with twenty-six residential units, 3,000 square feet of commercial space and a basement designated as a community room and recreation area, and building support areas, on premises commonly known as 12-28 and 12-44 River Road (Lot 1, Block 5616), Fair Lawn, New Jersey (hereinafter “the Property”).

WHEREAS, the Property is located in the (B-4-OR) Zone, River Road Business with Affordable Housing Overlay District, which permits the proposed mixed use commercial and residential as a permitted use, and the Applicant requires several bulk C variances as set forth in section 5, below; and

WHEREAS, after compliance with all requirements of the Zoning Ordinances of the Borough of Fair Lawn and State Statute in such cases made and provided, a public hearing was held by the Board in Council Chambers, Borough Hall, Fair Lawn, New Jersey on Monday, October 1, 2018, and continued on Monday, November 5, 2018, at 7:30 o’ clock p.m.; and

WHEREAS, the Board considered the reports and comments of Lyra A. Knust, P.E., the Board consulting engineer; and

WHEREAS, the Applicant was represented by Stuart D. Liebman, Esq. of Wells, Jaworski & Liebman, LLP, 12 Route 17 N, Paramus, New Jersey; and

WHEREAS, notices were published in the required official publication and sent to all property owners within 200 feet and others as required; in accordance with all permanent laws and the provisions of N.J.S.A. 40:55D-12; and

WHEREAS, all members of the Board heard the application, and

WHEREAS, at said public hearing the Board heard sworn testimony and received and the following documents into evidence:

A-1: Architectural plans by R&D Design Group, LLC, prepared by Rafael Danon, RA, entitled 12-44 River Road-Block 5617 (5616) Lot 1, Fair Lawn, NJ, dated March 7, 2018, and last revised on June 25, 2018, and consisting of 11 pages;

A-2: Revised page A100 of the Architectural plans A-1 in evidence;

A-3: Engineering Site Plan entitled "Preliminary & Final Site Plan Block 5616, Lot 17, 12-44 River Road, Fair Lawn, Bergen County, New Jersey" prepared by Lapatka Associates, Inc. dated June 25, 2018, last revised June 25, 2018, Project 17-35, consisting of five (5) sheets;

A-4: Colorized page 1 of the Site plan A-3 in evidence;

A-5: Equity Environmental report dated July 27, 2017 and consisting of 4 pages;

A-6: Email dated September 24, 2018 from Stuart D. Liebman, Esq. to the Fair Lawn municipal clerk requesting accommodation for cooperative parking;

A-7: Draft form of lessee for borough cooperative parking by River Lofts, LLC

A-8: Revised floor plan of Exhibit A-1 by R&D Design last revised on October 22, 2018;

A-9: Site Plan A-3 sheet 1 last revised October 19, 2018 by Lapatka Associates, Inc.;

A-10: New rendering of proposed mixed use building by R&D Design

A-11: Colorized version of A-9.

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and of the general public, has made the following factual findings:

1. The Applicant, River Lofts, LLC, (hereinafter “River Lofts” or “Applicant”) is the contract purchaser applying with the consent and permission of LASAJEE18, LLC, the fee simple owner, of 12-44 River Road, Fair Lawn, New Jersey.

2. The Board acquired jurisdiction for a hearing upon the filing of the application and that the Applicant has properly published the notification of said hearing and notified the property owners which proof of publication and notification are on file with the Board.

3. The Applicant submitted plans and other information and presented the testimony of the Applicant and its engineering, architectural, traffic and planning professionals.

4. There were public hearings conducted on October 1, 2018, continued on November 5, 2018, where, as the testimony of the witnesses was heard under oath, the reports examined, the witnesses questioned by the Board, the exhibits described, the public testimony heard and the application prosecuted.

5. The Applicant wishes to construct a new, mixed use building, consisting of 26 residential units (16-1 bedroom and 10-2 bedroom units) and 3,000 square feet of commercial space, together with site and drainage improvements to the parking area, lighting and landscaping on the property.

6. Rafael Danon, RA, was duly sworn, qualified as an expert in architecture and testified, and the Board so found, that the site consists of 0.77 acres and lies in the B-4 zone, which permits ‘Mixed use residential and commercial uses’ as permitted uses in Section 125-25, rendering the proposed use permissible under the ordinance. The Applicant must co-exist with the current post office facility, creating a design challenge

for the commercial space. The signage rendering was presented for information only, as the sign complies with the ordinance. There will be no rooftop mechanical equipment and each residential apartment will contain its own HVAC unit. The building will be energy efficient, maximizing the use of recycled materials and engineered wood and employing LED lighting and high efficiency appliances, water flow restrictors and hot water units. The building will comply with ADA (Americans with Disabilities Act) standards. The elevations show retail space on the first floor; garage and tandem parking for residential units and garage access from the rear. The amended plan shows the decorative tower removed, with the community room to be used as storage for the residential units, including bicycle storage. The mezzanine is eliminated and 2nd floor apartments will have windows on the south exposure. The redesigned height (33.3') will comply, eliminating a variance and the rear yard setback (50' required) variance will be eliminated (variances were requested for these items on the Applicant's initial plans).

7. Daniel LaMothe, P.E., was duly sworn, qualified as an expert in civil engineering, testified, and the Board found, as follows: the existing improvements constitute 96.2% of the lot area where 90% is the required maximum. The proposed plan provides 34 parking stalls in the building footprint, requiring a waiver pursuant to the ordinance, although parking within the footprint is considered good design. The side yard setback of 0' is an existing non-conformity. There are 5 existing drainage inlet structures, and 2 behind the post office will remain. The new drainage system will include 4 new seepage pits, new inlets on-site and on River Road and will be larger than the existing system. The utilities will all be underground and will connect in River Road. There must be 10' separation between the existing power lines and the front of the new building per the Uniform Construction Code, which is not a waivable provision. The LED lighting will be more efficient, controllable and will be an improvement over

existing lighting. The Applicant is amenable to the Board Engineer's recommendations on lighting and other engineering issues. The environmental assessment report revealed that there are 3 existing underground storage tanks (UST) that are intact and will be removed per code during the construction process. Sight triangles will be adhered to pursuant to the Bergen County Planning Board recommendations and the trash enclosure will be redesigned to comply with code. All affordable housing requirements will be complied with (Applicant indicates it may elect to do a payment in lieu, or inclusionary units, or a combination thereof) and all utility meters will be enclosed. The amended site plan complies with the Board and the Board Engineer's comments. It increases the green area and includes 3 street trees and 9 parking area trees. The plan requires 79 parking spots and 67 are provided, requiring a variance. The minimum distance provided between the new structure and the post office is 42 feet. The lighting will comply with Board Engineer's comments as a condition of approval.

8. Joe Staiger, P.E., was duly sworn, qualified as an expert in traffic engineering and testified, and the Board found, that based upon the traffic study he performed, there will be a reduction in trip generation from the current use based upon a residential component vs. a completely retail component. Parking demand for retail space is generally during the day and the residential demand is before and after business hours, less so during the day. While the ordinance calls for 79 spots, the analysis revealed that peak demand rotation will require 64 spots. The census and Institute of Traffic Engineers data reveal that 56 stalls are required and that off site and street parking is available to accommodate the retail component.

9. Brigiette Bogart, P.P., duly sworn, and qualified as an expert in municipal planning, testified, and the Board so found, that the bulk variances being requested advance the Borough's Master Plan for the River Road corridor. The design reduces

mass by layering the facade. The curb will be designed to meet wheel stops subject to construction code official's approval. The massing scale is consistent with the goals and objectives of the Master Plan. The ground level parking under the edifice, while requiring a variance pursuant to the code, is consistent with recent Master Plan amendments, and residential lease provisions will provide for tandem parking. Negative criteria are satisfied by virtue of no substantial detriment to the Zoning Code or Master Plan. The stormwater runoff will be reduced by the new plan and the revised architectural plans reduce the height and eliminate the required variance. The Applicant will comply with affordable housing requirements as mentioned above as a condition of approval.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantially impacting on the public good and without substantially impairing the intent and purpose of the Zone Plan and Master Plan of the Borough for the following reasons:

1. The construction of the new, mixed use building, with 26 residential units and 3,000 ft. retail space, together with the other site improvements would be in the public interest without any detrimental effects to the community.

2. There were minimal negative criteria associated with the project. The use is permissible as of right, the additional retail space would not overwhelm the site, the parking is adequate, the traffic concerns have been adequately addressed, as have the signage and aesthetics issues, along with safety, security, stormwater management and other Board concerns, in the revised plans, even with the requested variances and waivers, were less burdensome than the possibilities of other 'as of right' uses and site plan conditions that could be asserted.

3. The project would not be in conflict with the character of the neighborhood or with the Master Plan of the Borough.

4. There was no credible opposition to the project.

5. The Board recognized that there is presently an existing building and United States Postal facility on the premises and the presence and location of this building, parking and loading on the Property create certain practical difficulties for strict compliance with the applicable Borough Codes. The variances and waivers sought by Applicant and approved by the Board, pursuant to the requirements of the B-4 River Road Business Zone (§125-12 Attachment 8) are as follows:

VARIANCES

5a. Side Yard Setback: (Borough Code 125-Attachment 8): Minimum side yard setback- 12 feet required; 0 feet provided. Variance required;

5b. Maximum Building Coverage (Borough Code 125-Attachment 8): Maximum 40% required; 49% provided. Variance required.

5c. Maximum Impervious Coverage (Borough Code 125-Attachment 8): Maximum 90% required; 93.5% provided. Variance required.

5d. Third Story Streetscape setback (Borough Code 125-25C(2)): Front yard setback for third story at least five (5') feet greater than the second story. Five (5') feet required; no additional setback provided. Variance required.

5e. Off Street Parking within Building Footprint (Borough Code 125-25(C)(6)d): No off street parking within building footprint unless building is a dedicated above ground parking garage. 0 spaces permitted; 34 spaces provided. Variance required.

5f. Off Street Parking required (Borough Code 125-25.C(6)(a)): 79 parking spaces required; 67 spaces provided. Variance required.

5g. Off Street Loading Spaces (Borough Code 125-48.B): requires two (2) loading spaces for the site, one (1) per building. One (1) loading space exists at the existing postal facility, zero (0) loading spaces provided for the new structure. Variance required.

5h. Parking Stall area and dimensions (Borough Code 125-48 C(1)): requires parking stalls to be 9' x 18' for standard and 8.5' x 17' for compact cars; 9' x 16' is provided for the 18 spots along the rear yard. Variance required.

6. The Applicant responded affirmatively to all comments of the Board's engineer, and agreed to comply with all engineering recommendations and local ordinance requirements, including storage, bike storage, lighting, ADA compliance, affordable housing requirements, trash enclosure, rooftop appurtenances and location of HVAC units and utility meters. The overall site plan was agreed by the Board to be a minimal detriment in relation to the improvement to the property and the surrounding community from the proposed plans.

7. The Applicant agreed that the operating hours of the retail business on the site would be in conformity with the Borough Code regulating same, seven days a week, except as prohibited or otherwise regulated by law.

WHEREAS, the Planning Board has determined that sufficient reasons, as described above, do exist for the relief requested by the Applicant, as set forth on the record and herein; and

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning Ordinance of the Borough of Fair Lawn; and

WHEREAS, with nine (9) members of the Board eligible to consider the application, a motion was heard from Ms. Mendez-Downs to approve the application, with the requested variances and design waivers, to wit, as set forth in paragraphs 5a through 5h, supra, and a second was heard from Mr. Metzger, after all deliberation and discussion, on the question eight votes in the affirmative were recorded and one (Ms. Hummerstone) in the negative;

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Fair Lawn on this 14th day of January, 2019, that the application of River Lofts, LLC be and is hereby approved for the reasons set forth above with the following conditions attached hereto:

1. Operating hours shall be confined to permissible times according to Borough Ordinance;
2. Applicant will comply with landscape, security lighting, traffic flow, stormwater management and other requirements imposed by the Board Engineer;
3. Applicant will comply with all comments of the Board Engineer's letters of September 19, 2018, revised on October 30, 2018, made a part hereof and incorporated herein by reference, except as may be otherwise discussed and agreed to on the record at the public hearings;
4. Applicant will obtain all other permits required by federal, state and local authorities as necessary, including, but not limited to, Bergen County Planning Board and Soil Conservation District, New Jersey Department of Environmental Protection and UCC construction permits;
5. Applicant will recycle building materials to the greatest extent possible;
6. Applicant will provide a lighting plan for beneath the building for Board Engineer review, comment and approval;
7. All mechanical equipment on the roof will be adequately screened from view;
8. Applicant will install curbs in lieu of wheel stops along the south side of the Post Office building if Applicant is able to do so under the terms and conditions of the Lease Agreement with the US Postal Service;
9. All tandem parking spaces for residential tenants shall be designated as such with appropriate signage and in the Lease Agreements to be made for each resident with designated tandem parking spaces;
10. Applicant will establish, and replenish as necessary, an escrow account to pay all applicable professional fees incurred in the administrative, engineering and legal processing of this application and all follow up agreements and documentation, and the construction observation and inspections.
11. Applicant will execute a Developer's Agreement, to be prepared by the Board Attorney and acceptable to the Borough Attorney and Mayor and Council, prior to issuance of building permits required to commence construction of the referenced project.

DATED: 1/14/2018


ARI LUDZKI, CHAIRMAN
FAIR LAWN PLANNING BOARD

ROLL CALL VOTE

MOVED BY: Larisa Mendez Downes

SECOND BY: Larry Metzger

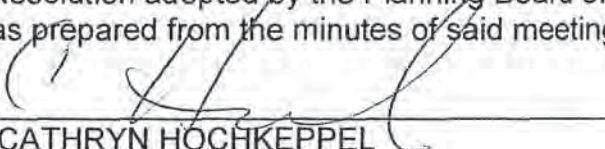
THOSE IN FAVOR: 8

THOSE OPPOSED: 1

ABSENT: 0

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of Fair Lawn at its meeting as prepared from the minutes of said meeting.

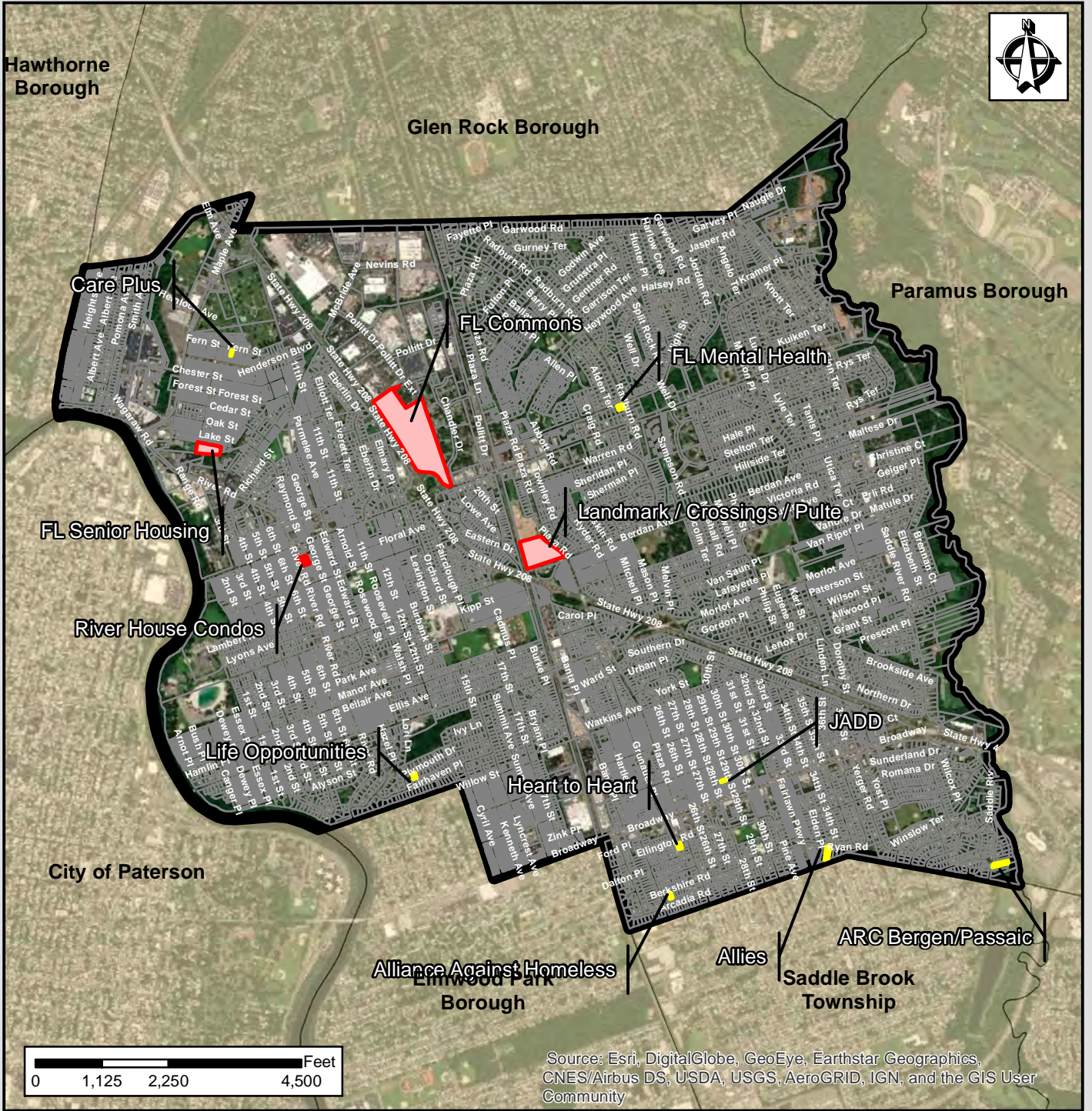
DATE: January 14, 2019



CATHRYN HOCHKEPPEL
BOARD SECRETARY

Appendix C – Affordable Housing Site Maps

Prior Round Affordable Housing Sites



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

PRIOR ROUND
Housing Sites

FAIR LAWN

Bergen County
New Jersey

Legend

- Supportive Needs Sites
- Housing Sites
- Parcels



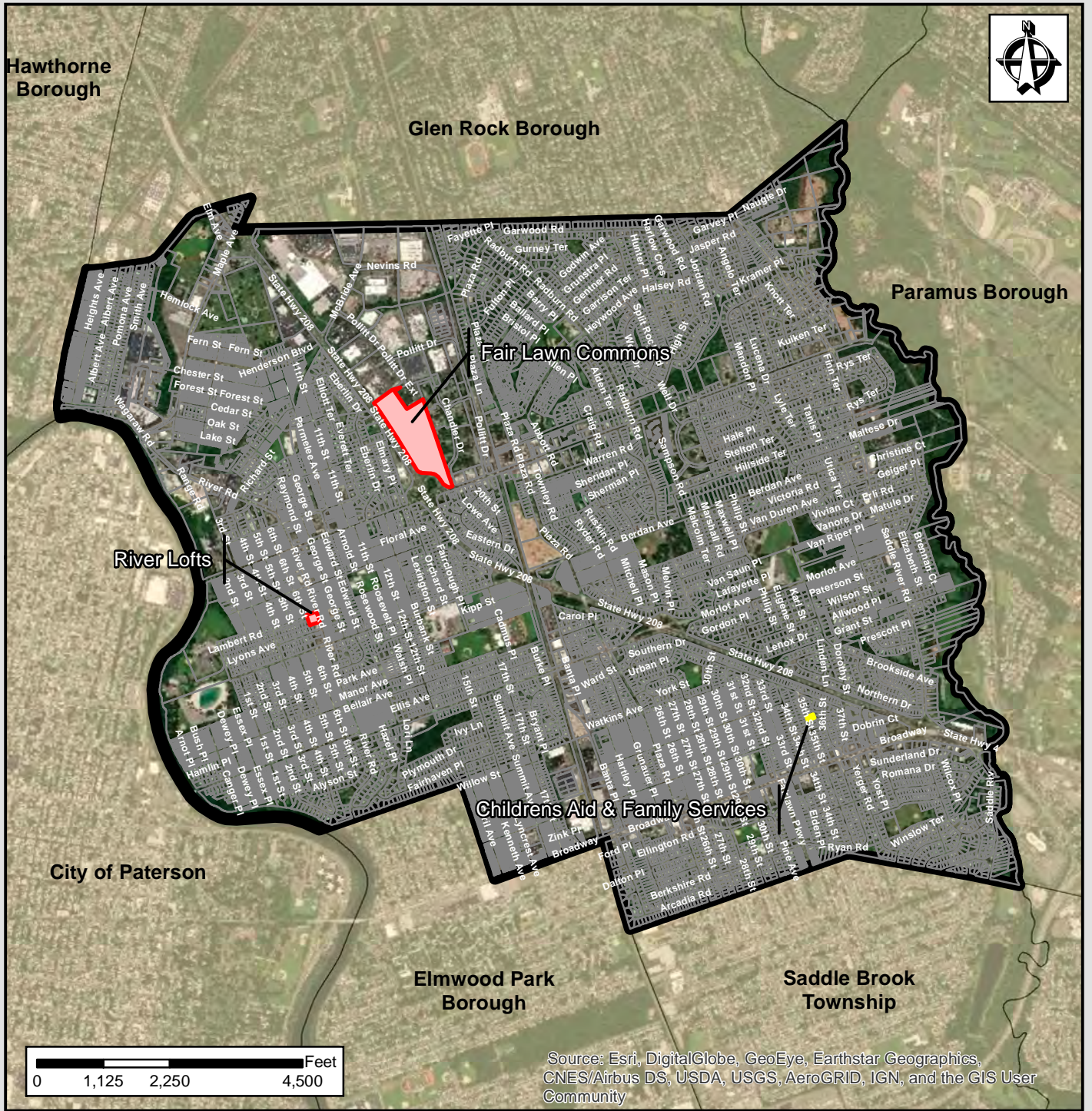
CONSULTING & MUNICIPAL ENGINEERS
 3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
 1460 ROUTE 9 SOUTH HOWELL, N.J. 07731
 3759 ROUTE 1 SOUTH SUITE 100 MONMOUTH JUNCTION, NJ 08852
 ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM

Source: NJGIN Network, MODIV data

DATE	SCALE	REVISED	CREATED BY
3/18/20	1 inch = 2,500 feet	N/A	CD

Third Round Affordable Housing Sites



**THIRD ROUND
Housing Sites**

FAIR LAWN

**Bergen County
New Jersey**

Legend

- Supportive Needs Sites
- Housing Sites
- Parcels

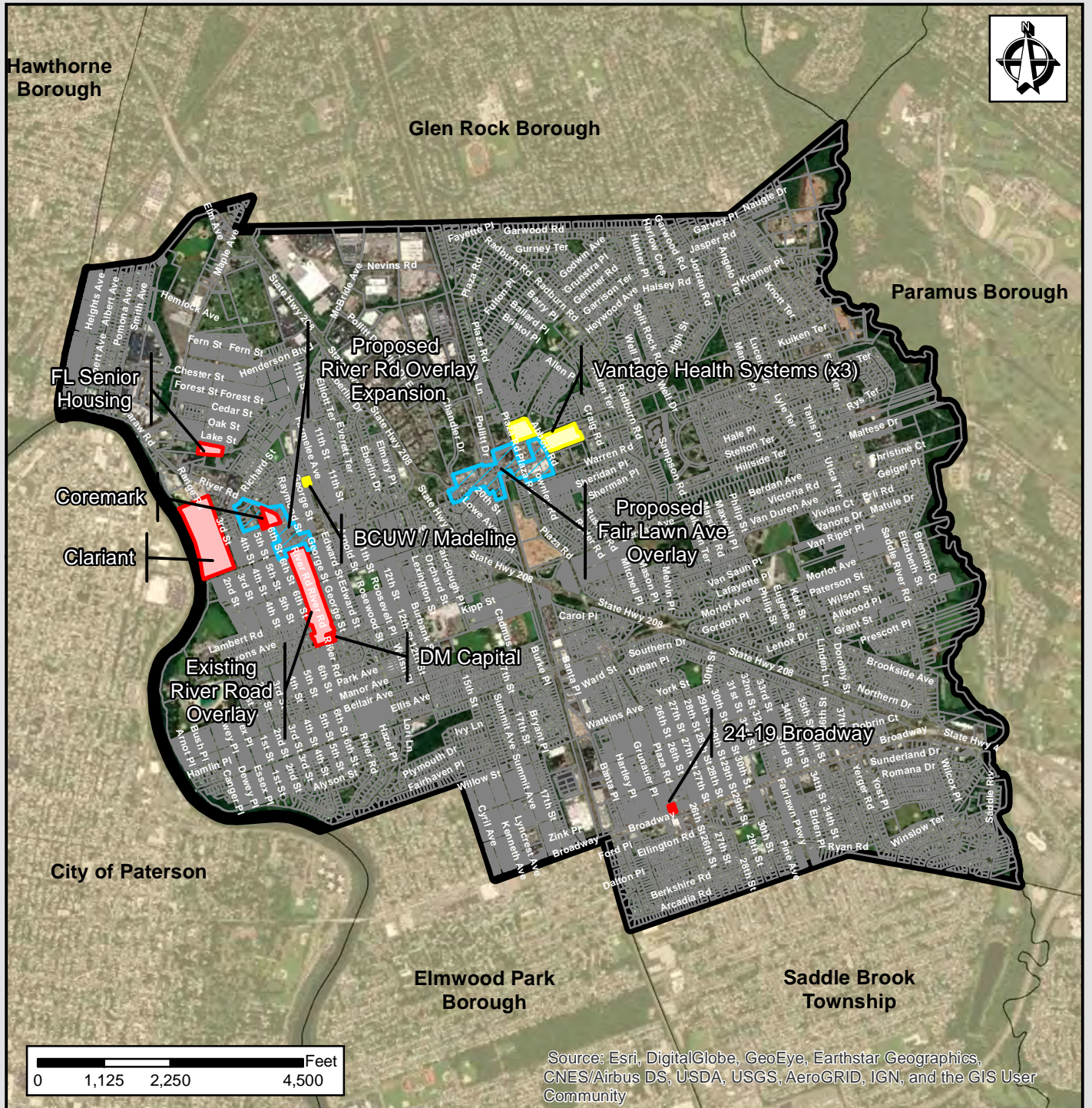


CME ASSOCIATES
CONSULTING & MUNICIPAL ENGINEERS
3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
1460 ROUTE 5 SOUTH HOWELL, N.J. 07731
3759 ROUTE 1 SOUTH SUITE 100 MONMOUTH JUNCTION, NJ 08852
ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102
WWW.CMEUSAL.COM

Source: NJGIN Network, MODIV data

DATE	SCALE	REVISED	CREATED BY
3/18/20	1 inch = 2,500 feet	N/A	CD

Unmet Need Affordable Housing Sites



UNMET NEED
Housing Sites

FAIR LAWN

Bergen County
New Jersey

Legend

- Supportive Needs Sites
- Housing Sites
- Proposed Overlay
- Parcels



CONSULTING & MUNICIPAL ENGINEERS
 3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
 1460 ROUTE 5 SOUTH HOWELL, N.J. 07731
 3759 ROUTE 1 SOUTH SUITE 100 MONMOUTH JUNCTION, NJ 08852
 ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM

Source: NJGIN Network, MODIV data

DATE	SCALE	REVISED	CREATED BY
3/18/20	1 inch = 2,500 feet	N/A	CD

Appendix D – Municipal Rehabilitation Program Manual and County Rehab Documentation

**BOROUGH OF FAIR LAWN
BERGEN COUNTY, NEW JERSEY**

**HOUSING REHABILITATION PROGRAM
Operating Manual for the Administration of
Rental & For Sale Units**

In Accordance with the Uniform Housing Affordability Controls, N.J.A.C. 5:93 and
N.J.A.C. 5:97

Prepared: April, 2020

Prepared by



1460 Route 9 South
Howell, NJ 07731
(732) 462-7400

Adopted _____ by: _____

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INTRODUCTION

The Housing Rehabilitation Program provides funds from the Borough's Affordable Housing Trust Fund, to rehabilitate sub-standard housing within Fair Lawn, which will be occupied by very-low, low-, or moderate-income households. Funding is available for either owner-occupied homes, or housing units rented to qualified households.

This Rehabilitation Program Operating Manual has been prepared to assist in the administration of the Borough of Fair Lawn's Housing Rehabilitation Program. It will serve as a guide to the program's staff and applicants.

This manual describes the basic content and operation of the program, examines program purposes, and provides the guidelines for implementing the program. It has been prepared with a flexible format allowing for periodic updates of its sections, when required, due to revisions in regulations and/or procedures.

This manual explains the steps in the rehabilitation process. It describes the eligibility requirements for participation in the program, program criteria, funding terms and conditions, cost estimating, contract payments, record keeping and overall program administration. The following represents the procedures developed to offer an applicant the opportunity to apply to the program.

Fair Housing and Equal Housing Opportunities



It is unlawful to discriminate against any person making application to participate in the rehabilitation program or rent a unit with regard to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments.

For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or <http://www.state.nj.us/lps/dcr/index.html>.

Fair Housing and Equal Housing Opportunities apply to both owner and tenant applications.

SECTION I. ELIGIBLE PARTICIPANTS

CATEGORIES OF PARTICIPANTS

Both owner-occupied and renter-occupied housing units are eligible to receive funding for rehabilitation provided that the occupants of the units are determined to be very-low, low- or moderate-income households and that the units are determined to be substandard. Owners of rental properties do not have to be low- or moderate-income households. If a structure contains two or more units and an owner, who is not income eligible, occupies one unit, funding may be provided for the rehabilitation of the rest of the units if income-eligible households occupy those units. Contract rents must be affordable to very-low, low- or moderate-income households.

NOTE: Pursuant to N.J.A.C. 5:97-6.2(b)6 rental units may not be excluded from a municipal rehabilitation program. If a county administers the municipal rehabilitation program and the county program does not include rehabilitation of rental units, the municipality will need to supplement the county program with its own rehabilitation program for rental units.

INCOME LIMITS FOR PARTICIPATION

Household income is defined as the combined annual income of all family members over 18 years of age including wages, Social Security, disability insurance, unemployment insurance, pensions, dividend/interest income, alimony, etc. Each unit's total household income must fall within the State's very low, low, and moderate income limits based on family size in accordance with the most recently adopted regional income limits determined by the Affordable Housing Professionals of New Jersey (AHPNJ), for Region 1 (Bergen, Hudson, Passaic and Sussex Counties), or any successive regional income limit determination adopted by an appropriate authority.

The Program Administrator or the Administrative Agent will ensure that the most up to date regional income limits are utilized by the Borough.

PROGRAM AREA

This is a municipal-wide program. The rehabilitation property must be located in the Borough of Fair Lawn.

CERTIFICATION OF SUBSTANDARD

The purpose of the program is to bring substandard housing up to compliance with applicable building codes. Substandard units are those units requiring repair or replacement of at least one major system. A major system is any one of the following:

1. Roof
2. Plumbing (including wells)

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3. Heating
4. Electrical
5. Sanitary plumbing (including septic systems)
6. Load bearing structural systems
7. Lead paint abatement
8. Weatherization (building insulation for attic, exterior walls and crawl space, siding to improve energy efficiency, replacement storm windows and storm doors and replacement windows and doors)

Code violations will be determined by an inspection conducted by a licensed inspector.

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SECTION II. AVAILABLE BENEFITS

PROGRAM FINANCING

The average per unit rehabilitation costs shall be \$10,000¹. If a particular unit requires substantially more than \$10,000, the Borough will review and approve on a case by case basis. Rehabilitation funds through this program shall be limited to a maximum of \$25,000 for each dwelling unit.

OWNER-OCCUPIED UNITS

Eligible property owners may be eligible for an interest free loan which will be due if the property is sold and/or title/occupancy change occurs within ten (10) years of acceptance of funds, except for allowable conditions under loan repayment terms section below.

If the owner decides to sell the property, transfer title, or if the owner should die before the terms of the lien expire, the owner, heirs, executors or legal representatives must repay the loan. Rental of the house is allowable under certain conditions subject to approval by the Program Administrator.

Exceptions to Loan Repayment Terms above during the lien period:

1. If the loan transfers due to inheritance of very-low, low-, or moderate-income family member beneficiary who will take occupancy upon death of program mortgagee and assume the balance of the lien, or
2. If the house is sold at an affordable price pursuant to N.J.A.C. 5:97-9.3 to someone who can be qualified as income eligible, takes occupancy and agrees to assume the program lien for the remaining duration of the lien period, or
3. If the house is sold at an affordable price pursuant to N.J.A.C. 5:97-9.3 to an investor who assumes the lien and also signs a deed restriction for the remaining duration of the lien period to rent the dwelling at the affordability controls restricted rental rate and according to the affirmative marketing requirements for re-rentals. When this occurs, the Borough's Administrative Agent will be responsible for monitoring compliance over that unit.

RENTER-OCCUPIED UNITS

Eligible landlords of one to four unit buildings may be eligible for an interest free loan which will be due when title to the property is transferred. The landlords are required to

¹ As per N.J.A.C. 93 et seq, the regulatory minimum average for rehabilitation program costs is \$10,000.00 per unit. The Borough reserves the right to satisfy this standard with any average amount exceeding \$10,000.00.

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provide at least 50% of the total construction costs needed for each unit to meet the New Jersey State Housing Code, N.J.A.C. 5:28 and each unit must meet the major system repair or replacement requirement. At the time the application is submitted, owners must submit proof of their share through bank statements, credit lines, etc. Title searches and property appraisals will be required to determine if there is sufficient equity in the property to cover to cost of the loan. The landlords will be expected to pay for the costs of the title searches and provide up to date property appraisals. In addition to the interest free, deferred payment loan, a ten-year deed restriction, attached to the mortgage and note, will be used to control the contract rent and ongoing tenant eligibility on rental units that receive assistance. The loan will be due upon transfer of title to the property; however, the deed restrictions shall remain in effect for ten years from the date the units are certified as standard. There are no monthly payments. The deed restriction will be recorded in the county deed book.

In situations where the non-income eligible owner(s) of eligible rental units occupies a unit in the structure to be rehabilitated, repairs to shared systems (i.e.: roof, heating, foundations, etc.) will be prorated with the owner(s) receiving no financial assistance for the owner's share.

If a unit is vacant upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls of affordability, the deed restriction shall require the unit to be rented to a low- or moderate- income household at an affordable price and affirmatively marketed pursuant to the N.J.A.C. 5:97-9. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.

SUBORDINATION

The Borough of Fair Lawn may agree to subordination of a loan if the mortgage company supplies an appraisal showing that the new loan plus the balance on the old loan does not exceed 95% of the appraised value of the unit. In addition, the household must be recertified as low- or moderate income.

SECTION III. ELIGIBLE PROPERTY IMPROVEMENTS

ELIGIBLE IMPROVEMENTS

Housing rehabilitation funds may be used only for repairs or system replacements necessary to bring a sub-standard unit into compliance with municipal health, safety and building codes, applicable code violations, as well as any other cosmetic work that is reasonable and deemed necessary or is related to the necessary repairs.

At least one major system must be replaced or included in the repairs, which include one of the following:

- Roof
- Plumbing (including wells)
- Heating
- Electrical
- Sanitary plumbing (including septic systems)
- Load bearing structural systems
- Lead paint abatement
- Weatherization (building insulation for attic, exterior walls and crawl space, siding to improve energy efficiency, replacement storm windows and storm doors and replacement windows and doors)

The related work may include, but not be limited to the following:

- Interior trim work,
- Interior and/or exterior doors
- Interior and/or exterior hardware
- Window treatment
- Interior stair repair
- Exterior step repair or replacement
- Porch repair
- Wall surface repair
- Painting
- Exterior rain carrying system repair

INELIGIBLE IMPROVEMENTS

Work not eligible for program funding includes but is not limited to luxury improvements (improvements which are strictly cosmetic), additions, conversions (basement, garage, porch, attic, etc.), repairs to structures separate from the living units (detached garage,

BOROUGH OF FAIR LAWN – REHABILITATION PROGRAM MANUAL

shed, barn, etc.), furnishings, pools, and landscaping. If determined unsafe, stoves may be replaced. The replacement or repair of other appliances is prohibited. Rehabilitation work performed by property owners shall not be funded under this program.

REHABILITATION STANDARDS

Upon rehabilitation, housing deficiencies shall be corrected and the unit shall comply with the New Jersey State Housing Code, N.J.A.C. 5:28. For construction projects that require the issuance of a construction permit pursuant to the Uniform Construction Code, the unit must also comply with the requirements of the Rehabilitation Sub-code (N.J.A.C. 5:23-6). In these instances, the more restrictive requirements of the New Jersey State Housing Code or the Rehabilitation Sub-code shall apply. For projects that require construction permits, the rehabilitated unit shall be considered complete at the date of final approval pursuant to the Uniform Construction Code.

CERTIFICATION OF STANDARD

All code deficiencies noted in the inspection report must be corrected and rehabilitated units must be in compliance with the standards proscribed in sub-section C above upon issuance of a certificate of completion or occupancy. The licensed inspector must certify any structure repaired in whole or in part with rehabilitation funds to be free of any code violations.

EMERGENCY REPAIRS

A situation relating to a safety and/or health hazard for the occupants would constitute an emergency. A municipal inspector will confirm the need for such work. In emergency cases, the formal solicitation process will not be followed. A minimum of three (3) estimates will be obtained when possible for the “emergency” work. However, eligibility, as stated in Section I, subsection B, must be determined prior to soliciting estimates. Application for additional non-emergency work may be made in accordance with the procedures outlined in this Operating Manual. The funding for the emergency work and any additional rehabilitation may not exceed the program financing provisions in Section II.

SECTION IV. OVERVIEW OF ADMINISTRATIVE PROCEDURES

APPLICATION/INTERVIEW

Property owners interested in participating in the housing rehabilitation program may submit preliminary applications to the program staff. Preliminary applications are available at the following locations:

Borough of Fair Lawn Municipal Building
8-01 Fair Lawn Avenue
Fair Lawn, NJ 07410
Phone: (201) 796-1700

Upon request, Borough staff, or the Administrative Agent will mail a preliminary application to an interested property owner. If after the program staff reviews a preliminary application an owner-occupant appears to be income eligible, an interview will be arranged with the applicant for a formal application to the program. At the time of the interview, the applicant must present required documentation. Applicants for rental rehabilitation funding must provide a list of tenants and the rents paid by each. The program staff will contact the tenants to provide evidence of income eligibility of the occupants of the units.

Applications will be processed in the order of receipt. Only emergency situations shall be handled out of the order of receipt.

INCOME ELIGIBILITY AND PROGRAM CERTIFICATION

For households seeking a determination of income eligibility, both owner-occupants and renter-occupants, all wage earners 18 years of age or older in the household must submit appropriate documentation to document the household income, as further described below.

Property owners of both owner-occupied and renter-occupied units must submit the following documentation:

- Copy of the deed to the property.
- Proof that property taxes and water and sewer bills are current.
- Proof of property insurance, including liability, fire and flood insurance where necessary.

If after review of the income documentation submitted by the applicant's tenants, the tenant is determined to be ineligible, the applicant will receive a letter delineating the reasons for the determination of ineligibility. An applicant may be determined ineligible if the each tenants' income exceeds the most recently adopted regional income limits determined by the Affordable Housing Professionals of New Jersey (AHPNJ), for Region 1 (Bergen, Hudson, Passaic and Sussex Counties), or any successive regional income limit determination adopted by an appropriate authority

BOROUGH OF FAIR LAWN – REHABILITATION PROGRAM MANUAL

The program staff will arrange for a title search of all properties entering the program. After the initial interview and the program staff has substantiated that the occupant is income-eligible, and the title search is favorable, the Eligible Certification Form will be completed and signed.

Upon confirmation of income eligibility of the applicant or the applicant's tenants, the program staff will send a letter, including the Eligible Certification Form, to the applicant certifying the applicant's and or tenant's eligibility. Eligibility will remain valid for six months. If the applicant has not signed a contract for rehabilitation within six months of the date of the letter of certifying eligibility, the applicant will be required to reapply for certification.

HOUSING INSPECTION/SUBSTANDARD CERTIFICATION

Once determined eligible, the program staff will arrange for a qualified, licensed, housing/building code inspector to inspect the entire residential property. The licensed inspector will inspect the house, take photographs, and certify that at least one major system is substandard. All required repairs would be identified.

INELIGIBLE PROPERTIES

If after review of the property documentation submitted and the inspection report and/or work write-up, an applicant's property is determined to be ineligible, the program staff will send a letter delineating the reasons for the determination of ineligibility. An applicant's property may be determined ineligible for any one of the following reasons:

- Title search is unfavorable.
- Property does not need sufficient repairs to meet eligibility requirements.
- Real estate taxes are in arrears.
- Proof of property insurance not submitted.
- Property is listed for sale.
- Property is in foreclosure.
- Total debt on the property will exceed the value of the property.

The Borough of Fair Lawn may disqualify properties requiring excessive repairs to meet municipal housing standards. The estimated or bid cost of repairs must exceed 50 percent of the estimated after-rehabilitation value of the property for the municipality to exclude the property.

If after review the property is determined to be eligible, the inspector will then certify that the dwelling is substandard by completing and signing the Certificate of Sub-Standard Form and submitting this to the program staff.

COST ESTIMATE

The program staff will prepare or cause to be prepared a Work Write-up and Cost Estimate. This estimate will include a breakdown of each major work item by category as well as by location in the house. It will contain information as to the scope and specifics on the materials to be used. A Cost Estimate will be computed and included within the program documentation. The program staff will review the Preliminary Work Write-up with the property owner.

Only required repairs to units occupied by income eligible households will be funded through the Housing Rehabilitation Program. If the property owner desires work not fundable through the program, including work on an owner-occupied unit of a rental rehabilitation project, work on a non-eligible rental unit in a multi-unit building, or improvements not covered by the program, such work may be added to the work write-up if the property owner provides funds to be deposited in the municipality's Housing Trust Fund prior to the commencement of the rehabilitation of the property equivalent to *(110 percent or a higher percentage)* of the estimated cost of the elective work. Such deposited funds not expended at the time of the issuance of a certificate of completion/occupancy will be returned to the property owner with accrued interest.

CONTRACTOR BIDDING NEGOTIATIONS

After the unit and the unit occupant have been certified as eligible, the program staff will provide a list of approved, pre-qualified trade contractors for bidding. The property owner reviews this list and selects a minimum of three and a maximum of five contractors from whom to obtain bids. The program staff and property owner will then review these bids. The lowest responsible trade contractor shall then be selected. If the property owner wishes to use a contractor other than the lowest responsible bidder, the property owner shall pay the difference between the lowest bid price and the bid price of the selected contractor.

Property owners may seek proposals from non-program participating contractors. However, the Borough must pre-approve the contractor prior to submitting a bid.

CONTRACT SIGNING/PRE-CONSTRUCTION CONFERENCE

Program staff will meet with the property owner to review all bids by the contractors. This review will include a Final Work Write-up and Cost Estimate. The Contractor Agreement will be prepared by the program staff, as well as a Property Rehabilitation Agreement covering all the required terms and conditions.

The program staff will then call a Pre-Construction Conference. Documents to be executed at the Pre-Construction Conference include: Contractors Agreement(s), Right of Entry Document, a Restricted Covenant, Mortgage and Mortgage Note. The property owner, program staff representative, contractor and bank representative will execute the appropriate documents and copies will be provided as appropriate. A staff member will outline project procedures to which property owner must adhere. A Proceed to Work Order, guaranteeing that the work will commence within fifteen (15) calendar days of

BOROUGH OF FAIR LAWN – REHABILITATION PROGRAM MANUAL

the date of the conference and be totally completed within ninety (90) days from the start of work, will be issued to each contractor at this Conference.

PROGRESS INSPECTIONS

The program staff will make periodic inspections to monitor the progress of property improvements. This is necessary to ensure that the ongoing improvements are in accordance with the scope of work outlined in the work write-up. It is the contractor's responsibility to notify the Building Inspector before closing up walls on plumbing and/or electrical improvements.

CHANGE ORDERS

If it becomes apparent during the course of construction that additional repairs are necessary or the described repair needs to be amended, the program staff will have the qualified professional(s) inspect the areas in need of repair and prepare a change order describing the work to be done. The applicant and the contractor will review the change order with the program staff and agree on a price. Once all parties approve of the change order and agree on the price, they will sign documents amending the contract agreement to include the change order. Additionally, if the applicant is not funding the additional cost, new financing documents will be executed reflecting the increase.

PAYMENT SCHEDULE

The contract will permit three progress payments if the project costs less than \$20,000 or up to four progress payments if the project costs more than \$20,000, with the first payment of \$10,000 and the remaining payments to be divided equally. First payment is made when the project is one-quarter completed. Fourth and final payment upon completion.

The contractor will submit a payment request. The applicant will sign a payment approval if both the applicant and housing / building inspector are satisfied with the work performed. The municipality will then release the payment. Final payment will be released once all final inspections are made, a Certificate of Occupancy is issued (if applicable) and the program staff receives a Property Owner Sign-off letter. The contractor's performance bond will be released within a minimum of three months after the final payment is made to the contractor.

APPEAL PROCESS

If an applicant does not approve a payment that the housing/building inspector has approved, the disputed payment will be appealed to the Zoning Board of Adjustment for a hearing. The Zoning Board will decide if the payment shall be released to the contractor or the contractor must complete additional work or correct work completed before the release of the payment. The Zoning Board's decision will be binding on both the applicant and the contractor.

FINAL INSPECTION

Upon notification by the contractor that all work is complete and where required a Certificate of Occupancy has been issued, a final inspection shall be conducted and photographs taken. The program staff (or a representative), the property owner, and the necessary contractors shall be present at the final inspection to respond to any final punch list items.

RECORD RESTRICTED COVENANT AND MORTGAGE DOCUMENTATION

Program staff will file the executed Restricted Covenant and Mortgage with the Bergen County Clerk.

FILE CLOSING

After the final payment is made, the applicant's file will be closed by the program staff.

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SECTION V. PROCEDURE FOR INCOME-ELIGIBILITY CERTIFICATION

COMPLETE A HOUSEHOLD ELIGIBILITY DETERMINATION FORM

The program staff shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income, pursuant to the Uniform Housing Affordability Controls at N.J.A.C. 5:80-16.1 et seq. (except for the asset test).² Income verification documentation should include, but is not limited to the following for each and every member of a household who is 18 years of age or older:

- Four current consecutive pay stubs (including both the check and the stub), including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.
- Copies of Federal and State income tax returns for each of the preceding three tax years - A Form 1040 Tax Summary for the past three tax years can be requested from the local Internal Revenue Service Center or by calling 1-800-829-1040.
- A letter or appropriate reporting form verifying monthly benefits such as:
 - Social Security or SSI – Current award letter or computer print-out letter
 - Unemployment – verification of Unemployment Benefits
 - Welfare -TANF³ current award letter
 - Disability - Worker’s compensation letter or
 - Pension income (monthly or annually) – a pension letter
- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support – copy of court order or recent original letters from the court or education scholarship/stipends – current award letter.
- Current reports of savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds (In brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates).

² Asset Test – N.J.A.C. 5:80-26.16(b)3 which provides that if an applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit as published annually by the most recently adopted regional income limits determined by the Affordable Housing Professionals of New Jersey (AHPNJ), for Region 1 (Bergen, Hudson, Passaic and Sussex Counties), or any successive regional income limit determination adopted by an appropriate authority, a certificate of eligibility shall be denied by the administrative agent, unless the applicant’s existing monthly housing costs ...exceed 38 percent of the household’s eligible monthly income.

³ TANF – Temporary Assistance for Needy Families

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- Evidence or reports of income from directly held assets, such as real estate or businesses.
- Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.
- Current reports of assets – Market Value Appraisal or Realtor Comparative Market Analysis and Bank/Mortgage Co. Statement indicating Current Mortgage Balance. For rental property attach copies of all leases.

The following is a list of various types of wages, payments, rebates and credits. Those that are considered as part of the household's income are listed under **Income**. Those that are not considered as part of the household's income are listed under **Not Income**.

Income

1. Wages, salaries, tips, commissions
2. Alimony
3. Regularly scheduled overtime
4. Pensions
5. Social security
6. Unemployment compensation (verify the remaining number of weeks they are eligible to receive)
7. TANF
8. Verified regular child support
9. Disability
10. Net income from business or real estate
11. Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds
12. Imputed interest (using a current average annual rate of two percent) from non-income producing assets, such as equity in real estate. Rent from real estate is considered income, after deduction of any mortgage payments, real estate taxes, property owner's insurance.
13. Rent from real estate is considered income
14. Any other forms of regular income reported to the Internal Revenue Service

Not Income

1. Rebates or credits received under low-income energy assistance programs
2. Food stamps
3. Payments received for foster care
4. Relocation assistance benefits

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5. Income of live-in attendants
6. Scholarships
7. Student loans
8. Personal property such as automobiles
9. Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements
10. Part-time income of dependents enrolled as full-time students
11. Court ordered payments for alimony or child support paid to another household shall be deducted from gross annual income

To calculate income, the current gross income of the applicant is used to project that income over the next 12 months.

Student Income

Only full-time income of full-time students is included in the income calculation. A full-time student is a member of the household reported to the IRS as a dependent who is enrolled in a degree seeking program for 12 or more credit hours per semester; and part-time income is income earned on less than a 35-hour workweek.

Income from Real Estate

If real estate owned by an applicant for affordable housing is a rental property, the rent is considered income. After deduction of any mortgage payments, real estate taxes, property owner insurance and reasonable property management expenses as reported to the Internal Revenue Service, the remaining amount shall be counted as income.

If an applicant owns real estate with mortgage debt, which is not to be used as rental housing, the Administrative Agent should determine the imputed interest from the value of the property. The Administrative Agent should deduct outstanding mortgage debt from the documented market value established by a market value appraisal. Based on current money market rates, interest will be imputed on the determined value of the real estate.

RECORDS DOCUMENTING HOUSEHOLD COMPOSITION AND CIRCUMSTANCES

The following are various records for documenting household information:

- Social Security records or cards. Either individual Social Security card or letter from Social Security Administration
- Adoption papers, or legal documents showing adoption in process
- Income tax return
- Birth Certificate or Passport
- Alien Registration Card

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Program staff will certify the income eligibility of low- and moderate-income households by completing the application form. The applicant shall be provided with the original and the Program staff shall keep a copy in the project files.

APPEALS

Appeals from all decisions of an Administrative Agent shall be made in writing to the New Jersey Housing and Mortgage Finance Agency (NJHMFA). HMFA shall have 15 days to render a written decision of an appeal, which shall be considered to be final.

Director of Programs
NJ Housing and Mortgage Finance Agency
637 S. Clinton Ave
Trenton, NJ 08611

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SECTION VI. CONTRACTOR RELATED PROCEDURES

CONTRACTOR SELECTION

Contractors must apply to the program staff to be placed on the pre-approved contractors list. Contractors seeking inclusion on the list must submit references from at least three recent general contracting jobs. Contractors also must submit documentation proving financial stability and the ability to obtain performance bonds, as performance bonds will be required on every rehabilitation project. If it is ever necessary for the Borough or Administrative Agent to access the performance bond in order to complete a project, the contractor will be removed from the pre-approved contractors list. Contractors must carry workmen's compensation coverage and liability insurance of at least \$100,000/\$300,000 for bodily injury or death and \$50,000 for property damage. Only licensed tradesmen will be permitted to perform specialty work such as plumbing, heating and electrical.

NUMBER OF PROPOSALS REQUIRED

The property owner will select a minimum of three general contractors from a list of pre-approved contractors. Property owners may not select contractors who do not appear on the list.⁴ The approved work write-up will be submitted to the selected contractors by the program staff. Contractors must visit the property and submit bids within 14 days. The contract will be awarded to the lowest bidder⁵, provided that the housing/building inspector or the professional who drafted the work write-up certify that the work can be completed at the price bid and that the bid is reasonably close to the cost estimate. Bids must fall within 10 percent of the cost estimate.

CONTRACTOR REQUIREMENTS

Upon notification of selection, the contractor shall submit all required insurance certification to the program staff. A contract signing conference will be called by the program staff to be attended by the property owner and contractor. At the time of Agreement execution, the contractor shall sign a Certification of Work Schedule prepared by the program staff.

⁴ The program may permit a property owner to seek proposals from non-program participating contractors. However, the municipality must pre-approve the contractor prior to submitting a bid.

⁵ If the property owner wishes to use a contractor other than the lowest responsible bidder, the property owner shall pay the difference between the lowest bid price and the bid price of the selected contractor.

SECTION VII. MAINTENANCE OF RECORDS

FILES TO BE MAINTAINED ON EVERY APPLICANT

The program staff will maintain files on every applicant. All files will contain a preliminary application. If an applicant's preliminary application is approved, and the applicant files a formal application, the file will contain at a minimum:

- Application Form
- Tenant Information Form (Rental Units Only)
- Income Verification
- Letter of Certification of Eligibility or Letter of Determination of Ineligibility

Files of applicants approved for the program will also contain the following additional documentation:

- Housing Inspection Report
- Photographs - Before
- Certification of Property Eligibility or Determination of Ineligibility
- Proof of Homeowners Insurance
- Copy of Deed to Property

For properties determined eligible for the program where the applicants choose to continue in the program, the files shall contain the following:

- Work Write-Up/Cost Estimate
- Copies of Bids
- Applicant/Contractor Contract Agreement
- Recorded Mortgage/Lien Documents
- Copies of All Required Permits
- Contractor Requests for Progress Payments
- Progress Payment Inspection Reports
- Progress Payment Vouchers
- Change Orders (If needed)
- Final Inspection Report
- Photographs - After
- Certification of Completion
- Certification of Release of Contractor's Bond

Individual files will be maintained throughout the process.

REHABILITATION LOG

A rehabilitation log will be maintained by the Program staff that depicts the status of all applications in progress.

MONITORING

For each unit the following information, if applicable, must be retained to be reported annually:

- Street Address
- Block/Lot/Unit Number
- Owner/Renter
- Income: Very-low, Low, or Moderate
- Final Inspection Date
- Funds expended on Hard Costs
- Development Fees expended
- Funds Recaptured
- Major Systems Repaired
- Unit Below Code & Raised to Code
- Effective date of affordability controls
- Length of Affordability Controls (years)
- Date Affordability Controls removed
- Reason for removal of Affordability Controls

SECTION VIII. PROGRAM MARKETING

The Borough will conduct a public meeting announcing the implementation of the Housing Rehabilitation Program. For the term of the program, the municipality will include flyers once a year with the tax bills, water bills or other regular municipal mailing to all property owners. Program information will be available at the Borough municipal building, library, and other municipal public facilities as well as on the Borough website.

Prior to commencement of the program and periodically thereafter, the Borough will hold informational meetings on the program to all interested contractors. Each contractor will have the opportunity to apply for inclusion on the Borough’s certified contractor list.

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SECTION IX. RENTAL PROCEDURES

Rental units are subject to the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5-80:26.1 et. seq. once the rental units are rehabilitated.

FAIR HOUSING AND EQUAL HOUSING OPPORTUNITIES



It is unlawful to discriminate against any person making application to participate in the rehabilitation program or rent a unit with regard to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments.

For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or

<http://www.state.nj.us/lps/dcr/index.html>.

OVERVIEW OF THE AFFORDABLE HOUSING ADMINISTRATION PROCESS FOR RENTAL UNITS

- The Municipal Housing Liaison serves as an initial point of contact for unsolicited calls to the Borough about affordable housing and to appropriately direct applicants to the Administrative Agent as necessary.
- The Administrative Agent implements the Borough's adopted Affirmative Marketing Plan.
- The Administrative Agent serves as the initial point of contact for all inquiries generated by the affirmative marketing efforts and sends out pre-applications to interested callers.
- The Administrative Agent will accept these returned pre-applications for a specific period of time, for example, 30 to 90 days. At the end of this time period these applications will be randomly selected, through a lottery, to create a pool of applicants.
- The Administrative Agent pre-qualifies applicants in the applicant pool for income eligibility and sends either a rejection letter to those over income or a preliminary approval letter to those who appear income-eligible.
- When a unit becomes available, the Administrative Agent will interview the applicant households and proceed with the income qualification process.
- The Administrative Agent must notify applicant households in writing of certification or denial within 20 days of the determination.

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- Once certified, households are further screened to match household size to bedroom size.
- Certified households that are approved for a rental affordable housing unit will sign all applicable documents, which shall be held in the applicant file. Applicants then make an appointment with the leasing agent. Applicant households seeking rental units proceed with a credit check, which is generally conducted by the developer, affordable housing sponsor or landlord. If approved, the applicant will sign the lease, pay the first month's rent and the security deposit and receive the keys.
- The certified household moves in to the affordable rental unit.

ROLES AND RESPONSIBILITIES

Responsibilities of the Municipal Housing Liaison

The Municipal Housing Liaison is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the Municipal Attorney, where appropriate (see the section **Responsibilities of the Municipal Attorney**). The primary purpose of the Municipal Housing Liaison is to ensure that all affordable housing projects are established and administered according to the Regulations as outlined in an Operating Manual. The duties of the Municipal Housing Liaison include the following duties, and may include the responsibilities for providing administrative services as described in the next Section under, Responsibilities of an Administrative Agent.

- **Monitor the status of all restricted units in the Municipality's Fair Share Plan.** Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community.
- **Serve as the municipality's primary point of contact for all inquiries from the State, Administrative Agents, developers, affordable housing sponsors, owners, property managers, and interested households.** The Municipal Housing Liaison serves as the municipality's primary point of contact on affordable housing issues. Interested applicants should be provided with information on the types of affordable units within the municipality and, where applicable, the name of the Administrative Agent that manages the units and the contact information for the Administrative Agent.
- **Compile, verify and submit annual reporting.** Administrative Agents are responsible for collecting much of the data that is ultimately included in an annual monitoring report. However, it is the Municipal Housing Liaison's responsibility to collect and verify this data and consolidate it into the annual report. Any requests from the court, or any other agency having jurisdiction over Fair Housing Act compliance, for additional information or corrections will be directed to the Municipal Housing Liaison.

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- **Provide Administrative Services, unless those services are contracted out.** The responsibilities for providing administrative services are described in the next Section under, **Responsibilities of an Administrative Agent.**

Responsibilities of an Administrative Agent

The primary responsibility of an Administrative Agent is to establish and enforce affordability controls and ensure that units in their portfolio are rented to eligible households. Administrative Agents must:

- **Secure written acknowledgement.** All owners must acknowledge in writing that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.
- **Create and adhere to an Operating Manual.** Administrative Agents are required to follow the policies and procedures of an Operating Manual, as applicable to the scope of services they have been contracted to perform.
- **Implement the municipality's Affirmative Marketing Plan.** The Administrative Agent is responsible for implementing the Affirmative Marketing Plan adopted by the Borough. At the first meeting with the Municipal Housing Liaison, Administrative Agent, and the developer, affordable housing sponsor or owner this responsibility should be discussed. Advertising costs may also be delegated to the developer, but this must be established by ordinance and a condition of approval of the Planning Board or Zoning Board.
- **Accept applications from interested households.** In response to marketing initiatives or by referral from the Municipal Housing Liaison, interested households will contact the Administrative Agent. The Administrative Agent will supply applicants with applications, provide additional information on available units and accept completed applications.
- **Conduct random selection of applicants for rental of restricted units.** The Administrative Agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and any related local ordinances, and as described in the Operating Manual.
- **Create and maintain a pool of applicant households.** This includes reaching out to households in the applicant pool to determine continued interest and/or changes in household size and income.
- **Determine eligibility of households.** The task of collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of an Administrative Agent. A written determination on a household's eligibility must be provided within twenty (20) days of the Agent's determination of eligibility or non-eligibility. Whether or not the household is determined to be eligible for a unit, it is an Administrative Agent's responsibility to secure all information provided by the household in individual files and to maintain strict confidentiality of all information regarding that household. An Administrative Agent is required to ensure that all certified applicants execute a certificate

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acknowledging the rights and requirements of renting an affordable unit, in the form of Appendix K of UHAC.

- **Establish and maintain effective communication with property managers and landlords.** Property managers and landlords of restricted units should be instructed and regularly reminded that the Administrative Agent is their primary point of contact. The Administrative Agent must immediately inform all property managers and landlords of any changes to the Administrative Agent's contact information or business hours. Property managers and landlords shall immediately contact the Administrative Agent:
 - Upon learning that an affordable rental unit will be vacated.
 - For review and approval of annual rental increases.
- **Provide annual notification of maximum rents.** Each year when low- and moderate-income regional limits are published by the Affordable Housing Professionals of New Jersey (AHPNJ), for Region 1 (Bergen, Hudson, Passaic and Sussex Counties), or any successive regional income limit determination adopted by an appropriate authority, rental households must be notified of the new maximum rent that may be charged for their unit. The Administrative Agent's contact information must be included on such notification in case the tenant is being overcharged.
- **Serve as the custodian of all legal documents.** An Administrative Agent is responsible for maintaining original of all legal instruments for the units in their portfolio. Throughout the duration of a control period, an Administrative Agent must maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Repayment Mortgages, Repayment Mortgage Notes, Leases and Rental Certifications.
- **Serve as point of contact on all matters relating to affordability controls.** It is recommended that the Administrative Agent develop a system to be notified by lenders when a unit is at risk of foreclosure. In the event of a foreclosure, the Administrative Agent should work with the foreclosing institution to ensure that the affordability controls are maintained. The Administrative Agent should seek the counsel of the municipality's attorney on legal matters that threaten the durability of the affordability controls.
- **Provide annual activity reports to Municipal Housing Liaison for use in the annual monitoring report.** An Administrative Agent is responsible for collecting the reporting data on each unit in their portfolio.
- **Maintain and distribute information on HUD-approved Housing Counseling Programs.**

Responsibilities of the Municipal Attorney

The Municipal Attorney assists the municipality with developing, administering, and enforcing affordability controls, including but not limited to providing all reasonable and

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necessary assistance in support of the Administrative Agent's efforts to ensure compliance with the housing affordability controls.

Responsibilities of Owners of Rental Units

Open and direct communication between the Owners of rental units, the Municipal Housing Liaison, and the Administrative Agent is essential to ongoing administration of affordability controls. Although the Administrative Agent is required to serve as the primary point of contact with households, the Owner must provide the Municipal Housing Liaison and Administrative Agent with information on vacancies. Owners of rental units are also responsible for working with the Administrative Agent to ensure that the Municipal Housing Liaison has all necessary information to complete the annual reporting.

Responsibilities of Landlords and Property Managers

Landlords and property managers must place a notice in all rental properties annually informing residents of the rent increase for the year and the contact information for the Administrative Agent.

AFFIRMATIVE MARKETING

Overview of the Requirements of an Affirmative Marketing Plan

All affordable units are required to be affirmatively marketed using Borough of Fair Lawn's Affirmative Marketing Plan. The Borough of Fair Lawn's Affirmative Marketing Plan can be found under separate cover on file at the Borough Municipal Building or with the Administrative Agent.

Implementation of the Affirmative Marketing Plan

The affirmative marketing process for affordable units shall begin at least four months prior to expected occupancy. In implementing the marketing program, the Administrative Agent shall undertake all of the strategies outlined in the Borough of Fair Lawn's Affirmative Marketing Plan. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all the units have been sold or rented. Applications for affordable housing shall be available in several locations in accordance with the Affirmative Marketing Plan. The time period when applications will be accepted will be posted with the applications. Applications shall be mailed to prospective applicants upon request. An applicant pool will be maintained by the Administrative Agent for re-rentals. When a re-rental affordable unit becomes available, applicants will be selected from the applicant pool and, if necessary, the unit will be affirmatively marketed as described above.

Initial Randomization

Applicants are selected at random before income-eligibility is determined, regardless of household size or desired number of bedrooms. The process is as follows:

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After advertising is implemented, applications are accepted for up to 30 days. Applicants will be asked where they learned of the housing opportunity. The Administrative Agent will pre-qualify applicants as soon as applications are received, and only place preliminary income-eligible applications in the lottery, provided that applicants are notified in writing of eligibility and non-eligibility in advance of the lottery.

At the end of the period, sealed applications are selected one-by-one through a lottery (unless fewer applications are received than the number of available units, then all eligible households will be placed in a unit).

Households are informed of the date, time and location of the lottery and invited to attend.

An applicant pool is created by listing applicants in the order selected.

Applications are reviewed for income-eligibility. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information.

Eligible households are matched to available units based upon the number of bedrooms needed (and any other special requirements, such as the need for an accessible unit).

For future re-rentals or the Administrative Agent will keep the applicant pool open after the initial lottery and add names to the existing list based on time and date of submission. This procedure may only be followed if the Administrative Agent engages in ongoing monthly affirmative marketing efforts according to the approved Affirmative Marketing Plan to ensure outreach to the housing region.

Randomization after Certification

Random selection is conducted when a unit is available, and only certified households seeking the type and bedroom size of the available unit are placed in the lottery. The process is as follows:

After advertising is implemented, applications are accepted for 60 days.

All applications are reviewed and households are either certified or informed of non-eligibility. (The certification is valid for 180 days, and may be renewed by updating income-verification information.)

Eligible households are placed in applicant pools based upon the number of bedrooms needed (and any other special requirements, such as the need for an accessible unit)

When a unit is available, only the certified households in need of that type of unit are selected for a lottery.

Households are informed of the date, time, and location of the lottery and invited to attend.

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After the lottery is conducted, the first household selected is given twenty (20) days to express interest or disinterest in the unit. (If the first household is not interested in the unit, this process continues until a certified household selects the unit.)

Applications are accepted on an ongoing basis, certified households are added to the pool for the appropriate household income and size categories, and advertising and outreach is ongoing, according to the Affirmative Marketing Plan.

Matching Households to Available Units

In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to implement the following policies:

- Provide an occupant for each unit bedroom;
- Provide children of different sex with separate bedrooms;
- Prevent more than two persons from occupying a single bedroom;
- Require that all the bedrooms be used as bedrooms; and
- Require that a couple requesting a two-bedroom unit provide a doctor's note justifying such request.

The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor. A household can be eligible for more than one unit category, and should be placed in the applicant pool for all categories for which it is eligible.

Maximum Monthly Payments

The percentage of funds that a household can contribute toward housing expenses is limited. However, an applicant may qualify for an exception based on the household's current housing cost (see below). The Administrative Agent will strive to place an applicant in a unit with a monthly housing cost equal to or less than the applicant's current housing cost.

UHAC states that a certified household is not permitted to lease a restricted rental unit that would require more than 35 percent of the verified household income (40 percent for age-restricted units) to pay rent and utilities. However, at the discretion of the Administrative Agent, this limit may be exceeded if:

- The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent and the proposed rent will reduce the household's housing costs;
- The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- The household is currently in substandard or overcrowded living conditions;

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- The household documents the existence of assets, with which the household proposes to supplement the rent payments; or
- The household documents proposed third party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the Owner of the unit; and
- The household receives budget counseling.

Housing Counseling

The Administrative Agent is responsible for or providing referrals for counseling, as a part of the Affirmative Marketing Plan and during the application process. Although housing counseling is recommended, a household is only required to attend counseling if their monthly housing expense exceeds UHAC standards. A HUD-approved housing counseling agency, or a counseling agency approved by the NJ Department of Banking and Insurance, meets UHAC's requirements for an experienced Housing Counseling Agency. The Agent will make referrals to one of the HUD-approved housing counseling agencies in New Jersey. This counseling to very low, low- and moderate-income housing applicants will focus on subjects such as budgeting, credit issues, and mortgage qualification, and is free of charge. A list of non-profit counselors approved by HUD and/or the New Jersey Department of Banking and Insurance is included on DCA's website and is available from the Administrative Agent.

The Applicant Interview

Ideally, the prospective applicant will be available to meet with the Administrative Agent to review the certification and random selection processes in detail and ask any questions they may have about the project or the process. However, scheduling time off from work may prove burdensome to the applicant. Applicants may also have mobility issues or special needs that also pose an obstacle to an interview. Therefore, the Administrative Agent is prepared to complete the certification process via telephone and mail. If an interview is to be conducted, the Administrative Agent will attempt to achieve the following objectives:

- Confirm and update all information provided on the application.
- Explain program requirements, procedures used to verify information, and penalties for providing false information. Ask the head of household, co-head, spouse and household members over age 18 to sign the Authorization for Release of Information forms and other verification requests.
- Review the applicant's identification and financial information and documentation, ask any questions to clarify information on the application, and obtain any additional information needed to verify the household's income.
- Make sure the applicant has reported all sources for earned and benefit income and assets (including assets disposed of for less than fair market value in the past two years). Require the applicant to give a written certification as to whether any

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household member did or did not dispose of any assets for less than fair market value during the past two years.

Determining Affordable Rents

To determine the initial rents the Administrative Agent uses the COAH calculators located at <http://www.hudser.org/portal/datasets/il.html>.

Pricing by Household Size

Initial rents are based on targeted “model” household sizes for each size home as determined by the number of bedrooms. Initial rents must adhere to the following rules. These maximum sales prices and rents are based on the Annual Regional Income Limits Chart as published by AHPNJ, or any other agency having such jurisdiction, at the time of occupancy:

- A studio shall be affordable to a one-person household;
- A one-bedroom unit shall be affordable to a one- and one-half person household;
- A two-bedroom unit shall be affordable to a three-person household;
- A three-bedroom unit shall be affordable to a four- and one-half person household; and
- A four-bedroom unit shall be affordable to a six-person household.

Size of Unit	Household Size Used to Determined Max Rent
Studio/Efficiency	1
1 Bedroom	1.5
2 Bedrooms	3
3 Bedrooms	4.5
4 Bedrooms	6

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The above rules are only to be used for setting initial rents. They are not guidelines for matching household sizes with unit sizes. The pricing of age-restricted units may not exceed affordability based on a two-person household.

Split Between Low- and Moderate-income Rental Units

At least 50 percent (of the affordable units within each bedroom distribution (unit size) must be low-income units and at least ~~130~~ percent of the affordable units within each bedroom distribution must be affordable to households earning no more than ~~305~~ percent of the regional median income. The remainder of the affordable units must be affordable to moderate-income households.

Affordability Average

The average rent for all affordable units cannot exceed 52 percent of the regional median income. At least one rent for each bedroom type must be offered for very low income, low-income and moderate-income units. Calculation of the affordability average is available on DCA's website.

Maximum Rent

The maximum rent of restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of the regional median income.

Determining Rent Increases

Annual rent increases are permitted in affordable units. Rent increases are permitted at the anniversary of tenancy according to the most recently adopted regional income limits determined by the Affordable Housing Professionals of New Jersey (AHPNJ), for Region 1 (Bergen, Hudson, Passaic and Sussex Counties), or any successive regional income limit determination adopted by an appropriate authority. These increases must be filed & approved by the Administrative Agent. Property managers or landlords who have charged less than the permissible increase may use the maximum allowable rent with the next tenant with permission of the Administrative Agent. The maximum allowable rent would be calculated by starting with the rent schedule approved as part of initial lease-up of the development, and calculating the annual approved increase from the initial lease-up year to the present. Rents may not be increased more than once a year, may not be increased by more than one approved increment at a time, and may not be increased at the time of new occupancy if this occurs less than one year from the last rental. No additional fees may be added to the approved rent without the express written approval of the Administrative Agent.

Rehabilitation Program Audit Checklist

	UP-TO-DATE OPERATING MANUAL	Comments
<input type="checkbox"/>	Income Limits	
<input type="checkbox"/>	List of Pre-Qualified Contractors	
<input type="checkbox"/>	Sample Forms and Letters	
	MAINTENANCE OF RECORDS	
	Files To Be Maintained on Every Applicant	
<input type="checkbox"/>	Preliminary Application	
<input type="checkbox"/>	Application Form	
<input type="checkbox"/>	Income Verification	
<input type="checkbox"/>	Letter of Certification of Eligibility or	
<input type="checkbox"/>	Letter of Determination of Ineligibility.	
	Files to be Maintained on Every Property	
<input type="checkbox"/>	Housing Inspection Report.	
<input type="checkbox"/>	Photographs – Before Certification of Property	
<input type="checkbox"/>	Homeowner’s Insurance	
<input type="checkbox"/>	Property Deed	
<input type="checkbox"/>	Eligibility or Determination of Ineligibility	
<input type="checkbox"/>	Work Write-Up/Cost Estimate.	
<input type="checkbox"/>	Applicant/Contractor Contract Agreement.	
<input type="checkbox"/>	Mortgage/Lien Documents.	
<input type="checkbox"/>	Copies of All Required Permits.	
<input type="checkbox"/>	Contractor Requests for Progress Payments.	
<input type="checkbox"/>	Progress Payment Inspection Reports.	
<input type="checkbox"/>	Progress Payment Vouchers.	
<input type="checkbox"/>	Change Orders (If Needed).	
<input type="checkbox"/>	Final Inspection Report.	
<input type="checkbox"/>	Photographs - After	
<input type="checkbox"/>	Certification of Completion.	
<input type="checkbox"/>	Certification of Release of Contractor's Bond.	
<input type="checkbox"/>	Rehabilitation Log	
	MONITORING INFORMATION	
<input type="checkbox"/>	Complete Monitoring Reporting Forms	
	PROGRAM MARKETING	
<input type="checkbox"/>	Annual Public Hearing Notice on Program	
<input type="checkbox"/>	Program Flyer	
<input type="checkbox"/>	Program Brochure	
<input type="checkbox"/>	Flyer mailed Annually to All Property Owners	
<input type="checkbox"/>	Program information available in municipal building, library and senior center.	
<input type="checkbox"/>	Program information posted on municipal website.	
<input type="checkbox"/>	Program posters placed in retail businesses throughout the municipality.	

Rehabilitation Program Audit Checklist for Rental Units

<input type="checkbox"/>	UP-TO-DATE OPERATING MANUAL	Comments
<input type="checkbox"/>	Income Limits	
<input type="checkbox"/>	Sample Forms and Letters	
AFFIRMATIVE MARKETING		
<input type="checkbox"/>	Copies of Ads	
<input type="checkbox"/>	Copies of PSA Requests	
<input type="checkbox"/>	Copies of Marketing Requests	
RANDOM SELECTION		
<input type="checkbox"/>	Log of Applications Received	
<input type="checkbox"/>	Log of Random Selection Results	
<input type="checkbox"/>	Database of Referrals	
MAINTENANCE OF RECORDS		
Files To Be Maintained on Every Applicant		
<input type="checkbox"/>	Preliminary Application.	
<input type="checkbox"/>	Application Form.	
<input type="checkbox"/>	Tenant Information Form	
<input type="checkbox"/>	Income Verification	
<input type="checkbox"/>	Letter of Certification of Eligibility or	
<input type="checkbox"/>	Letter of Determination of Ineligibility	
Files To Be Maintained on Every Rental Unit		
<input type="checkbox"/>	Base rent	
<input type="checkbox"/>	Identification as low- or moderate-income	
<input type="checkbox"/>	Description of number of bedrooms and physical	
<input type="checkbox"/>	layout	
<input type="checkbox"/>	Floor plan	
<input type="checkbox"/>	Application materials, verifications and	
<input type="checkbox"/>	certifications of all present tenants, pertinent	
<input type="checkbox"/>	correspondence	
<input type="checkbox"/>	Copy of lease	
<input type="checkbox"/>	Appendix K	
Files To Be Maintained on Every Property		
<input type="checkbox"/>	Deed	

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AND THE BOARD OF CHOSEN FREEHOLDERS**

Germaine M. Ortiz, Chair • Mary J. Amoroso, Vice Chair • Dr. Joan M. Voss, Chair Pro
Tempore • David L. Ganz • Thomas J. Sullivan • Steven A. Tanelli • Tracy Silna Zur

BERGEN COUNTY DIVISION OF COMMUNITY DEVELOPMENT

Appendix E – Development Approvals and Applications

Appendix F – Affordable Housing Deeds

Appendix G – Supportive and Special Needs Documentation

Appendix H – Affordable Housing Ordinance

ORDINANCE NO. ____-2020

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 49, AFFORDABLE HOUSING, OF THE CODE OF THE BOROUGH OF FAIR LAWN

WHEREAS the Borough of Fair Lawn (hereinafter 'the Borough') filed a complaint for declaratory and injunctive relief seeking a judgment of compliance and repose on December 28, 2018 under Docket number BER-L-9222-18 (hereinafter the litigation'); and

WHEREAS, the Borough agreed to settle the said Litigation with all parties through a negotiated Settlement Agreement (hereinafter the 'Agreement') on November 26, 2019, executed by the Borough on November 27, 2019; and

WHEREAS, as part of the Agreement, in Section 9h, the Borough agreed to amend Chapter 49 of the Borough Code; and

WHEREAS, the Borough of Fair Lawn Planning Board has reviewed the proposed amendment to Chapter 49 of the Borough Code and has determined that the proposed amendment is consistent with the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan

WHEREAS, having considered the proposed amendment to, the Borough Council concurs that the proposed amendment to Chapter 49, Article II of the Borough Code, does conform to the agreed upon terms of the Agreement, the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan and will provide realistic opportunity for the construction of affordable housing units in the expanded overlay zone.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn, in the County of Bergen and State of New Jersey, that:

SECTION 1. Chapter 49, Affordable Housing, Sections 49-1 and Section 49-2, of the Code of the Borough of Fair Lawn, be and are hereby amended and supplemented by removing text ~~stricken through~~ and inserting the text **underlined and marked in bold** to read as follows:

§ 49-1 Share of units

~~The Borough of Fair Lawn has fair share obligation of 172 units, which has been adjusted by the New Jersey Council on Affordable Housing (COAH) based on certain credits and a lack of vacant land. Of its adjusted fair share of 56 units, 52~~

~~units are new construction. This chapter will apply to all developments that contain proposed low and moderate income units that are listed below and any future developments that may occur at the sites or in the overlay zones identified in Fair Lawn's certified HE/FSP:~~

~~McBride Site, Block 4702, Lot 1, Fair Lawn Avenue and Route 208~~

The Borough of Fair Lawn has a constitutional obligation to provide affordable housing to its regional fair share of very low, low, and moderate income households in accordance with the Fair Housing Act.

§ 49-2 Affordable housing requirements.

A. Affordable housing obligation.

- (1) This section is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This section shall apply except where inconsistent with applicable law.
- (2) The Borough of Fair Lawn Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways the Borough of Fair Lawn shall address its fair share for very-low, low- and moderate,-income housing as determined by the **settlement agreement between the Borough and Fair Share Housing Center, and approved by the Court Council on Affordable Housing (COAH)** and documented in the Housing Element.
- (3) This section implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- (4) The Borough of Fair Lawn shall file monitoring reports with ~~COAH~~ **the Superior Court of New Jersey** in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring ~~prepared by COAH~~ in accordance with N.J.A.C. 5:96 shall be available to the public at the Borough of Fair Lawn Municipal Building, Municipal Clerk's Office, 8-01 Fair Lawn Avenue, New Jersey, ~~or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, www.nj.gov/dca/affiliates/coah.~~

B. Definitions. The following terms when used in this section shall have the meanings given in this subsection:

ACCESSORY APARTMENT

A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

ACT

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT

The entity responsible for the administration of affordable units in accordance with this section, N.J.A.C. 5:96, 5:97 and 5:80-26.1 et seq. **as designated by the Borough of Fair Lawn, or in the absence of such appointment by the Borough, as appointed by the developer, sponsor, or owner of affordable housing.**

AFFIRMATIVE MARKETING

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE

The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE

A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the

case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE DEVELOPMENT

A housing development, all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

AFFORDABLE HOUSING PROGRAM

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

AGENCY

The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

- (1) All the residents of the development where the unit is situated are 62 years or older; or
- (2) At least 80% of the units are occupied by one person that is 55 years or older; or
- (3) The development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

ASSISTED LIVING RESIDENCE

A facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD

A household that has been certified by an administrative agent as a low-income household or moderate-income household.

COAH

The Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load-bearing structural systems.

DEVELOPER

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of

land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

INCLUSIONARY DEVELOPMENT

A development containing both affordable units and market rate units. This term includes, but is not necessarily limited to, new construction, the conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50% or less of the median household income.

LOW-INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load-bearing structural systems.

MARKET-RATE UNITS

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME

The median income by household size for the applicable county, as adopted annually by **the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.** COAH.

MODERATE-INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

MODERATE-INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

NONEXEMPT SALE

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary and the transfer of ownership by court order.

RANDOM SELECTION PROCESS

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by **the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.** ~~COAH's adopted regional income limits published annually by COAH.~~

REHABILITATION

The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT

The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT

A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY-LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30% or less of the median household income.

VERY-LOW-INCOME UNIT

A restricted unit that is affordable to a very low-income household.

WEATHERIZATION

Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

C. Affordable housing programs. The Borough of Fair Lawn has determined that it will use the following mechanisms to satisfy its affordable housing obligations:

(1) Rehabilitation program.

(a) The Borough of Fair Lawn rehabilitation program shall be designed to renovate deficient housing units occupied by very-low, low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.

(b) Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds. The Borough shall participate in Bergen County's housing rehabilitation program.

(c) All rehabilitated units shall remain affordable to very-low, low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units the control period will be enforced with a lien and for renter-occupied units the control period will be enforced with a deed restriction.

(d) The Borough of Fair Lawn shall dedicate an average of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.

(e) ~~The Borough of Fair Lawn shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Borough of Fair Lawn.~~
Reserved.

(f) The Borough of Fair Lawn shall designate, subject to the approval of **the Superior Court of New Jersey** ~~COAH~~, one or more administrative agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and 5:97. The administrative agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of **the Superior Court of New Jersey** ~~COAH~~. Both rehabilitation manuals shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the administrative agent(s).

(g) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:

[1] If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.

[2] If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.

[3] Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.

[4] Applicant and/or tenant households shall be certified as income eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

(2) Inclusionary zoning.

(a) Phasing. In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
---	--

25	0
25+1	10
50	50
75	75
90	100

(b) Design. In inclusionary developments, to the extent possible, very-low-, low- and moderate-income units shall be integrated with the market units.

(c) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

(3) Payments in lieu.

(a) The standards for the collection of payments in lieu of constructing affordable units shall be in accordance with COAH's rules at N.J.A.C. 5:97-6.4.

(b) Payments in lieu of constructing affordable units ~~may represent fractional affordable units. The affordable housing requirement shall not be rounded.~~ **shall only be permitted to satisfy the requirements of Section 49-2.D if:**

[1] The Borough wishes to use payments in lieu to address a fractional affordable housing unit; or

[2] No payment in lieu of construction shall be acceptable unless said payment is directed towards an approved municipally sponsored 100% affordable project, and the developer at the time of application can demonstrate that the payment in lieu will create an equivalent number of affordable units of the same type and meeting the same bedroom distribution and very-low income / low income / moderate income split that would be required on site, which units are otherwise consistent with the terms of the settlement agreement; and the units can be constructed on a schedule consistent with what would be required by N.J.A.C. 5:93-5.6(d) for on-site units.

(c) The amount of the payments in lieu shall be based on ~~either the~~ actual off-site project construction costs, **less the anticipated proceeds from the sale of the off-site unit or the capitalization of rental income,** presented to **and approved by** the **Board or Borough**, or **shall be set** by order of the court having jurisdiction over the affordable housing

obligations of the Borough. Where no actual off-site unit or where no such actual off-site project construction costs have been presented to the Board and no court order exists, the presumptive payment in lieu shall be \$200,000.00 per unit. ~~COAH has initially determined this number to be \$180,267 per unit in COAH Region 1.~~

(d) The affordable housing requirement shall not be rounded.

D. New construction. The Borough shall require that an appropriate percentage of residential units be set aside for very-low-, low-, and moderate-income households. This requirement shall apply beginning with the effective date of this ordinance to any residential development, including the residential portion of a mixed-use development, which consists of five or more new residential units, whether permitted by zoning, a variance granted by the Township's Planning or Zoning Board, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation. For inclusionary projects in which the affordable units are to be offered for sale, a minimum set-aside of 20% of the total number of units shall be provided; for projects in which the affordable units are to be offered for rent, a minimum set-aside of 15% of the total number of units shall be provided. The minimum density for applicable developments shall be at least eight dwelling units per acre. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein, though all other provisions of this section shall be applicable to those sites unless otherwise specified. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of new dwelling units is five or more. The following general guidelines apply to all newly constructed developments that contain very-low-, low- and moderate-income housing units, including any currently unanticipated future developments that will provide very-low-, low- and moderate-income units:

(1) Low/moderate split and bedroom distribution of affordable housing units:

- (a) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- (b) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units. Thirteen percent of ~~low-income~~ **all affordable** units shall be very-low-income units. **The very-low income units shall count as a portion of the share of low income units.**
- (c) Affordable developments that are not age restricted shall be structured in conjunction with realistic market demands such that:
 - [1] The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total affordable units;
 - [2] At least 30% of all affordable units shall be two-bedroom units;
 - [3] At least 20% of all affordable units shall be three-bedroom units; and
 - [4] The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

(2) Accessibility requirements.

- (a) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and 5:97-3.14.
- (b) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - [1] An adaptable toilet and bathing facility on the first floor;
 - [2] An adaptable kitchen on the first floor;
 - [3] An interior accessible route of travel on the first floor;
 - [4] An interior accessible route of travel shall not be required between stories within an individual unit;
 - [5] An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - [6] An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7

and 5:97-3.14, or evidence that the Borough of Fair Lawn has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

- [a] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
- [b] To this end, the builder of restricted units shall deposit funds within the Borough of Fair Lawn Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
- [c] The funds deposited under Subsection D(2)(b)[6][b] above shall be used by the Borough of Fair Lawn for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- [d] The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Fair Lawn.
- [e] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Fair Lawn Affordable Housing Trust Fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- [f] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and 5:97-3.14.

(3) Maximum rents and sales prices.

(a) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC ~~and in COAH,~~ **and** utilizing the regional income limits established by **the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.** ~~COAH.~~

(b) The maximum rent for restricted-rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted very-low, low- and moderate-income units shall be affordable to households earning no more than 52% of median income.

(c) The developers and/or municipal sponsors of restricted-rental units shall establish at least one rent for each bedroom type for both very-low, low-income and moderate-income units.

[1] At least **13%** ~~40%~~ of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.

(d) The maximum sales price of restricted-ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted-ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income-ownership units must be available for at least two different prices for each bedroom type.

(e) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:

[1] A studio shall be affordable to a one-person household;

[2] A one-bedroom unit shall be affordable to a one-and-one-half-person household;

[3] A two-bedroom unit shall be affordable to a three-person household;

[4] A three-bedroom unit shall be affordable to a four-and-one-half-person household; and

- [5] A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
- [1] A studio shall be affordable to a one-person household;
- [2] A one-bedroom unit shall be affordable to a one-and-one-half-person household; and
- [3] A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (g) The initial purchase price for all restricted-ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (h) The initial rent for a restricted-rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (i) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (j) The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income

housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

- (k) Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by ~~DCA~~ **HUD** for its Section 8 program.

E. The following general guidelines apply to all developments that contain very-low, low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units:

(1) Affirmative marketing requirements.

- (a) The Borough of Fair Lawn shall adopt by resolution an affirmative marketing plan, subject to approval of **the New Jersey Superior Court** ~~COAH~~, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (b) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward ~~COAH~~ Housing Region 1 and covers the period of deed restriction.
- (c) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in ~~COAH~~ Housing Region 1 comprised of Bergen, Hudson, Passaic and Sussex Counties.
- (d) An ~~The~~ administrative agent designated by the Borough of Fair Lawn, **or as appointed by the developer, sponsor, or owner of affordable housing**, shall assure the affirmative marketing of all affordable units **is** consistent with the affirmative marketing plan for the municipality.
- (e) In implementing the affirmative marketing plan, the administrative agent shall provide a list of counseling services to very-low, low- and moderate-income applicants on subjects such as budgeting, credit

issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

- (f) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (g) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Fair Lawn.

(2) Occupancy standards.

- (a) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
 - [1] Provide an occupant for each bedroom;
 - [2] Provide children of different sex with separate bedrooms; and
 - [3] Prevent more than two persons from occupying a single bedroom.
- (b) Additional provisions related to occupancy standards (if any) shall be provided in the municipal operating manual.

(3) Control periods for restricted-ownership units and enforcement mechanisms.

- (a) Control periods for restricted-ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted-ownership unit shall remain subject to the requirements of this section until the Borough of Fair Lawn elects to release the unit from such requirements, however, and prior to such an election, a restricted-ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) The affordability control period for a restricted-ownership unit shall commence on the date the initial certified household takes title to the unit.
- (c) Prior to the issuance of the initial certificate of occupancy for a restricted-ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the

nonrestricted, fair-market value of the unit based on either an appraisal or the unit's equalized assessed value.

- (d) At the time of the first sale of the unit, the purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the requirements of this section, an amount equal to the difference between the unit's nonrestricted fair-market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
 - (e) The affordability controls set forth in this section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted-ownership units.
 - (f) A restricted-ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.
- (4) Price restrictions for restricted-ownership units, homeowner association fees and resale prices. Price restrictions for restricted-ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:
- (a) The initial purchase price for a restricted-ownership unit shall be approved by the administrative agent.
 - (b) The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
 - (c) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income-unit owners and the market-unit owners.
 - (d) The owners of restricted-ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements

shall be those that render the unit suitable for a larger household or the addition of a bathroom.

(5) Buyer income eligibility.

(a) Buyer income eligibility for restricted-ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income-ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income-ownership units shall be reserved for households with a gross household income less than 80% of median income.

(b) The administrative agent shall certify a household as eligible for a restricted-ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

(6) Limitations on indebtedness secured by ownership unit; subordination.

(a) Prior to incurring any indebtedness to be secured by a restricted-ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.

(b) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted-ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).

(7) Control periods for restricted-rental units.

(a) Control periods for restricted-rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted-rental unit shall remain subject to the requirements of this section until the Borough of Fair Lawn elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted-rental unit must remain subject to the

requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

- (b) Deeds of all real property that include restricted-rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.
- (c) A restricted-rental unit shall remain subject to the affordability controls of this section, despite the occurrence of any of the following events:
 - [1] Sublease or assignment of the lease of the unit;
 - [2] Sale or other voluntary transfer of the ownership of the unit; or
 - [3] The entry and enforcement of any judgment of foreclosure.

(8) Price restrictions for rental units; leases.

- (a) A written lease shall be required for all restricted-rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted-rental unit shall be provided to the administrative agent.
- (b) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
- (c) Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this section.

(9) Tenant income eligibility.

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

- [1] Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - [2] Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - [3] Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- (b) The administrative agent shall certify a household as eligible for a restricted-rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- [1] The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - [2] The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - [3] The household is currently in substandard or overcrowded living conditions;
 - [4] The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - [5] The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection E(9)(b)[1] through [5] above with the administrative agent, who shall counsel the household on budgeting.

F. Administration.

- (1) The position of Municipal Housing Liaison (MHL) for the Borough of Fair Lawn is established by this section. The Borough Council shall make the actual appointment of the MHL by means of a resolution.
 - (a) The MHL must be either a full-time or part-time employee of Borough of Fair Lawn.
 - (b) The person appointed as the MHL must be reported to **the New Jersey Superior Court** ~~COAH~~ for approval.
 - (c) The MHL must meet all **applicable** ~~COAH~~ requirements for qualifications, including initial and periodic training.
 - (d) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Fair Lawn, including the following responsibilities which may not be contracted out to the administrative agent:
 - [1] Serving as the municipality's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 - [2] The implementation of the affirmative marketing plan and affordability controls;
 - [3] When applicable, supervising any contracting administrative agent;
 - [4] Monitoring the status of all restricted units in the Borough of Fair Lawn Fair Share Plan;
 - [5] Compiling, verifying and submitting annual reports as required by **the New Jersey Superior Court** ~~COAH~~;
 - [6] Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
 - [7] Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by **the New Jersey Superior Court** ~~COAH~~.
- (2) The Borough of Fair Lawn shall designate by resolution of the Borough Council, subject to the approval of **the New Jersey Superior Court** ~~COAH~~, one or more administrative agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, 5:97 and UHAC.
- (3) An operating manual shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval

of the New Jersey Superior Court ~~COAH~~. The operating manuals shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the administrative agent(s).

- (4) The administrative agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the operating manual, including those set forth in N.J.A.C. 5:80-26.14, 5:80-26.16 and 5:80-26.18 thereof, which includes:
- (a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the New Jersey Superior Court ~~COAH~~;
 - (b) Affirmative marketing;
 - (c) Household certification;
 - (d) Affordability controls;
 - (e) Records retention;
 - (f) Resale and rental;
 - (g) Processing requests from unit owners; and
 - (h) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 - (i) The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

G. Enforcement of affordable housing regulations.

- (1) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (2) After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for

any violation that remains uncured for a period of 60 days after service of the written notice:

(a) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the court to have violated any provision of the regulations governing affordable housing units, the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the court:

[1] A fine of not more than \$1,000 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

[2] In the case of an owner who has rented his or her very-low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Fair Lawn Affordable Housing Trust Fund of the gross amount of rent illegally collected;

[3] In the case of an owner who has rented his or her very-low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

(b) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.

(3) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the very-low, low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

- (4) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- (5) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (6) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the

excess which would have been realized from an actual sale as previously described.

(7) Failure of the very-low, low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the very-low, low- and moderate-income unit as permitted by the regulations governing affordable housing units.

(8) The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

H. Affirmative marketing plan. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of sex, age or number of children, to housing units which are being marketed by a developer/sponsor, municipality and/or designated administrative agency of affordable housing. The plan will address the requirements of N.J.A.C. 5:96 et seq. In addition, the plan prohibits discrimination in the sale, rental, financing or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. The Borough of Fair Lawn is in the housing region consisting of Bergen, Passaic, Hudson and Sussex Counties. The affirmative marketing program is a continuing program and will meet the following requirements:

(1) All newspaper articles, announcements and requests for applications for low- and moderate-income units will appear in the Bergen County Record.

(2) The primary marketing will take the form of at least one press release sent to the above publication and a paid display advertisement in the above publication. Additional advertising and publicity will be on an as-needed basis. The advertisement will include the:

(a) Street address;

(b) Direction to housing units;

(c) Number of bedrooms per unit;

(d) Range of selling prices/rents;

- (e) Size of units;
 - (f) Household income limits; and
 - (g) Location of applications including business hours and where/how applications may be obtained.
- (3) All newspaper articles, announcements and requests for applications for low- and moderate-income housing will appear in the Bergen County Record and **The Star Ledger** ~~The Herald News~~, and may appear on the local cable television station.
- (4) The following is the location of applications, brochure(s), sign(s), and/or poster(s) used as part of the affirmative marketing program including specific employment centers within the region:
- (a) Municipal building.
 - (b) Municipal library.
 - (c) Developer's sales/rental office on site.
 - (d) Senior center.
 - (e) Libraries in Bergen, Passaic, Hudson and Sussex Counties.
- (5) The following is a list of community organization(s) that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region: County Offices on Aging in Bergen, Passaic, Hudson and Sussex Counties, **Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Bergen County Urban League, Bergen County Housing Coalition, and Supportive Housing Association.**
- (6) The following is a description of the random selection method that will be used to select occupants of low- and moderate-income housing: There will be a period in which to complete and submit applications. The names of households that have completed applications in that time frame and who are income eligible will be randomly selected to see the apartments. Each landlord will select the renter for his/her unit from the eligible list of applicants provided by the housing administrator.
- (7) Fair Lawn is ultimately responsible for administering the affirmative marketing program. Fair Lawn has delegated this responsibility to an affordable housing consultant to be appointed on an annual basis which

will income qualify low- and moderate-income households; place income-eligible households in very-low, low- and moderate-income units upon initial occupancy; provide for the initial occupancy of very-low, low- and moderate-income units with income-qualified households; continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls; assist with advertising and outreach to low- and moderate-income households if in contract; and enforce the terms of the deed restriction and mortgage loan as per the Uniform Housing Affordability Controls (UHAC).

(8) The Affordable Housing Administrator will act as liaison to the affordable housing consultant. The affordable housing consultant will provide counseling services to very-low, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, responsibilities of home ownership, rental lease requirements and landlord/tenant law. Applications will be mailed to prospective applicants upon request. Additionally, applications will be sent to the chief administrative employees of each of the following agencies in the counties of Bergen, Passaic, Hudson and Sussex:

(a) County Department of Human and Social Services.

(b) County Department of Community Development.

(9) Households who live or work in the ~~COAH-established~~ housing region may be given preference for rental units constructed within that housing region. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced. Fair Lawn intends to comply with UHAC.

(10) Developers of low- and moderate-income housing units may assist in the marketing of the affordable units in their respective developments if so designated by Fair Lawn.

(11) The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all low- and moderate-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.

(12) Fair Lawn will comply with monitoring and reporting requirements as follows: per N.J.A.C. 5:97-7.9.

- (a) On the first anniversary of the Court's entry of Final Judgment of Compliance and Repose, and every anniversary thereafter, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center ("FSHC"), using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Court Appointed Special Master and FSHC.
- (b) For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough shall post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
- (c) For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of Court's entry of Final Judgment of Compliance and Repose, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

I. Enforcement of affordable housing regulations.

- (1) By accepting state funds for affordable housing purposes, or by submitting to the jurisdiction of the Superior Court of New Jersey COAH, a municipality shall be deemed to have delegated to its administrative agent the day-to-day responsibility for implementing practices and

procedures designed to ensure effective compliance with the controls set forth in this section. The municipality, however, shall retain the ultimate responsibility for ensuring effective compliance with this section.

- (2) Administrative agent practices and procedures shall include, but shall not necessarily be limited to, the following:
 - (a) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent.
 - (b) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates.
 - (c) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made.
- (3) If the unit is owner-occupied, the unit may be resold only to a household that has been approved in advance and in writing by the administrative agent.
- (4) No sale of the unit shall be lawful, unless approved in advance and in writing by the administrative agent, and no sale shall be for a consideration greater than regulated maximum permitted resale price, as determined by the administrative agent.
- (5) No refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt secured by the unit may be incurred except as approved in advance and in writing by the administrative agent, and at no time will the administrative agent approve any debt, if incurring the debt would make the total of all such debt exceed 95% of the then applicable maximum permitted resale price.
- (6) The owner of the unit shall at all times maintain the unit as his or her principal place of residence, which shall be defined as residing at the unit at least 260 days out of each calendar year.
- (7) Except as set forth in N.J.A.C. 5:80-26.18(c)4vii, at no time shall the owner of the unit lease or rent the unit to any person or persons, except on a

short-term hardship basis, as approved in advance and in writing by the administrative agent.

(8) The maximum permitted rent chargeable to affordable tenants is as stated in the notice required to be posted in accordance with N.J.A.C. 5:80-26.18(d)3 of this section, a copy of which shall be enclosed, and copies of all leases for affordable rental units must be submitted annually to the administrative agent.

(9) Banks and other lending institutions are prohibited from issuing any loan secured by owner-occupied real property subject to the affordability controls set forth in this section, if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located.

J. Appeals. Appeals from all decisions of an administrative agent designated pursuant to this section shall be filed in writing with the **New Jersey Housing and Mortgage Finance Agency (NJHMFA). HMFA shall have 15 days to render a written decision of an appeal, which shall be considered to be final.**
~~Executive Director of COAH.~~

Appendix I – Clariant Site Zoning Ordinance

ORDINANCE NO. ____-2020

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 49, AFFORDABLE HOUSING, ARTICLE XVI, INCLUSIONARY MULTIFAMILY RESIDENTIAL PLANNED DEVELOPMENT DISTRICT, OF THE CODE OF THE BOROUGH OF FAIR LAWN, TO AMEND THE REGULATIONS OF THE OVERLAY DISTRICT

WHEREAS the Borough of Fair Lawn (hereinafter 'the Borough') filed a complaint for declaratory and injunctive relief seeking a judgment of compliance and repose on December 28, 2018 under Docket number BER-L-9222-18 (hereinafter the litigation'); and

WHEREAS, the Borough agreed to settle the said Litigation with all parties through a negotiated Settlement Agreement (hereinafter the 'Agreement') on November 26, 2019, executed by the Borough on November 27, 2019; and

WHEREAS, as part of the Agreement, in Section 9e, the Borough agreed to amend Chapter 49, Article 16 of the Borough Code; and

WHEREAS, the Borough of Fair Lawn Planning Board has reviewed the proposed amendment to Chapter 49, Article 16 of the Borough Code and has determined that the proposed amendment is consistent with the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan

WHEREAS, having considered the proposed amendment to, the Borough Council concurs that the proposed amendment to Chapter 49, Article 16 of the Borough Code, does conform to the agreed upon terms of the Agreement, the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan and will provide realistic opportunity for the construction of affordable housing units in the expanded overlay zone.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn, in the County of Bergen and State of New Jersey, that:

SECTION 1. Chapter 49, Affordable Housing, Article XVI, Inclusionary Multifamily Residential Planned Development District, Section 49-16 of the Code of the Borough of Fair Lawn 2000, be and is hereby amended and supplemented by removing text ~~stricken through~~ and inserting the text **underlined and marked in bold** to read as follows:

**§ 49-16 Business Inclusionary Multifamily Residential Planned
Development District.**

- A. Land. The land to which this district applies includes Block 5729, Lot 2, also known as the Clariant property in the Borough of Fair Lawn.
- B. Zoning. There shall be an affordable housing set-aside for each residential development ~~developed at a density of eight units or more per gross acre.~~ Each such development shall include a ~~twenty-five~~ percent set-aside of total units for affordable housing.
- C. A twenty-percent very-low-, a thirty-percent low-, and a fifty-percent moderate-income split shall be required. ~~A cash subsidy may be available from the Borough's Affordable Housing Trust Fund to assist in the creation of two very low income units.~~
- ~~D. No affordable units shall be required if the project's growth share per COAH's rules is less than one whole unit.~~
- D. The residential set-aside shall be a whole number and shall be rounded up in all cases except when the obligation is less than one whole unit.
- E. Units shall be created on site.
- F. Inclusionary sites shall comply with Chapter 49 of the Borough Code, entitled "Affordable Housing." The affordable units shall be designed, constructed and sold/leased in a manner that makes them eligible for crediting pursuant to COAH's **and/or the Court's** rules governing including but not limited to low- and moderate-income split, bedroom distribution, phasing, deed restrictions and marketing. They shall be integrated into the overall project with the market- rate units to the extent feasible.
- G. The market-rate units may be age restricted. The affordable units **shall be non-age-restricted.** ~~may be age restricted, however, the number of units age restricted shall not exceed the Borough's senior cap per COAH's rules. Units planned or created as part of a municipally sponsored senior housing project shall take precedence when calculating units toward the senior cap.~~
- H. Incentives. ~~Incentives to create the affordable housing include the following:~~
 - ~~(1) Residential units shall be permitted at a maximum density of 10 units per acre whereas residential uses are not currently permitted.~~
 - ~~(2) Underground parking may be provided if structurally feasible, and parking beneath structures shall be permitted, also if structurally feasible. Below grade parking shall be finished in appearance from all exterior viewsheds and shall not result in a building that appears from any street to be set on piers. Above grade parking~~

~~shall be permitted only if it is located wholly behind a building and/or is not visible from any public street. In no case shall any parking layout result in a residential finished floor elevation of more than 48 inches above grade.~~

H. Zoning criteria.

(1) Permitted uses:

- a) Townhouses, as defined in §125-8 ("Dwelling, townhouse/ attached single-family").
- b) Multifamily dwellings, as defined in §125-8 ("Dwelling, multifamily").
- c) **Recreational facilities and/or preserved open space.**

(2) Accessory uses: Accessory uses which are customarily incidental to the principal uses.

(3) Prohibited uses: Those uses enumerated in §125-17B shall be prohibited.

(4) Bulk standards: The zoning ordinance intends for the site to be developed as one cohesive project.

- a) Minimum lot area: ~~12~~ **5** acres.
- b) Maximum building height: three stories.
- c) Minimum setback from property lines: 50 feet.
- d) Minimum setback from interior roadways: 25 feet.
- e) Maximum building coverage: ~~25~~**50**%.
- f) Maximum total lot coverage: ~~60~~**70**%.
- g) Minimum total open space set-aside: 20%.
- ~~h) Maximum deck coverage: 5%.~~
- i) **Maximum number of residential units: 150.**
- j) In order to encourage variety in building facades, a five-foot encroachment shall be permitted by roof overhangs, unenclosed porches, stoops, stairs and balconies into all required yard areas where the encroachment comprises less than 50% of the facade.
- k) Minimum separation between buildings: 30 feet.
- ~~l) Maximum number of residential units per building: 75.~~
- m) Maximum accessory building or structure height: 16 feet/ one story.
- n) Accessory building setbacks: Accessory buildings shall comply with the setback requirements for principal buildings.
- ~~e) Front loaded garages shall not extend more than seven feet from the building face.~~
- p) Substantial evergreen trees including Colorado spruce, Norway spruce, Douglas fir and Leyland cypress shall be planted along all property lines that

abut single-family residential zones. Trees shall be installed eight feet to 10 feet in height, 10 feet on center. Where space provides, deciduous trees with canopies shall be provided between the evergreen tree buffer and buildings or parking areas, 50 feet on center, to create additional screening from upper stories. A fence along this property line may also be required by the Board, and both sides of the fence may require landscaping.

- q) ~~Off-street parking lots shall be located behind buildings and shall be set back at least 25 feet from all property lines. Head-in parking shall not face adjacent single-family residential uses.~~
- r) One project identification sign shall be permitted on the Fair Lawn Avenue frontage. The sign shall be located on a brick or stone wall, may be externally illuminated and shall not exceed 45 square feet in area.

I. Parking Standards:

(1) Underground parking may be provided if structurally feasible, and parking beneath structures shall be permitted, also if structurally feasible. Below-grade parking shall be finished in appearance from all exterior viewsheds and shall not result in a building that appears from any street to be set on piers. Above-grade parking shall be permitted only if it is located wholly behind a building and/or is not visible from any public street. In no case shall any parking layout result in a residential finished floor elevation of more than 48 inches above grade.

(2) Off-street parking lots shall be located behind buildings and shall be set back at least 25 feet from all property lines. Head-in parking shall not face adjacent single-family residential uses.

(3) Off-street parking areas shall not be visible from Fair Lawn Avenue or Third Street.

- J. A public riverfront walkway and linear conservation area containing the walkway shall be provided along the Passaic River the full length of the property. The walkway shall comply with the applicable rules of the New Jersey Department of Environmental Protection. The walkway may be conveyed to the Borough of Fair Lawn or other conservation entity for the purposes of ownership and/or maintenance. The dedication of the conservation area shall not diminish the overall size of the

tract in terms of residential unit yield. The walkway and any required parking for the public access to the waterfront shall not be counted in the tract's overall impervious coverage limitation.

- K. The New Jersey Residential Site Improvement Standards shall govern. Deviations from those standards are to be done in accordance with N.J.A.C. 5:21-3. Parking spaces shall not be required for on-site recreational facilities, and a portion of required parking may be provided on internal site roadways in areas where adequate dimensions have been provided.
- L. Necessary off-tract improvements shall be made per §125-77.
- M. In its review of requested variances or waivers, the Board shall consider the requirements of the New Jersey Council on Affordable Housing's rules at N.J.A.C. 5:97-10.3 pertaining to development application procedures.
- N. No studies related to fiscal or economic ~~affects~~ **impacts** of the project shall be required. **However, a traffic study and environmental impact statement shall be required.**
- ~~O. Any subdivision of land in order to create smaller parcels for conveyance, including, but not limited to, fee simple townhouses, residential or other lots, shall provide access to such lots from either a public way or a private way subject to a homeowners' association, and shall have a minimum lot width of 16 feet and a minimum depth of 50 feet.~~
- P. Supplemental design standards. These standards shall be in addition to the standards contained in Chapter 125, Article V, Site Plan and Subdivision Standards, where applicable. Where provisions herein conflict with other applicable provisions of Chapter 125, Land Development, this section shall supersede. Deviations from these standards may be granted via design waiver.
 - (1) No more than one curb cut consisting of an ingress/egress shall be allowed on Fair Lawn Avenue and one shall be allowed on Third Street. Individual driveways shall not be permitted onto those streets.
 - (2) ~~Due to the significant number of dwelling units permitted,~~ **A children's play area for the private community shall be provided at 2,000 square feet or the rate of 2,000 square feet or 10 square feet per residential unit, whichever is more **greater**, if the project is not age restricted. The play area shall contain no fewer than four pieces of equipment; an alternate layout may be approved by the Board. The play area shall comply with the New Jersey Barrier Free Subcode and the New Jersey Public Playground Safety Subcode.**

- (3) Existing mature street trees and trees along the Passaic River shall be identified on the site plans and preserved to the extent feasible.
 - ~~(4) Off street parking areas shall not be visible from Fair Lawn Avenue or Third Street.~~
 - (5) The facades of buildings facing Fair Lawn Avenue and Third Street shall be designed to appear as front facades. The rear of buildings and garages shall not face Fair Lawn Avenue.
 - (6) Facade materials on facades facing Fair Lawn Avenue and Third Street to a depth of at least 100 feet shall be high quality and may consist of brick, natural stone, stucco, EFIS or wood composite. Trim materials may consist of wood, wood composite, natural stone, brick or fiberglass-wrapped columns. **EFIS shall be prohibited.**
 - (7) All pedestrian entryways shall be prominent, well-lit and shall be elevated a minimum of 18 inches and a maximum of 48 inches above adjacent sidewalks. Entryways shall be covered.
 - (8) Where building entrances are planned along Fair Lawn Avenue or Third Street, they shall be separated from the sidewalk by a low hedge or tubular aluminum picket-style or similar fence to create separation and privacy.
- Q. Any site plan shall provide mapping of areas that are undergoing soil remediation, areas that are to be capped and the location of any building to contain remediation equipment. Soil and groundwater contamination shall be remediated to allow for the proposed use in accordance with NJDEP requirements.
- R. The application and plan set shall be sent to the Borough Health Officer and Borough Environmental Commission for review and comment on applicable items.
- S. Nothing in this section shall restrict or limit the powers of the Planning Board of Fair Lawn and discharge of its statutory responsibilities, including its review of and granting or denial of a development application for the site, under the Municipal Land Use Law, the ordinances and codes of the Borough of Fair Lawn, other state or federal regulatory requirements, or any other applicable law.

SECTION 2: Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or

ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part hereof, and to this end, the provisions of this Ordinance are hereby declared severable.

SECTION 3. All other ordinances, codes or parts thereof that are in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Borough ordinances, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Borough's ordinances are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4: This Ordinance shall take effect upon passage and publication as required by law.

Appendix J – River Road Overlay Ordinance

ORDINANCE NO. ____-2020

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 49, AFFORDABLE HOUSING, ARTICLE XII, BUSINESS OVERLAY RESIDENTIAL DISTRICTS, OF THE CODE OF THE BOROUGH OF FAIR LAWN, TO EXPAND THE BOUNDARY OF THE RIVER ROAD OVERLAY DISTRICTS TO INCLUDE BLOCK 5612, LOTS 44 THROUGH 47; BLOCK 5610, LOT 1.01; BLOCKS 5724, LOTS 1.02-6, 15-20.01; BLOCK 5717, LOTS 12 THROUGH 17; BLOCK 5718, LOTS 10 THROUGH 19, 27, AND 28; BLOCK 5721, LOTS 1 THROUGH 20; AND TO AMEND THE REGULATIONS OF THE OVERLAY DISTRICT

WHEREAS the Borough of Fair Lawn (hereinafter 'the Borough') filed a complaint for declaratory and injunctive relief seeking a judgment of compliance and repose on December 28, 2018 under Docket number BER-L-9222-18 (hereinafter the litigation'); and

WHEREAS, the Borough agreed to settle the said Litigation with all parties through a negotiated Settlement Agreement (hereinafter the 'Agreement') on November 26, 2019, executed by the Borough on November 27, 2019; and

WHEREAS, as part of the Agreement, in Section 9f, the Borough agreed to amend Chapter 49, Article 12 of the Borough Code; and

WHEREAS, the Borough of Fair Lawn Planning Board has reviewed the proposed amendment to Chapter 49, Article 12 of the Borough Code and has determined that the proposed amendment is consistent with the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan

WHEREAS, having considered the proposed amendment to, the Borough Council concurs that the proposed amendment to Chapter 49, Article 12 of the Borough Code, does conform to the agreed upon terms of the Agreement, the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan and will provide realistic opportunity for the construction of affordable housing units in the expanded overlay zone.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn, in the County of Bergen and State of New Jersey, that:

SECTION 1. Chapter 49, Affordable Housing, Article XII, Business Overlay Residential Districts, Section 49-12 of the Code of the Borough of Fair Lawn 2000, be and is hereby amended and supplemented by removing text ~~stricken through~~ and inserting the text **underlined and marked in bold** to read as follows:

§ 49-12 Business Overlay Residential Districts. River Road Affordable Housing Overlay District.

- A. Land. The land to which these zoning changes shall apply abuts the east and west side of River Road between the intersections of Fair Lawn Avenue and Berdan Avenue. These lands are designated as Blocks 5610, Lots **1.01, and 23** through 44.01; Block 5611, Lots 42 through 81; Block 5612, Lots 1 through 22, ~~48, 49~~ and **44 through 50**; Block 5613, Lots 1 through 17; Block 5616, Lot 1; Block 5626, Lot 1; Block 5628, Lots 19, 20 and 22; **Blocks 5724, Lots 1.02 through 6 and 15 through 20.01; Block 5717, Lots 12 through 17; Block 5718, Lots 10 through 19, 27, and 28; Block 5721, Lots 1 through 20** on the official tax map of the Borough ("River Road Site"). The area shall be designated as the ~~B-4 OR Business Overlay Residential District or B-5 OR Business Overlay Residential~~ **River Road Affordable Housing Overlay** District on the Zoning Map of the Borough of Fair Lawn.
- B. Zoning. ~~In addition to the B-4 River Road Business District and B-5 River Road Business District zoning on the River Road site, there shall be an affordable housing set aside for each residential development on the River Road site, developed at densities of six or more dwelling units per gross acre. Each such development shall include a twenty percent set aside for affordable housing if sales housing is produced or a fifteen percent set aside if rental housing is produced. Permitted uses. Mixed use buildings, comprised of any nonresidential use(s) permitted in the B-4 and B-5 Zone Districts on the first floor, and residential uses on the second, third, and fourth floors, as applicable, Residential uses shall not be permitted on the first floor~~
- C. Inclusionary component. All affordable housing units in each residential development on the River Road site shall be divided equally between low and moderate income units. **Bulk standards for the underlying B-4 and B-5 Zone Districts shall apply except as modified herein:**
- 1) **Maximum principal building height shall be 3 stories / 40 feet, except corner lots, which shall have a maximum height of 4 stories / 50 feet.**
 - 2) **Maximum building coverage shall be 80%.**
 - 3) **The maximum permitted residential density shall be determined by the size of the development tract, in accordance with the following schedule:**

- a) Tracts less than 1 acre – 12 units/acre.
- b) Tracts from 1.0 to 1.5 acres – 16 units/acre.
- c) Tracts greater than 1.5 acres – 20 units/acre.

D. There shall be an affordable housing set-aside for all mixed-use development on the River Road site. Each such development shall include a twenty-percent set-aside for affordable housing, if sales housing is produced or a fifteen-percent set-aside if rental housing is produced. Inclusionary component. All affordable housing units in each residential development in the River Road Overlay shall follow the requirements as outlined in the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq. be divided equally between low- and moderate-income units.

E. ~~D~~ Nothing in this section shall restrict or limit the powers of the Planning Board of Fair Lawn and discharge of its statutory responsibilities, including its review of and granting or denial of a development application for the site, under the Municipal Land Use Law, the ordinances and codes of the Borough of Fair Lawn, other state or federal regulatory requirements, or any other applicable law.

SECTION 2: Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part hereof, and to this end, the provisions of this Ordinance are hereby declared severable.

SECTION 3. All other ordinances, codes or parts thereof that are in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Borough ordinances, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Borough's ordinances are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4: This Ordinance shall take effect upon passage and publication as required by law.

Appendix K – Fair Lawn Avenue Overlay Ordinance

ORDINANCE NO. ____-2020

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 49, AFFORDABLE HOUSING, ARTICLE ___, BUSINESS OVERLAY RESIDENTIAL DISTRICTS, OF THE CODE OF THE BOROUGH OF FAIR LAWN, TO CREATE THE FAIR LAWN AVENUE OVERLAY DISTRICT CONSISTING OF BLOCK 3605, LOTS 1 AND 2; BLOCK 3609, LOT 14; BLOCK 3722, LOTS 1 THROUGH 5; BLOCK 3726, LOTS 2 THROUGH 6; BLOCK 4601, LOTS 2 THROUGH 6; BLOCK 4619, LOTS 1 THROUGH 4; BLOCK 4701, LOTS 5 THROUGH 7; AND BLOCK 4701.01, LOT 1

WHEREAS the Borough of Fair Lawn (hereinafter 'the Borough') filed a complaint for declaratory and injunctive relief seeking a judgment of compliance and repose on December 28, 2018 under Docket number BER-L-9222-18 (hereinafter the litigation'); and

WHEREAS, the Borough agreed to settle the said Litigation with all parties through a negotiated Settlement Agreement (hereinafter the 'Agreement') on November 26, 2019, executed by the Borough on November 27, 2019; and

WHEREAS, as part of the Agreement, in Section 9g, the Borough agreed to amend Chapter 49 of the Borough Code; and

WHEREAS, the Borough of Fair Lawn Planning Board has reviewed the proposed amendment to Chapter 49 of the Borough Code and has determined that the proposed amendment is consistent with the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan

WHEREAS, having considered the proposed amendment to, the Borough Council concurs that the proposed amendment to Chapter 49 of the Borough Code, does conform to the agreed upon terms of the Agreement, the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan and will provide realistic opportunity for the construction of affordable housing units in the expanded overlay zone.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn, in the County of Bergen and State of New Jersey, that:

SECTION 1. Chapter 49, Affordable Housing, Article ____, Fair Lawn Avenue Overlay Residential District, Section 49-____, of the Code of the Borough of Fair Lawn 2000, be and is hereby amended and supplemented by removing text

stricken through and inserting the text underlined and marked in bold to read as follows:

§ 49-___ River Road Affordable Housing Overlay District.

- A. Land. The land to which these zoning changes shall apply generally abuts the north and south sides of Fair Lawn Avenue between the intersections of Chandler Drive and Abbott Road. These lands are designated as Block 3605, Lots 1 and 2; Block 3609, Lot 14; Block 3722, Lots 1 through 5; Block 3726, Lots 2 through 6; Block 4601, Lots 2 through 6; Block 4619, Lots 1 through 4; Block 4701, Lots 5 through 7; and Block 4701.01, Lot 1 on the official tax map of the Borough ("Fair Lawn Avenue Site"). The area shall be designated as the Fair Lawn Avenue Affordable Housing Overlay District on the Zoning Map of the Borough of Fair Lawn.
- B. Permitted uses.
- 1) Mixed use buildings, comprised of any nonresidential use(s) permitted in the B-1 and B-3 Zone Districts on the first floor, and residential multi-family dwellings on the second and third floors, as applicable. Residential uses shall not be permitted on the first floor.
- C. Bulk standards for Business Uses in the B-3 Zone District shall apply except as modified herein:
- 1) Maximum principal building height shall be 3 stories / 40 feet.
 - 2) Maximum building coverage shall be 80%.
 - 3) The maximum permitted residential density shall be determined by the size of the development tract, in accordance with the following schedule:
 - a) Tracts less than 1 acre – 12 units/acre
 - b) Tracts from 1.0 to 1.5 acres – 16 units/acre
 - c) Tracts greater than 1.5 acres – 20 units/acre
- D. There shall be an affordable housing set-aside for all mixed use development on the Fair Lawn Avenue site. Each such development shall include a twenty-percent set-aside for affordable housing. All affordable housing units in each residential development in the Fair Lawn Avenue Overlay shall follow the requirements as outlined in the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.

- E. Nothing in this section shall restrict or limit the powers of the Planning Board of Fair Lawn and discharge of its statutory responsibilities, including its review of and granting or denial of a development application for the site, under the Municipal Land Use Law, the ordinances and codes of the Borough of Fair Lawn, other state or federal regulatory requirements, or any other applicable law.

SECTION 2: Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part hereof, and to this end, the provisions of this Ordinance are hereby declared severable.

SECTION 3. All other ordinances, codes or parts thereof that are in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Borough ordinances, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Borough's ordinances are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4: This Ordinance shall take effect upon passage and publication as required by law.

Appendix L – Development Fee Ordinance

ORDINANCE NO. ____-2020

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 49, AFFORDABLE HOUSING, ARTICLE XVIII, DEVELOPER'S FEES, OF THE CODE OF THE BOROUGH OF FAIR LAWN

WHEREAS the Borough of Fair Lawn (hereinafter 'the Borough') filed a complaint for declaratory and injunctive relief seeking a judgment of compliance and repose on December 28, 2018 under Docket number BER-L-9222-18 (hereinafter the litigation'); and

WHEREAS, the Borough agreed to settle the said Litigation with all parties through a negotiated Settlement Agreement (hereinafter the 'Agreement') on November 26, 2019, executed by the Borough on November 27, 2019; and

WHEREAS, as part of the Agreement, in Section 15, the Borough agreed to amend Chapter 49 of the Borough Code; and

WHEREAS, the Borough of Fair Lawn Planning Board has reviewed the proposed amendment to Chapter 49 of the Borough Code and has determined that the proposed amendment is consistent with the Master Plan, and the previously adopted Amended Housing Plan Element and Fair Share Plan

WHEREAS, having considered the proposed amendment to, the Borough Council concurs that the proposed amendment to Chapter 49, Article XVIII of the Borough Code, does conform to the agreed upon terms of the Agreement, the Master Plan, and the previously adopted Amended Housing Element and Fair Share Plan and will provide realistic opportunity for the construction of affordable housing units in the expanded overlay zone.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn, in the County of Bergen and State of New Jersey, that:

SECTION 1. Chapter 49, Affordable Housing, Article XVIII, entitled Developer's Fees, Section 49-18, of the Code of the Borough of Fair Lawn, be and is hereby amended and supplemented by removing text ~~stricken through~~ and inserting the text **underlined and marked in bold** to read as follows:

§ 49-18 Developer's Fees.

A. Purpose.

(1) In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development

fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

(2) Pursuant to P.L. 2008, c. 46 section 8 (N.J.S.A. 52:27D-329.2), and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), [1] COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.

(3) In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025 are under the Court's jurisdiction and are subject to approval by the Court.

~~(3)~~ **(4)** This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c. 46, §§ 8 and 32 through 38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8, **and subject to approval by the Court.**

B. Basic requirements.

(1) This section shall not be effective until approved by COAH or the Court pursuant to N.J.A.C. 5:96-5.1.

(2) The Borough of Fair Lawn shall not spend development fees until COAH or the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and 5:96-5.3.

C. Definitions. The following terms, as used in this section, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

COAH or THE COUNCIL

The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

DEVELOPER

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT FEE

Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3, **and N.J.A.C. 5:93-8.1.**

EQUALIZED ASSESSED VALUE

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with §§ 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through c).

GREEN BUILDING STRATEGIES

Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

D. Residential development fees.

(1) Imposed fees.

(a) Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development provided no increased density is permitted.

(b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers ~~may~~

shall be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

(c) Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees ~~could~~ **shall** equal 1% of the equalized assessed value on the first two units; and the ~~specified higher percentage up to~~ **fees shall equal** 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

(2) Eligible exactions, ineligible exactions and exemptions for residential development.

(a) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

(b) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

(c) Development fees shall be imposed and collected when an existing structure is demolished and replaced, except in the case of destruction by fire or natural disaster.

(d) Developers of inclusionary developments shall be exempt from paying a development fee.

(3) Collection procedures for residential development.

(a) Residential developers shall pay 100% of the calculated development fee amount prior to the issuance of a final certificate of occupancy.

(b) The fee percentage shall be based on the percentage that applies on the date building permits are issued.

(4) Appeal of residential development fees. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Fair Lawn. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

E. Nonresidential development fees.

(1) Imposed fees

(a) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% percent of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.

(b) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.

(c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

(2) Eligible exactions, ineligible exactions and exemptions for nonresidential development.

(a) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the two-and-a-half-percent development fee, unless otherwise exempted below.

- (b) The two-and-a-half-percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (c) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF State of New Jersey Nonresidential Development Certification/Exemption Form. Any exemption claimed by a developer shall be substantiated by that developer.
- (d) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46, shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of Fair Lawn as a lien against the real property of the owner.

(3) Collection procedures for nonresidential development.

- (a) The developer of a nonresidential development shall obtain a Form N-RDF, State of New Jersey Nonresidential Development Certification/Exemption, and complete as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (b) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a nonresidential development fee.

- (c) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the nonresidential development.
 - (d) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a nonresidential development fee.
 - (e) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the nonresidential development; calculate the nonresidential development fee; and thereafter notify the developer of the amount of the fee.
 - (f) Should the Borough of Fair Lawn fail to determine or notify the developer of the amount of the nonresidential development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b of § 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).
 - (g) The developer shall pay 100% of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.
- (4) Appeal of nonresidential development fees. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Fair Lawn. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

F. Affordable Housing Trust Fund.

- (1) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer of the Borough for the purpose of depositing development fees collected from residential and

nonresidential developers and proceeds from the sale of units with extinguished controls.

(2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- (a) Payments in lieu of on-site construction of affordable units;
- (b) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
- (c) Rental income from municipally operated units;
- (d) Repayments from affordable housing program loans;
- (e) Recapture funds;
- (f) Proceeds from the sale of affordable units; and
- (g) Any other funds collected in connection with the Borough of Fair Lawn's affordable housing program.

~~(3) Within seven days from the opening of the trust fund account, the Borough of Fair Lawn shall provide COAH with written authorization, in the form of a three party escrow agreement between the municipality, the bank, and COAH, to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b). **Reserved.**~~

(4) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by ~~COAH~~ **the Court**.

G. Use of funds.

(1) The expenditure of all funds shall conform to a spending plan approved by ~~COAH~~ **the Court**. Funds deposited in the housing trust fund may be used for any activity approved by ~~COAH~~ **the Court** to address the Borough of Fair Lawn's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with

accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 5:97-8.9 and specified in the approved spending plan.

- (2) Funds shall not be expended to reimburse the Borough of Fair Lawn for past housing activities.
- (3) At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - (b) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The use of development fees in this manner shall entitle the Borough of Fair Lawn to bonus credits pursuant to N.J.A.C. 5:97-3.7.
 - (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (4) The Borough of Fair Lawn may contract with a private or public entity to administer any part of its Housing **Plan** Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (5) No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing **Plan** Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a

rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the Affordable Housing Trust Fund.

- H. Monitoring. ~~The Borough of Fair Lawn shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Fair Lawn's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court. All monitoring reports shall be completed on forms designed by COAH.~~ **On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through July 1, 2025, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.**
- I. Ongoing collection of fees. The ability for the Borough of Fair Lawn to impose, collect and expend development fees shall expire with its judgment of compliance unless the Borough of Fair Lawn has filed an adopted Housing **Plan** Element and Fair Share Plan with COAH **the Court**, has petitioned for substantive certification, and has received COAH's the **Court's** approval of its development fee ordinance. If the Borough of Fair Lawn fails to renew its ability to impose and collect development fees prior to the expiration of judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established

pursuant to § 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320). The Borough of Fair Lawn shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough of Fair Lawn retroactively impose a development fee on such a development. The Borough of Fair Lawn shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

Appendix M – Resolution Appointing Administrative Agent / RFQ for Administrative Agent

Aye Nay Abstain

Cutrone
Krause
Reinitz
Rottenstrich
Peluso

_____, 2020

RESOLUTION NO. ____-2020

By

Seconded by

WHEREAS, the Borough of Fair Lawn is authorized to designate one or more Administrative Agents, responsible for the administration of affordable units in accordance with Chapter 49 of the Borough Code, N.J.A.C. 5:96, 5:97, and 5:80-26.1 et seq., by Ordinance No. 2084-2007 as amended by Ordinance No. 2176-2010; and

WHEREAS, the Borough of Fair Lawn seeks to designate and contract directly with an administrative agent to administer the Borough's affordable housing rental, sale, and rehabilitation programs; and

WHEREAS, the contract for these services may exceed \$17,500.00 per year.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Lawn that the Business Administrator is authorized to prepare and issue a Request for Qualifications and Proposals ("RFQ/RFP") in the form substantially similar to the Request for Qualifications attached here to as Exhibit 1, and review any proposals in response thereto and provide recommendations to the Mayor and Council for the award of the contract for Administrative Agent.

NOTE: The Borough of Fair Lawn will consider proposals only from firms or organizations that have demonstrated the capability and willingness to provide high quality services in the manner described in this Request for Qualifications.

REQUEST FOR QUALIFICATIONS

**FOR THE PROVISION OF PROFESSIONAL SERVICES -
*ADMINISTRATIVE AGENT TO ADMINISTER AFFORDABLE HOUSING
CONTROLS AND REHABILITATION PROGRAM ADMINISTRATOR***

ISSUE DATE: _____, 2020

DUE DATE: _____, 2020 by __:00 p.m.

OPENING DATE:
_____, 2020 at __:00 p.m.

Issued by:

**Borough of Fair Lawn
8-01 Fair Lawn Avenue
Fair Lawn, New Jersey 07410
201-794-5310 – Phone
201-794-9859 – Fax**

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GLOSSARY

The following definitions shall apply to and are used in this Request for Qualifications:

"Borough" - refers to the Borough of Fair Lawn.

"Qualification Statement" - refers to the complete responses to this RFQ submitted by the Respondents.

"Qualified Respondent" - refers to those Respondents who (in the sole judgment of the Borough) have satisfied the qualification criteria set forth in this RFQ.

"RFQ" - refers to this Request for Qualifications, including any amendments thereof or supplements thereto.

"Respondent" or "Respondents" - refers to the interested firm(s) that submit a Qualification Statement.

SECTION 1
INTRODUCTION AND GENERAL INFORMATION

1.1. Introduction and Purpose.

The Borough is soliciting Qualification Statements from interested persons and/or firms for the provision of professional services, as more particularly described herein. Through a Request for Qualification process described herein, persons and/or firms interested in assisting the Borough with the provision of such services must prepare and submit a sealed Qualification Statement in accordance with the procedure and schedule in this RFQ. The Borough will review Qualification Statements only from those firms that submit a sealed Qualification Statement which includes all the information required to be included as described herein (in the sole judgment of the Borough). The Borough intends to qualify person(s) and/or firm(s) that (a) possesses the professional and administrative capabilities to provide the proposed services, and (b) the terms and conditions determined by the Borough to provide the greatest benefit to the taxpayers of the Borough of Fair Lawn.

1.2. Procurement Process and Schedule.

The selection of Qualified Respondents is not subject to the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. The selection is subject to the "New Jersey Local Unit Pay-to-Play" Law, N.J.S.A. 19:44A-20.4 et seq., however. The Borough has structured a procurement process that seeks to obtain the desired results described above, while establishing a competitive process to assure that each person and/or firm is provided an equal opportunity to submit a sealed Qualification Statement in response to the RFQ. Qualification Statements will be evaluated in accordance with the criteria set forth in Section 5 of this RFQ, which will be applied in the same manner to each Qualification Statement received.

Qualification Statements will be reviewed and evaluated by the Borough and its legal and/or financial advisors (collectively, the "Review Team"). The Qualification Statements will be reviewed to determine if the Respondent has met the minimum professional and administrative described in this RFQ. Under no circumstances will a member of the review team review responses to an RFQ for a job which they or their firm submitted a response. Based upon the totality of the information contained in the Qualification Statement, including information about the reputation and experience of each Respondent, the Borough will (in its sole judgment) determine which Respondents are qualified (from professional and administrative standpoints). Each Respondent that meets the requirements of the RFQ (in the sole judgment of the

Borough) will be designated as a Qualified Respondent and will be given the opportunity to participate in the selection process determined by the Borough.

The RFQ process commences with the issuance of this RFQ. The steps involved in the process and the anticipated completion dates are set forth in Table 1, Procurement Schedule. The Borough reserves the right to, among other things, amend, modify or alter the Procurement Schedule upon notice to all potential Respondents.

All communications concerning this RFQ or the RFQ process shall be directed to the Borough's Designated Contact Person, in writing.

Designated Contact Person:

Marilyn B. Bojanowski, RMC
Municipal Clerk
Borough of Fair Lawn
8-01 Fair Lawn Avenue
Fair Lawn, NJ 07410

All Qualification Statements must be submitted to, and be received by, the Borough Municipal Clerk no later than __:00 p.m. on _____, 2020. All Qualification Statements must be sealed in an envelope and the front of said envelope must be marked "RFQ – Administrative Agent to Administer Affordable Housing Controls and Rehabilitation Program Administrator." Qualification Statements will not be accepted by facsimile transmission or email.

All appointed **PROFESSIONALS** will be responsible for submitting 2 (two) signed contracts based upon the information contained within the RFQ they submitted.

Subsequent to issuance of this RFQ, the Borough may modify, supplement or amend the provisions of this RFQ in order to respond to inquiries received from prospective Respondents or as otherwise deemed necessary or appropriate by and in the sole judgment of the Borough. **The Borough will post addenda of this RFQ on the Borough's website. The Borough will not send direct notices to Respondents. All Respondents are advised to visit the Borough's website on a daily basis to check for any addenda posted by the Borough in connection with this RFQ.**

Section 1.3. Conditions Applicable to RFQ.

Upon submission of a sealed Qualification Statement in response to this RFQ, the Respondent acknowledges and consents to the following conditions relative to the submission and review and consideration of its Qualification Statement:

- This document is an RFQ and does not constitute an RFP.
- This RFQ does not commit the Borough to issue an RFP.
- All costs incurred by the Respondent in connection with responding to this RFQ shall be borne solely by the Respondent.
- The Borough reserves the right (in its sole judgment) to reject for any reason any and all responses and components thereof and to eliminate any and all Respondents responding to this RFQ from further consideration for this procurement.
- The Borough reserves the right (in its sole judgment) to reject any Respondent that submits incomplete responses to this RFQ, or a Qualification Statement that is not responsive to the requirements of this RFQ.
- The Borough reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFQ, or otherwise request additional information.
- All Qualification Statements shall become the property of the Borough and will not be returned.
- All Qualification Statements will be made available to the public at the appropriate time, as determined by the Borough (in the exercise of its sole discretion) in accordance with law.
- The Borough may request Respondents to send representatives to the Borough for interviews.
- Any and all Qualification Statements not received by the Borough by the prescribed time herein will be rejected.

- Neither the Borough, nor their respective staffs, consultants or advisors (including but not limited to the Review Team) shall be liable for any claims or damages resulting from the solicitation or preparation of the Qualification Statement, nor will there be any reimbursement to Respondents for the cost of preparing and submitting a Qualification Statement or for participating in this procurement process.

Section 1.4. Rights of Borough.

The Borough reserves, holds and may exercise, at its sole discretion, the following rights and options with regard to this RFQ and the procurement process in accordance with the provisions of applicable law:

- To determine that any Qualification Statement received complies or fails to comply with the terms of this RFQ.
- To supplement, amend or otherwise modify the RFQ through issuance of addenda to all prospective Respondents who have received a copy of this RFQ.
- To waive any technical non-conformance with the terms of this RFQ.
- To change or alter the schedule for any events called for in this RFQ upon the issuance of notice to all prospective Respondents who have received a copy of this RFQ.
- To conduct investigations of any or all of the Respondents, as the Borough deems necessary or convenient, to clarify the information provided as part of the Qualification Statement and to request additional information to support the information included in any Qualification Statement.
- To suspend or terminate the procurement process described in this RFQ at any time (in its sole discretion.) If terminated, the Borough may determine to commence a new procurement process or exercise any other rights provided under applicable law without any obligation to the Respondents.

The Borough shall be under no obligation to complete all or any portion of the procurement process described in this RFQ.

1.5 Addenda or Amendments to RFQ.

During the period provided for the preparation of responses to the RFQ, the Borough may issue addenda, amendments or answers to written inquiries. Those addenda will be noticed by the Borough and will constitute a part of the RFQ. All responses to the RFQ shall be prepared with full consideration of the addenda issued prior to the proposal submission date.

1.6 Cost of Proposal Preparation.

Each proposal and all information required to be submitted pursuant to the RFQ shall be prepared at the sole cost and expense of the respondent. There shall be no claims whatsoever against the Borough, its staff or consultants for reimbursement for the payment of costs or expenses incurred in the preparation of the Qualification Statement or other information required by the RFQ.

1.7 Proposal Formal.

Responses should cover all information requested in the Questions to be answered in this RFQ. Responses which in the judgment of the Borough fail to meet the requirements of the RFQ or which are in any way conditional, incomplete, obscure, contain additions or deletions from requested information, or contain errors may be rejected.

SECTION 2

SCOPE OF SERVICES

It is the intent of the Borough to solicit Qualification Statements from Respondents that have expertise in the provision of *Professional Services – Administrative Agent to Administer Affordable Housing Controls and Rehabilitation Program Administrator*. Firms and/or persons responding to this RFQ shall be able to demonstrate that they will have the continuing capabilities to perform these services.

The **Administrative Agent** shall have the responsibility of administering the affordable housing program of Fair Lawn Borough in accordance with the Borough's settlement agreement with Fair Share Housing Center pursuant to court order. Duties shall include but are not limited to:

(a) Affirmative marketing:

- (1) Conducting an outreach process to ensure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of Fair Lawn Borough and the provisions of N.J.A.C. 5:80-26.15; and
- (2) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

(b) Household certification:

- (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- (3) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and

(6) Employing the random selection process as provided in the Affirmative Marketing Plan of Fair Lawn Borough when referring households for certification to affordable units.

(c) Affordability controls:

(1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

(2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

(3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;

(4) Communicating with lenders regarding foreclosures; and

(5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

(d) Resale and rental:

(1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and

(2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

(e) Processing request from unit owners:

(1) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;

(2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and

(3) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.

(f) Enforcement:

(1) Annually securing lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;

- (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent;
- (3) Annually posting in all rental properties, including two-family homes, a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made;
- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund or other appropriate municipal fund approved by the DCA;
- (6) Creating and publishing a written operating manual, as approved by COAH or the Superior Court, setting forth procedures for administering such affordability controls; and
- (7) Providing annual reports to COAH or the Superior Court as required.

The *Rehabilitation Program Administrator* shall have the responsibility of administering the rehabilitation affordable housing program of Fair Lawn Borough in accordance with the Borough's settlement agreement with Fair Share Housing Center pursuant to court order. Duties shall include but not limited to:

- (1) Ensuring that rehabilitated owner-occupied single family units are improved to code standards and subject to affordability controls for at least 6 years; and
- (2) Ensuring that rehabilitated renter-occupied housing units are improved to code standards and subject to affordability controls for at least 10 years.

SECTION 3

SUBMISSION REQUIREMENTS

Section 3.1 General Requirements.

The Respondent shall submit the following documents:

- (1) An executed Qualification Statement as set forth in Appendix A; and
- (2) An executed Letter of Intent as set forth in Appendix B; and
- (3) An executed copy of the checklist of necessary document submission required prior to entering into a contract as set forth in Appendix C.

Section 3.2 Supplemental Information.

In addition to the information required as described below, a Respondent may submit supplemental information that it feels may be useful in evaluating its Qualification Statement. Respondents are encouraged to be clear, factual, and concise in their presentation of information.

SECTION 4

INSTRUCTIONS TO RESPONDENTS

4.1 Submission of Qualification Statements.

Respondents must submit an original and five (5) copies of sealed Qualification Statements to the Designated Contact Person:

Marilyn B. Bojanowski, RMC
Municipal Clerk
Borough of Fair Lawn
8-01 Fair Lawn Avenue
Fair Lawn, NJ 07410

Sealed Qualification Statements must be received by the Borough **no later than __:00 p.m. (prevailing time) on _____, 2020.** **Qualification Statements forwarded by facsimile or e-mail will not be accepted.**

To be responsive, **sealed** Qualification Statements must provide all requested information and must be completed in conformance with the instructions set forth herein.

The front of the envelope shall be clearly marked “**RFQ – Administrative Agent to Administer Affordable Housing Controls and Rehabilitation Program Administrator.**”

Note: All Respondents are advised of their responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271, s.3) if the Respondent receives contracts in excess of \$50,000 from public entities in a calendar year. It is the Respondent’s responsibility to determine if filing is necessary. Additional information on this requirement may be obtained from the New Jersey Election Law Enforcement Commission.

SECTION 5

EVALUATION

The Borough's objective in soliciting Qualification Statements is to enable it to select a firm or organization that will provide high quality and cost effective services to the citizens of Fair Lawn Borough. The Borough will consider Qualification Statements only from firms or organizations that, in the Borough's judgment, have demonstrated the capability and willingness to provide high quality services to the citizens of the County in the manner described in this RFQ.

Proposals will be evaluated by the Borough on the basis of the most advantageous, all relevant factors considered. The evaluation will consider:

- (a) Experience and reputation in the field;
- (b) Knowledge of the Borough of Fair Lawn in relation to the subject matter to be addressed under the contract;
- (c) Availability to accommodate any required meetings of the Borough of Fair Lawn;
- (d) Number of years practicing in the field;
- (e) Familiarity with the Borough of Fair Lawn;
- (f) Availability of personnel, facilities, equipment and other resources; and
- (h) Other factors determined by the governing body to be in the best interests of the Borough of Fair Lawn

APPENDIX A

QUALIFICATION STATEMENT

(Note: To be typed on Respondent's letterhead. No modifications may be made to this letter)

[insert date]

Marilyn B. Bojanowski, RMC
Municipal Clerk
Borough of Fair Lawn
8-01 Fair Lawn Avenue
Fair Lawn, NJ 07410

Dear Ms. Bojanowski:

The undersigned has reviewed our Qualification Statement submitted in response to the Request for Qualifications (RFQ) issued by the Borough of Fair Lawn ("Borough"), dated _____, in connection with the Borough's need for Professional Services - *Administrative Agent to Administer Affordable Housing Controls and Rehabilitation Program Administrator*.

We affirm that the contents of our Qualification Statement (which Qualification Statement is incorporated herein by reference) are accurate, factual and complete to the best of our knowledge and belief and that the Qualification Statement is submitted in good faith upon express understanding that any false statement may result in the disqualification of (Name of Respondent),

(Respondent shall sign and complete the spaces provided below. If a joint venture, appropriate officers of each company shall sign.)

(Signature of Chief Executive Officer)

(Typed Name and Title)

(Type Name of Firm)

Dated:

- If a joint venture, partnership or other formal organization is submitting a Qualification Statement, each participant shall execute this Letter of Qualification.

QUALIFICATION STATEMENT

Administrative Information Requirements

1. Name, address and telephone number of the firm or firms submitting the Qualification Statement pursuant to this RFQ, and the name of the key contact person.
2. A description of the business organization (i.e., corporation, partnership, joint venture, etc.) of each firm, its ownership and its organizational structure.
 - (a) Provide the names and addresses of all Principals of the firm or firms submitting the Qualification Statement. For purposes of this RFQ, "Principals" means persons possessing an ownership interest in the Respondent. If the Respondent is a corporation, "Principals" shall include each investor who would have any amount of operational control over the Respondent and every stockholder having an ownership interest of 10% or more in the firm.
 - (b) If a firm is a partially owned or a fully-owned subsidiary of another firm, identify the parent company and describe the nature and extent of the parents' approval rights over the activities of the firm submitting a Qualification Statement. Describe the approval process.
 - (c) If the Respondent is a partnership or a joint venture or similar organization, provide comparable information as required in (b) above for each member of the partnership, joint venture or similar organization.
3. The number of years your organization has been in business under the present name.
4. A statement that the Respondent is in compliance with all applicable affirmative action (or similar) requirements with respect to its business activities, together with evidence of such compliance.
5. Any judgments, claims or suits pending or outstanding against company. If yes, please explain.
6. Whether the business organization is now or has been involved in any bankruptcy or re-organization proceedings in the last ten (10) years. If yes, please explain.

7. Confirm appropriate federal and state licenses to perform activities.

Professional Information Requirements

8. Respondent shall submit a description of its overall experience in providing the type of services sought in the RFQ. At a minimum, the following information on past experience should be included as appropriate to the RFQ:
 1. Description and scope of work by Respondent
 2. Name, address and contact information of references
 3. Explanation of perceived relevance of the experience to the RFQ
9. Describe the services that Respondent would perform directly.
10. Describe those portions of the Respondent's services, if any, that are sub-contracted out. Identify all subcontractors the Respondent anticipates using in connection with this project.
11. Does the Respondent employ union or non-union employees?
12. Resumes of key employees
13. Organizational chart of Respondent's firm or company.
14. List all immediate relatives of Principal(s) of Respondent who are Borough employees or elected officials of the Borough. For purposes of the above, "immediate relative" means a spouse, parent, stepparent, brother, sister, child, stepchild, direct-line aunt or uncle, grandparent, grandchild, and in-laws by reason of relation.
15. Cost details, including the hourly rates of each of the individuals who will perform services, and all expenses.

APPENDIX B

LETTER OF INTENT

(Note: To be typed on Respondent's Letterhead. No modifications may be made to this letter)

[insert date]

Marilyn B. Bojanowski, RMC
Municipal Clerk
Borough of Fair Lawn
8-01 Fair Lawn Avenue
Fair Lawn, NJ 07410

Dear Ms. Bojanowski:

The undersigned, as Respondent, has (have) submitted the attached Qualification Statement in response to a Request for Qualifications (RFQ), issued by the Borough of Fair Lawn ("Borough"), dated [insert date]. in connection with the Borough's need for Professional Services - *Administrative Agent to Administer Affordable Housing Controls and Rehabilitation Program Administrator*.

(Name of Respondent) HEREBY STATES:

1. The Qualification Statement contains accurate, factual and complete information.
2. (Name of Respondent) agrees (agrees) to participate in good faith in the procurement process as described in the RFQ and to adhere to the Borough's procurement schedule.
3. (Name of Respondent) acknowledges (acknowledge) that all costs incurred by it (them) in connection with the preparation and submission of the Qualification Statement and any proposal prepared and submitted in response to the RFQ, or any negotiation which results therefrom shall be borne exclusively by the Respondent.
4. (Name of Respondent) hereby declares (declare) that the only persons participating in this Qualification Statement as Principals are named herein and that no person other than those herein mentioned has any participation in this Qualification Statement or in any contract to be entered into with respect thereto. Additional persons may subsequently be included as participating Principals, but only if acceptable to the Borough.

5. (Name of Respondent) declares that this Qualification Statement is made without connection with any other person, firm or parties who has submitted a Qualification Statement, except as expressly set forth below and that it has been prepared and has been submitted in good faith and without collusion or fraud.

6. (Name of Respondent) acknowledges and agrees that the Borough may modify, amend, suspend and/or terminate the procurement process (in its sole judgment). In any case, the Borough shall have any liability to the Respondent for any costs incurred by the Respondent with respect to the procurement activities described in this RFQ.

7. (Name of Respondent) acknowledges that any contract executed with respect to the provision of (insert services] must comply with all applicable affirmative action and similar laws. Respondent hereby agrees to take such actions as are required in order to comply with such applicable laws.

(Respondent shall sign and complete the space provided below. If a joint venture, appropriate officers of each company shall sign.)

(Signature of Chief Executive Officer)

_____ (Typed Name and Title)

_____ (Type Name of Firm)*

Dated: _____

* If a joint venture, partnership or other formal organization is submitting a Qualification Statement, each participant shall execute this Letter of Intent.

APPENDIX C

Documents that will be required Prior to a Contract Execution

Checklist for
Items that will
be required

1	A statement of Corporate ownership, pursuant to N.J.S.A. 40A:11-24.2	X
2	Business Registration Certificate (BRC) from the State of New Jersey Department of Treasury, Division of Revenue)	X
3	Required Insurance Documentation	X
4	Submission of a Non-Collusion Affidavit	X
5	Mandatory Affirmative Action Language	X
6	Mandatory Language: American Disabilities Act	X

Signature: The undersigned hereby acknowledges and will submit the above listed requirements prior to execution of contract.

Name of Respondent/Firm: _____

Print Name and Title: _____

Signature: _____

Date: _____

P.L. 1975, C. 127, (N.J.S.A. 10:5-31)

MANDATORY AFFIRMATIVE ACTION LANGUAGE:

PROCUREMENT, PROFESSIONAL AND SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation;

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment;

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time and the Americans with Disabilities Act;

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time;

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions;

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey and applicable Federal law and applicable Federal court decisions;

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purpose of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).

In accordance with Public Law 1975, Chapter 127, (N.J.S.A. 10:5-31) all successful vendors must submit one of the following forms of evidence:

1. A photo copy of their Federal Letter of Affirmative Action Plan Approval, OR
2. A photo copy of their Certificate of Employee Information Report, OR
3. A completed Affirmative Action Employee Information Report (formAA302)

Affirmative Action evidence must be submitted within 7 days after receipt of the notification of intent to award the contract or receipt of the contract, whichever is sooner.

The contractor's bid must be rejected as non-responsive if a contractor fails to submit (1), (2) or (3) above, within the time specified after the authority submits the contract to the contractor for signing.

My Commission Expires _____, 20

NEW JERSEY BUSINESS REGISTRATION REQUIREMENTS

The contractor must include proof of its own business registration and proofs of business registration of those subcontractors required to be listed in the contractor's submission (i.e., "named subcontractors"). The proof of business registration shall be provided at the time the bid or proposal is officially received and opened by the Borough.

The contractor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the contractor.

Before final payment on the contract is made by the contracting agency, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.

For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.

A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L.2001, c.134 (C.52:32-44 et al.) or subsection e. or f. of section 92 of P.L.1977, c.110 (C.5:12-92), or that provides false business registration information under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.

STOCKHOLDER DISCLOSURE CERTIFICATION

_____ I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

_____ I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

_____ Partnership _____ Corporation _____ Sole Proprietorship

PLEASE CHECK APPROPRIATE BOXES ABOVE AND SIGN BELOW

Stockholders:

Name: _____
Home Address: _____

Name: _____
Home Address: _____

Name: _____
Home Address: _____

Name: _____
Home Address: _____

Name: _____
Home Address: _____

Name: _____
Home Address: _____

Name: _____

Home Address: _____

Name: _____

Home Address: _____

Name: _____

Home Address: _____

Name: _____

Home Address: _____

Subscribed and sworn before me

this ____ day of _____, 20__.

Affiant

(Notary Public) (Print name and title of affiant)

My Commission expires:

(Corporate Seal)

AMERICANS WITH DISABILITIES ACT OF 1990
EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITY

The CONTRACTOR and the BOROUGH OF FAIR LAWN (herein referred to as the BOROUGH) do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the BOROUGH pursuant to this contract, the CONTRACTOR agrees that the performance shall be in strict compliance with the Act. In the event the CONTRACTOR, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the CONTRACTOR shall defend the BOROUGH in any action or administrative proceeding commenced pursuant to this Act. The CONTRACTOR shall indemnify, protect, and save harmless the BOROUGH, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The CONTRACTOR shall, at its own expense, appear, defend, and pay any and, all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the BOROUGH'S grievance procedure, the CONTRACTOR agrees to abide by any decision of the BOROUGH, which is rendered pursuant to, said grievance procedure. If any action or administrative proceeding results in an award of damages against the BOROUGH or if the BOROUGH incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the CONTRACTOR shall satisfy and discharge the same at its own expense.

The BOROUGH shall, as soon as practicable after a claim has been made against it, give written notice thereof to the CONTRACTOR along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the BOROUGH or any of its agents, servants, and employees, the BOROUGH shall expeditiously forward or have forwarded to the CONTRACTOR every demand, complaint, notice, summons, pleading, or other process received by the BOROUGH or its representatives.

It is expressly agreed and understood that any approval by the BOROUGH of the services provided by the CONTRACTOR pursuant to this contract will not relieve the CONTRACTOR of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the BOROUGH pursuant to this paragraph.

It is further agreed and understood that the BOROUGH assumes no obligation to indemnify or save harmless the CONTRACTOR, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the CONTRACTOR expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the CONTRACTOR'S obligations assumed in this Agreement, nor shall they be construed to relieve the CONTRACTOR from any liability, nor preclude the BOROUGH from taking any other actions available to it under any other provisions of this Agreement or otherwise at law.

INSURANCE REQUIREMENTS AND ACKNOWLEDGMENT FORM

Certificate(s) of Insurance shall be filed with the Borough Clerk's Office upon award of contract by the Mayor and Borough Council.

The minimum amount of insurance to be carried by the Professional Service Entity shall be as follows:

PROFESSIONAL LIABILITY INSURANCE

Limits shall be a minimum of \$1,000,000.00 for each claim and \$1,000,000.00 aggregate each policy period.

Acknowledgment of Insurance Requirement:

(Signature) (Date)

(Printed Name and Title)

Appendix N – Affirmative Marketing Plan and Resolution

AFFIRMATIVE FAIR HOUSING MARKETING PLAN

For Affordable Housing in Region 1

I. Applicant and Project Information

(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address	
1c. Number of Affordable Units: N/A Number of Rental Units: N/A Number of For-Sale Units: N/A	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
1f. <input type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates	
1h. County Bergen, Hudson, Passaic, Sussex	1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number		
1k. Application Fees (if any): <p style="text-align: center;">There are no application fees.</p>		

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

II. Random Selection

<p>2. Describe the random selection process that will be used once applications are received.</p> <p><u>Initial Randomization</u></p> <p>Applicants are selected at random before income-eligibility is determined, regardless of household or desired number of bedrooms.</p> <p>The process is as follows:</p> <ol style="list-style-type: none"> 1. After advertising is implemented, applications are accepted for 60 days. 2. At the end of the period, sealed applications are selected one-by-one through a lottery (unless fewer applications are received than the number of available units, then all eligible households will be placed in a unit). 3. An applicant pool is created by listing applicants in the order selected. 4. Applications are reviewed for income-eligibility. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information.
--

5. If there are sufficient names remaining in the pool to fill future re-rental, the applicant pool shall be maintained as an ordered waiting list with all new pre-qualified applicants added to the list in the order that they were received.
6. When the applicant pool is close to being depleted, the Administrative Agent will re-open the pool and conduct a new random selection process after fulfilling the affirmative marketing requirements. The new applicant pool will be added to the remaining list of applicants.

III. Marketing

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)			
<input type="checkbox"/> White (non-Hispanic) <input checked="" type="checkbox"/> Black (non-Hispanic) <input checked="" type="checkbox"/> Hispanic <input type="checkbox"/> American Indian or Alaskan Native <input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> Other group:			
3b. Housing Resource Center			
www.njhousing.gov A free, online listing of affordable housing			
3c. Commercial Media (required) (Check all that applies)			
	Duration & Frequency of Outreach	Names of Regional Newspaper(s)	Circulation Area
Targets Entire Housing Region 1			
Daily Newspaper			
X	One display ad per week for four consecutive weeks, beginning at the start of the marketing process	Star-Ledger	Northern and Central New Jersey
Targets Partial Housing Region 1			
X	One display ad per week for four consecutive weeks, beginning at the start of the marketing process	Record, The	Bergen
	Duration & Frequency of Outreach	Names of Regional Radio Station(s)	Listening Area
Targets Entire Housing Region 1			
AM Radio			
X		WHUD 710	Statewide
3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing)			
Name of Group/Organization	Duration & Frequency of Outreach	Racial/Ethnic Identification of Readers/Audience	Outreach Area
Fair Share Housing Center	Ongoing as needed	N/A	Statewide
New Jersey State Conference of NAACP	Ongoing as needed	African-American	Statewide
The Latino Action Network	Ongoing as needed	Hispanic	Statewide
Bergen County Chapter of the NAACP	Ongoing as needed	African-American	Bergen County
Bergen County Urban League	Ongoing as needed	N/A	Bergen County
Bergen County Housing Coalition	Ongoing as needed	N/A	Bergen County
Supportive Housing Association	Ongoing as needed	N/A	Statewide

IV. Applications

Applications for affordable housing for the above units will be available at the following locations:		
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that apply)		
	Building	Location
X	Sussex County Main Library	125 Morris Turnpike, Newton, NJ 07860 (973) 948-3660
X	Hudson County Administration Building	595 Newark Avenue, Jersey City, NJ 07306 (201) 369-4520
X	Passaic County Administration Building	401 Grand Street, Paterson, NJ 07505 (973) 881-4000
X	Bergen County Administration Building	One Bergen County Plaza, Hackensack, NJ 07601 (201) 336-6000
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)		
Borough of Fair Lawn Borough Hall 8-01 Fair Lawn Avenue, Fair Lawn, NJ 07410 https://www.fairlawn.org/		
Maurice M. Pine Public Library 10-01 Fair Lawn, NJ 07410		
4c. Sales/Rental Office for units (if applicable)		

V. Certifications and Endorsements

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (Select one: Municipality's substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI/CHOICE funding).	
Signature _____	Date _____
Name (Type or Print) _____	Title/Municipality _____

Appendix O – Resolution Appointing Municipal Housing Liaison

Appendix P – Municipal Spending Plan and Resolution

**BOROUGH OF FAIR LAWN
AFFORDABLE HOUSING TRUST FUND SPENDING PLAN**

INTRODUCTION

The Borough of Fair Lawn, Bergen County has prepared a Housing Plan Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301), the terms of an order of the Superior Court in the matter of in Re: In the Matter of The Borough of Fair Lawn, Docket No. BER-L-9222-18, and in accordance with the regulations found in N.J.A.C. 5:93-1 et seq. A development fee ordinance creating a dedicated revenue source for affordable housing was adopted by the Borough in 2010 (Ord. No. 2175-2010). The ordinance has been updated and it establishes the Borough of Fair Lawn’s Affordable Housing Trust Fund for which this spending plan is prepared.

1. REVENUES FOR CERTIFICATION PERIOD

All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing Affordable Housing Trust Fund in Columbia Bank for the purposes of affordable housing. These funds shall be spent in accordance with applicable affordable housing regulations as described in the sections that follow. As of March 31, 2020, the Borough has a current balance of \$414,926.81 in its Affordable Housing Trust Fund.

To calculate a projection of revenue anticipated for the remainder of the certification period, the Borough considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Other funding sources:

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing loans, rental income, and proceeds from the sale of affordable units. However, the vast majority of monies in the Affordable Housing Trust Fund are anticipated to come from development fees and interest.

(c) Projected interest:

Interest projected revenue in the municipal Affordable Housing Trust Fund at the current average interest rate is variable, but as of December 2019 is 0.253%.

The Borough has considered the potential for collection of revenue based on building and construction activity over the past 5 years. Taking the average number of residential building permits for the last 5 years, and the estimated cost of construction for non-residential projects in Fair Lawn in that same time frame as per figures provided by New Jersey Department of Community Affairs (NJDCA), the Borough can project revenue for the Affordable Housing Trust Fund for the remainder of the certification period. This projection is derived from taking those average numbers from NJDCA, and then applying the Borough's required affordable housing development fees to those projects, assuming that the average of the past 5 years will be the base figure for the rest of the period. The Borough will use this average revenue, along with interest accrued at the current rate, to estimate the projected funding to be available to use towards implementing affordable housing programs.

According to figures from NJDCA, the Borough has issued an average of 24 residential building permits per year for the past five years. With the median home value in the Borough of \$426,000.00, this would yield a \$6,390.00 payment to the affordable housing trust per residence with a 1.5 percent payment. With 24 residences per year, this would be just over \$150,000.00 in annual revenues. The Borough has also averaged \$4,212,298.00 in non-residential construction value per year in that timeframe, which would yield just over \$105,000.00 in annual revenue to the Affordable Housing Trust Fund at a 2.5% non-residential development fee. The residential and non-residential development fees together would provide \$255,000.00 in annual revenue based on prior averages.

Actual revenues to the Borough's Affordable Housing Trust Fund however in the past 10 years have not been that high. The Borough has collected an average of approximately \$41,000 annually since 2011. The average collection has been higher in the past several years, with an average of \$75,000 annually in fees and other deposits in the past five years. For the purposes of this Spending Plan, a conservative estimate of \$145,000.00, or the mean of the projected revenues based on building permits and the actual revenues collected over a 5 year period.

Table 1. Projected Revenues 2020 -2025							
Starting Balance (3/31/2020)	\$414,926.81						
SOURCE OF FUNDS	2020	2021	2022	2023	2024	2025	Total
(a) Development Fees:	\$145,000.00	\$145,000.00	\$145,000.00	\$145,000.00	\$145,000.00	\$145,000.00	\$870,000.00
1. Approved Development	-	-	-	-	-	-	-
2. Development Pending Approval	-	-	-	-	-	-	-
3. Projected Development	\$145,000.00	\$145,000.00	\$145,000.00	\$145,000.00	\$145,000.00	\$145,000.00	\$870,000.00
(b) Payments in Lieu of Construction	-	-	-	-	-	-	-
(c) Other Funds			-	-	-	-	\$0.00
(d) Interest on Total Account Balance	\$366.85	\$366.85	\$366.85	\$366.85	\$366.85	\$366.85	\$2,201.10
Total	\$145,366.85	\$145,366.85	\$145,366.85	\$145,366.85	\$145,366.85	\$145,366.85	\$872,201.10

For the purposes of projecting revenues, the anticipated expenditures each year have been approximated and rounded, so that a projection of the total balance and accrued interest could be estimated annually and applied to the revenue schedule. Please note that the revenue and interest projections are estimates and are subject to change based upon market conditions.

The Borough of Fair Lawn projects a total of **\$872,201.10** in revenue to be collected between January 1, 2020 and December 31, 2025. This projected amount, when added to Fair Lawn's trust fund balance as of March 31, 2020 results in anticipated total revenue of **\$1,287,127.91** to be available to fund and administer its affordable housing plan and programs. All interest earned on the account shall accrue to the account and be used only for the purposes of affordable housing.

DRAFT

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Fair Lawn:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Borough of Fair Lawn’s development fee ordinance for both residential and non-residential developments in accordance with Department of Community of Affairs rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

Development Fee revenues are distributed under the same procedures for any bill or purchase in the Borough. Purchase orders are requested and processed and eventually approved by the Governing Body.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)**

The Borough of Fair Lawn will dedicate \$1,029,702.33 toward Housing Activity and programs, including rehabilitation opportunities and affordability assistance measures.

\$370,000.00, or approximately \$10,000 per unit will be dedicated to the Municipal Rehabilitation Program.

(b) **Affordability Assistance (N.J.A.C. 5:97-8.8)**

Projected minimum affordability assistance requirement:

Table 2. Minimum Affordability Assistance		
Actual development fees and interest through 3/31/2020		\$414,926.81
Development fees projected 2020-2025	+	\$870,000.00
Interest projected 2020-2025	+	\$2,201.10
Other funds	+	
Less housing activity expenditures through 12/31/2019	-	
Less projected Rehabilitation Program expenditures through 2025	-	\$370,000.00
	-	
Total	=	\$917,127.91
30 percent requirement	x 0.30	\$275,138.37
	=	
Less affordability assistance expenditures through 12/31/2019	-	\$0.00
Projected Minimum Affordability Assistance Requirement 1/1/2020 through 12/31/2025	=	\$275,138.37
Projected Minimum Very Low-Income Affordability Assistance Requirement 1/1/2020 through 12/31/2025	x 0.34	\$93,547.05
	=	

As per the requirements of N.J.A.C. 5:97-8.8, the Borough is required to provide a minimum of 30 percent of its Affordable Housing Trust Fund revenues towards affordability assistance, and at least 34 percent of that shall be towards affordability assistance for very-low income households. The Borough of Fair Lawn will dedicate at least 30 percent, or a projected **\$275,138.37** from the Affordable Housing Trust Fund to render units more affordable, including **\$93,547.05** to render units more affordable to households earning 30 percent or less (very-low income) of median income by region, as follows:

- down payment/closing cost assistance for affordable dwelling units;
- housing association fee assistance;
- security deposit assistance for rental units;
- rental assistance (low and very-low income households)

The Borough anticipates a surplus of revenues of **\$384,563.96**, which will be dedicated to providing additional affordability assistance, bringing the total amount of funds potentially dedicated to affordability assistance to **\$659,702.33**.

(c) Administrative Expenses (N.J.A.C. 5:97-8.9)

Table 3. Administrative Expense Calculation		
Actual development fees and interest through 3/31/2020		\$414,926.81
Development fees and funds projected 2020-2025	+	\$872,201.10
Less RCA expenditures through 12/31/2019	-	\$0.00
Total	=	\$1,287,127.91
Calculate 20 percent	x .20 =	\$257,425.58
Less administrative expenditures through 12/31/2019	-	
Projected maximum available for administrative expenses 1/1/2020 through 12/31/2025	=	\$257,425.58

A maximum of 20 percent of the monies collected in the Affordable Housing Trust Fund may be utilized to cover administrative costs. The Borough of Fair Lawn projects that a total **\$257,425.58** will be available from the Affordable Housing Trust Fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows: Planner Fees, Administrative Agent fees, and Attorney fees.

4. EXPENDITURE SCHEDULE

The Borough of Fair Lawn intends to use Affordable Housing Trust Fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Plan Element and Fair Share Plan and is summarized as follows:

TABLE 4. Projected Expenditure Schedule 2019-2025

Programs	2020	2021	2022	2023	2024	2025	Total
Rehabilitation Program	\$50,000.00	\$60,000.00	\$60,000.00	\$70,000.00	\$70,000.00	\$60,000.00	\$370,000.00
Affordability Assistance	\$109,950.39	\$109,950.39	\$109,950.39	\$109,950.39	\$109,950.39	\$109,950.39	\$659,702.33
Administration	\$42,904.26	\$42,904.26	\$42,904.26	\$42,904.26	\$42,904.26	\$42,904.26	\$257,425.58
Total	\$202,854.65	\$212,854.65	\$212,854.65	\$222,854.65	\$222,854.65	\$212,854.65	\$1,287,127.91

5. EXCESS OR SHORTFALL OF FUNDS

The Borough will address any expected or unexpected revenue shortfalls subject to available appropriations. In the event more funds than anticipated are collected, projected funds exceed the amount necessary to implement the fair share plan, or Fair Lawn is reserving funds for affordable housing projects to meet a future affordable housing obligation, these excess funds will be used to fund additional rehabilitation, the affordability assistance program, and/or new construction.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough of Fair Lawn's Affordable Housing Ordinance. A process describing the collection and distribution procedures for barrier free escrow funds will be detailed within the Borough's Affordable Housing Ordinance.

SUMMARY

The Borough of Fair Lawn intends to spend Affordable Housing Trust Fund revenues consistent with the housing programs outlined in the Housing Plan Element and Fair Share Plan to be adopted by the Borough of Fair Lawn.

The Borough has a balance of **\$414,926.81** as of March 31, 2020 and anticipates an additional **\$872,201.10** in revenues, including interest, before the commencement of the fourth round in 2025 for a total of **\$1,287,127.91**. The municipality will dedicate a total of **\$370,000.00** towards rehabilitation projects, and **\$659,702.33** toward affordability assistance. In addition, the Borough shall use a maximum of **\$257,425.58** for administrative costs, which is the threshold of the 20% cap on administrative costs. Total expenditures are anticipated to be **\$1,287,127.91**.

Table 5 below summarizes the revenues and expenditures anticipated for the remainder of the reporting period.

Table 5. Spending Plan Summary	
Balance as of March 31, 2020	\$414,926.81
Projected Revenue 2020-2025	\$872,201.10
Development Fees	\$870,000.00
Other Funds	\$0.00
Interest	\$2,201.10
TOTAL REVENUE	\$1,287,127.91
Expenditures	
Rehabilitation Program	\$370,000.00
Affordability Assistance	\$659,702.33
Administration	\$257,425.58
TOTAL PROJECTED EXPENDITURES	\$1,287,127.91
REMAINING BALANCE	(\$0.00)

Appendix Q – Affordability Assistance Manual

AFFORDABILITY ASSISTANCE PROGRAM

POLICIES AND PROCEDURES MANUAL

In Accordance with the Uniform Housing Affordability Controls
and the New Jersey Fair Housing Act



BOROUGH OF FAIR LAWN

8-01 Fair Lawn Avenue
Fair Lawn, NJ 07410

March 2020

Prepared by:



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INTRODUCTION

The purpose of this manual is to describe the policies and procedures of the Affordability Assistance Program for Fair Lawn Borough. This manual explains what is needed for residents of the Borough to qualify for the program, in addition to outlining the operation of the program.

The Affordability Assistance Program is designed to help low and moderate-income households acquire funding to secure income restricted affordable housing within the Borough of Fair Lawn, by providing a one-time deferred payment loan to offset the initial costs of securing adequate housing. This housing may be either owner occupied dwelling units or rental dwelling units.

This program provides the following options for affordability assistance:

- Security deposit assistance – Funding equal to the required security deposit for a rental dwelling unit may be available to be paid directly to the landlord on behalf of a very low, low, or moderate income tenant. This is a loan to the landlord. At the end of the duration of a lease, the security deposit shall be returned to the Borough rather than the tenant.
- Emergency rental assistance – Funding equal to the required contract rent may be available to be paid directly to the landlord on behalf of a low or very-low income tenant household. This is a grant payment and no repayment is required.
 - Emergency rental assistance is limited to a maximum of one payment per term of the lease for a low income households, and a maximum of two payments per year for a very-low income household.
 - The emergency rental assistance program shall not available for moderate income renter households.
- Down payment / Closing cost assistance – Funding of up to \$10,000.00 per applicant may be applied to offset the up-front costs of purchasing a home or condominium unit in Fair Lawn. These funds would be a no-interest loan to the prospective buyer, and if the buyer remains in the home for a period of at least 5 years, the loan will be forgivable.
- Housing association fee assistance – Funding of up to \$500.00 may be available in the form of a grant, paid to the housing association. This is a one-time payment and no repayment is necessary.

All dwellings purchased with the funds from the Affordability Assistance Program shall be subject to a thirty (30) year deed restriction to remain affordable to low and moderate income households.

ADMINISTRATION

The Borough's appointed Affordable Housing Administrative Agent will be responsible for administering the Affordability Assistance Program. All funds provided for the Affordability Assistance Program shall be distributed from the Borough's Affordable Housing Trust Fund, in accordance with the Borough's adopted Affordable Housing Trust Fund Spending Plan.

Questions about the Affordability Assistance Program should be directed to the Administrative Agent.

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ELIGIBLE APPLICANTS

Applications submitted for the Program will be provided and reviewed on a first-come-first-served basis according to the following criteria. The following criteria must be met in order for an applicant to be deemed eligible for this Program. Eligibility does not guarantee that any funding will be provided to applicants from this Program.

1. There are affordability assistance funds remaining in the budget for the year.
2. The applicant has not received affordability assistance from this program in the past year.
3. The applicant must qualify as a low- or moderate-income household in accordance with the most current regional income limits established by the Affordable Housing Professionals of New Jersey (AHPNJ) or the applicable State of New Jersey regulatory entity should the State resume promulgation of regional income limits.
4. For the Security Deposit Assistance Program, the applicant must lease a dwelling unit within Fair Lawn Borough that they will maintain as their primary residence.
5. For the Emergency Rental Assistance Program, the applicant must be a low, or very low income household and lease a deed restricted affordable dwelling unit within the Borough of Fair Lawn that they maintain as their primary residence.
6. For the Down Payment or Closing Cost Assistance Program, the applicant must be in the process of purchasing a deed-restricted affordable dwelling in Fair Lawn Borough;
7. For the Down Payment or Closing Cost Assistance Program, the applicant must be the owner of the property after purchase, and occupy the dwelling unit as their primary residence;
8. For the Housing Association Fee Assistance Program, the applicant must be the owner of the property, and maintain the dwelling unit as their primary residence.

DOWN PAYMENT & CLOSING COST ASSISTANCE PROGRAM PROCEDURES

1. An application for funding through the Affordability Assistance Program shall be filed with the Borough's Affordable Housing Administrative Agent.
2. The Administrative Agent shall review and process the application.
3. If an applicant is certified and approved, the Administrative Agent shall notify the Borough's financial department of the intent to award the loan, and confirm the availability of funds.
4. The Administrative Agent shall prepare a draft resolution authorizing the award of the loan, specifying the amount of funds, the location and type of unit, and the specific affordability controls on the unit.
5. The Borough shall release the funds from the Affordable Housing Trust Fund to the escrow account following the approval of the resolution.
6. A Repayment Agreement, Mortgage Note, and Mortgage shall be executed at closing, and recorded by the title company.
7. The Administrative Agent shall notify the applicant of the awarding of funds, and record the assistance, and terms of the assistance, in the file for the affordable unit.

LOAN AMOUNT AND PERIOD

The maximum amount of assistance that may be provided per applicant is \$10,000.00. The loan period shall be five (5) years.

LOAN TERMS & REPAYMENT AGREEMENT

All funds are distributed at closing. The funds are sent via bank wire to either the participant's attorney or closing agent trust account. The attorney or trust account must have a business registration certificate and W-9 Tax Identification Form. The Borough must be given notice of the closing five (5) business days ahead of the closing date.

Loans for applicants to the Program shall be secured through a mortgage and mortgage note in favor of the Borough and executed by the property owner when required. The mortgage and mortgage note, as well as a deed restriction, will be executed at closing. The terms of the mortgage are in the mortgage note, which is not recorded. The original mortgage note shall be retained by the Program Administrator and kept in the unit file. The administrative agent shall send the mortgage and deed restriction requiring recording to the Borough. Upon receipt, the Borough will file said documents with the Bergen County Clerk's office upon the completion of the closing of title.

All loans are deferred payment loans and are due in full at zero percent (0%) interest upon sale, or change in title, if said sale or change in title occurs within five (5) years of

BOROUGH OF FAIR LAWN - Affordability Assistance Program Manual

the date of closing. All repayment of loans shall be paid to the Borough's Affordable Housing Trust Fund. If the applicant remains the owner and occupant of the dwelling at the end of the five (5) year duration period of the loan, the loan shall be forgiven in full.

INSURANCE REQUIREMENTS

The applicant must provide proof of homeowner's insurance and proof that the insurance has been paid. The homeowner's insurance must list the Borough of Fair Lawn and the Borough of Fair Lawn Affordability Assistance Program as additional insureds, loss payees, or additional mortgagees for the entire 5-year period of the mortgage.

All prospective applicants must have Title Insurance naming the Borough of Fair Lawn and Borough of Fair Lawn Affordability Assistance Program as additional insureds, loss payees, or additional mortgagees.

If the home is associated with a Condominium Association or a substantially similar entity, the Borough of Fair Lawn and the Borough of Fair Lawn Affordability Assistance Program shall be listed as additional insureds, loss payees, or additional mortgagees on the blanket insurance policy for the Association's property.

In the event that the property is located in a Flood Zone, flood insurance will be required listing the Borough of Fair Lawn and Borough of Fair Lawn Affordability Assistance Program as additional insureds, loss payees, or additional mortgagees.

AFFORDABILITY CONTROLS

All homes purchased by qualified low or moderate income households with assistance from the Borough's Affordability Assistance Program shall include a deed restriction which provides affordability controls indicating that the unit must remain affordable to a low or moderate income household for a period of at least thirty (30) years, in accordance with the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-16.1 et seq.

HOUSING ASSOCIATION FEE ASSISTANCE PROGRAM PROCEDURES

1. An application for funding through the Affordability Assistance Program shall be filed with the Borough's Affordable Housing Administrative Agent.
2. The Administrative Agent shall review and process the application.
3. If an applicant is certified and approved, the Administrative Agent shall notify the Borough's financial department of the intent to award the grant, and confirm the availability of funds.
4. The Administrative Agent shall prepare a draft resolution authorizing the award of the grant, specifying the amount of funds, the location and type of unit, and the specific affordability controls on the unit.
5. The Borough shall release the funds from the Affordable Housing Trust Fund, payable to the applicable housing association, following the approval of the resolution.
6. The Administrative Agent shall notify the applicant of the awarding of funds, and record the assistance, and terms of the assistance, in the file for the affordable unit.

GRANT AMOUNT AND PERIOD

The maximum amount of assistance that may be provided per applicant is \$500.00. The funds shall be in the form of a one-time grant payment. No repayment of funds by the applicant shall be required.

AFFORDABILITY CONTROLS

All applications for Housing Association Fee Assistance shall be for fees required of a deed restricted affordable unit which provides affordability controls indicating that the unit must remain affordable to a low or moderate income household for a period of at least thirty (30) years, in accordance with the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-16.1 et seq.

SECURITY DEPOSIT ASSISTANCE PROGRAM PROCEDURES

1. An application for funding through the Affordability Assistance Program shall be filed with the Borough's Affordable Housing Administrative Agent.
2. The Administrative Agent shall review and process the application.
3. In the event that there are more income-qualified applicants than there are funds available, preference shall be given to very-low income households.
4. If an applicant is certified and approved, the Administrative Agent shall notify the Borough's financial department of the intent to award the loan, and confirm the availability of funds.
5. The Administrative Agent shall prepare a draft resolution authorizing the award of the loan, specifying the amount of funds, the location and type of unit, and the specific affordability controls on the unit.
6. The Borough shall release the funds from the Affordable Housing Trust Fund to the participating landlord following the approval of the resolution.
7. The Administrative Agent shall notify the applicant of the awarding of funds, and record the assistance, and terms of the assistance, in the file for the affordable unit.

LOAN AMOUNT AND PERIOD

The maximum amount of assistance that may be provided per applicant shall be equal to one and one-half month's contract rent, or \$2,500.00, whichever is lesser. The loan period shall be the duration of the applicant's occupancy of the dwelling unit.

LOAN TERMS & REPAYMENT AGREEMENT

All funds distributed for a security deposit shall be deposited by the landlord in an escrow account in accordance with applicable state laws. Upon the end of the applicant's tenancy in the dwelling unit, the landlord shall repay the security deposit to the Borough of Fair Lawn's Affordable Housing Trust Fund.

In the event that monies are deducted from the security deposit due to damages to the dwelling unit, the tenant shall be responsible for repaying any monies deducted to the Borough's Affordable Housing Trust Fund.

EMERGENCY RENTAL ASSISTANCE PROGRAM PROCEDURES

1. An application for funding through the Affordability Assistance Program shall be filed with the Borough's Affordable Housing Administrative Agent.
2. The Administrative Agent shall review and process the application.
3. In the event that there are more income-qualified applicants than there are funds available, preference shall be given to very-low income households.
4. If an applicant is certified and approved, the Administrative Agent shall notify the Borough's financial department of the intent to award the grant, and confirm the availability of funds.
5. The Administrative Agent shall prepare a draft resolution authorizing the award of the grant, specifying the amount of funds, the location and type of unit, and the specific affordability controls on the unit.
6. The Borough shall release the funds from the Affordable Housing Trust Fund to the participating landlord following the approval of the resolution.
7. The Administrative Agent shall notify the applicant of the awarding of funds, and record the assistance, and terms of the assistance, in the file for the affordable unit.

FUNDING AMOUNT AND PERIOD

The maximum amount of assistance that may be provided per applicant shall be equal to the contracted rent for one month. As this is a grant, there is no period of repayment. For low income households, a maximum of one award per term of the lease, or calendar year shall be permitted. For very low income households, a maximum of two awards per term of the lease, or calendar year, shall be permitted.

TERMS & REPAYMENT AGREEMENT

All funds distributed for emergency rental assistance shall be paid directly to the landlord and serve as payment for one month's contracted rent. No repayment of emergency rental assistance funding shall be required.

PROPERTY ELIGIBILITY

Any property that will serve as the prospective homebuyer's or renter's primary residence, and is located within the Borough of Fair Lawn is an eligible property type, including but not limited to the following:

- A single-family property (one-unit)
- A two- to four-unit property
 - If affordable housing trust funds are used to assist a purchaser to acquire one unit in a two- to four-unit property, and that unit will be the principal residence of the purchaser, the long-term affordability requirements apply to the assisted ownership unit only.
 - If affordable housing trust funds are used to help a purchaser acquire one or more rental units along with the homeownership unit, then rental affordability requirements shall apply to the rental units in addition.
- An apartment within a multi-family property
- A condominium unit
- A cooperative unit or a unit in a mutual housing project
- A manufactured house
 - At the time of completion, the manufactured housing must be connected to permanent utility hook-ups.
 - The manufactured housing unit must be located on land that is owned by the manufactured housing unit owner, or on land for which the manufactured housing unit owner has a lease.

INCOME ELIGIBILITY AND CERTIFICATION PROCEDURE

In order to be eligible for assistance, applicants must be determined to be income eligible. All adult members of the applying household 18 years of age and older must be fully certified as income-eligible before they can receive any assistance from the Program. The Program will income qualify applicants in accordance with the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-16.1 et seq., except for the asset test. The applicant's monthly housing payment shall not exceed 40% of the applicant's adjusted monthly gross income.

QUALIFIED INCOME SOURCES

The following are considered income and shall be included in the determination of the applicant's income eligibility:

- Wages, salaries, tips, commissions
- Regularly scheduled overtime
- Social Security
- Unemployment Compensation (verify # of weeks that are eligible to be received)
- Pensions
- Disability
- Alimony
- Verified regular child support (received)
- Any other forms of regular income reported to the Internal Revenue Service
- Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds
- Imputed interest (using a current average annual rate of 2%) from non-income producing assets, such as equity in real estate. Rent from real estate is considered income, after deduction of any mortgage payment, real estate taxes, property owner's insurance.
- TANF (Temporary Assistance for Needy Families)
- Net income from business or real estate
- Rent from real estate is considered income

UNQUALIFIED INCOME SOURCES

The following are not considered income and shall not be included in the determination of the applicant's income eligibility:

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- Court ordered payments for alimony or child support paid to another household shall be deducted from gross annual income
- Food stamps
- Rebates or credits received under low-income energy assistance programs
- Income of live-in attendants
- Student loans
- Part-time income of dependents enrolled as full time students
- Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements
- Payments received for foster care
- Relocation assistance benefits
- Scholarships
- Personal property such as automobiles

INCOME VERIFICATION

To calculate income, the current gross income of the applicant is used to project income over the next 12 months. Income verification documentation should include, but is not limited to, the following for each and every member of a household who is 18 years of age or older:

- Four current consecutive pay stubs, including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure, or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.
- A signed copy of regular IRS Form 1040 (Tax computation form), 1040A, or 1040EZ (as applicable) and state income tax returns filed for the last three years prior to the date of interview or notarized tax waiver letter for respective tax year(s).
- A form 1040 Tax Summary for the past three tax years can be requested from the local IRS Center or by calling 800-829-1040
- If applicable, a letter or appropriate reporting form verifying monthly benefits such as:
 - Social Security or SSI – current awards letter or computer printout letter
 - Unemployment – verification of unemployment benefits
 - Welfare – TANF current award letter
 - Disability – Worker’s compensation letter, or
 - Pension income (monthly or annually) – a pension letter
 - A letter or appropriate reporting to verify any other sources of income claimed by the applicant such as alimony or child support – copy of court

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order or recent original letter from the court (includes separation agreement or divorce papers) or education scholarship/stipends – current award letter.

- Reports from the last two consecutive months that verify income from assets to be submitted by banks or other financial institutions managing savings and checking accounts (bank statements and passbooks), trust funds, money market accounts, certificate of deposit, stocks or bonds (in brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates)

Examples: copies of all interest and dividend statements for savings accounts, interest and non-interest bearing checking accounts, and investments.

- Evidence or reports of income from directly held assets, such as real estate or businesses owned by any household member 18 years and older.
- Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.
- Current reports of assets – Market Value Appraisal or Realtor Comparative Market Analysis and Bank/Mortgage Co. Statement indicating current mortgage balance. For rental property attach copies of all leases.

VERIFYING STUDENT INCOME AND INCOME FROM REAL ESTATE

- *Student Income* – Only full-time income of full-time students is included in the income calculation. A full-time student is a member of the household reported to the IRS as a dependent who is enrolled in a degree seeking program for 12 or more credit hours per semester; and part-time income is income earned on less than a 35 hour work week.
- *Income from Real Estate* – If real estate owned by an applicant to the Program is a rental property, the rent is considered income. After deduction of any mortgage interest, real estate taxes, property owner insurance, and reasonable property management expenses as reported to the IRS, the remaining amount shall be counted as income.

OTHER ELIGIBILITY REQUIREMENTS

Applicants must also submit the following in the application package as applicable:

- Recorded deed to the property to be assisted;
- If you are a widow or widower, copy of Death Certificate should be included;
- Signed release form to verify eligibility determination from third party sources;
- Copy of any and all other liens recorded against property; and

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- Personal identification (a copy of any of the following: Driver's license, Passport, Birth Certificate, Social Security Card, Adoption Papers, Alien Registration card, etc.) for each household member.

ELIGIBILITY CERTIFICATION

After the Administrative Agent determines that the household is income eligible and meets all other eligibility requirements, the Administrative Agent will complete and sign the eligibility certification. This certification is valid for twelve (12) months starting from the date of eligibility certification.

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Appendix R – Resolution of the Planning Board Adopting HEPFSP

**IN THE MATTER OF THE HOUSING
PLAN ELEMENT AND FAIR SHARE
PLAN**

RESOLUTION __ - 2020

**A RESOLUTION OF THE PLANNING BOARD ADOPTING THE HOUSING PLAN
ELEMENT AND FAIR SHARE PLAN OF THE MASTER PLAN**

WHEREAS, the Borough of Fair Lawn Planning Board is a duly organized Planning Board “Planning Board”, in accordance with the New Jersey Municipal Land Use Law; and

WHEREAS, the Municipal Land Use Law at N.J.S.A. 40:55D-28 enables the Planning Board to prepare, and after public hearing, adopt or amend the Master Plan or component parts thereof, including a Housing Plan Element; and

WHEREAS, CME Associates has prepared a document entitled “Housing Plan Element & Fair Share Plan”, dated May 4, 2020, and has provided notice of the public hearing in accordance with N.J.S.A. 40:55D-13 and held the requisite public hearing on date 2020; and

WHEREAS, at the conclusion of the public hearing, the Planning Board voted to adopt the attached Housing Plan Element and Fair Share Plan as a component of the Borough’s municipal Master Plan; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board of the Borough of Fair Lawn, hereby adopts the Housing Plan Element and Fair Share Plan as a component of the Master Plan to satisfy the Borough’s fair share of affordable housing, as required by the Fair Housing Act.

Appendix S – Resolution of the Governing Body Endorsing HEPFSP

RESOLUTION __ - 2020

A RESOLUTION ENDORSING THE HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE BOROUGH OF FAIR LAWN

WHEREAS, the Borough of Fair Lawn (“Borough”) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Borough of Fair Lawn, County of Bergen, Docket No. BER-L-9222-18 (the “Litigation”) following the New Jersey Supreme Court’s decision in Mt. Laurel IV; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center on or about November 27, 2019 establishing the Borough’s Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Borough will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Court conducted a Fairness Hearing on January 6, 2020 and entered an order on January 27, 2020 approving the Settlement Agreements by and between the Borough and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to low and moderate-income households; and

WHEREAS, the Court Order approving the Settlement Agreements requires the Borough Planning Board to approve a Housing Plan Element and Fair Share Plan which outlines the Borough’s affordable housing strategy and the Borough Council to endorse the Housing Plan Element and Fair Share Plan; and

WHEREAS, the Fair Lawn Borough Planning Board approved the Housing Plan Element and Fair Share Plan prepared by CME Associates dated May 4, 2019 at the Planning Board meeting on **date** 2020 and it adopted a memorializing Resolution on **date**, 2020; and

WHEREAS, the Borough Council of the Borough of Fair Lawn believes it is in the best interest of the Borough to comply with the Court’s Order of Fairness and Preliminary Compliance dated January 27, 2020 by endorsing the Housing Plan Element and Fair Share Plan to obtain a Final Judgment of Compliance and Repose protecting the Borough from builder’s remedy litigation until July 1, 2025;

NOW, THEREFORE, BE IT RESOLVED, that Borough Council of the Borough of Fair Lawn, County of Bergen, State of New Jersey that it hereby endorses the Housing Plan Element and Fair Share Plan prepared by CME Associates dated May 4, 2020.