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IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF RUMSON, COUNTY OF MONMOUTH	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MONMOUTH COUNTY **DOCKET NO.: MON-L-2483-15** CIVIL ACTION – *MOUNT LAUREL* **ORDER APPROVING SETTLEMENT AGREEMENTS BETWEEN THE BOROUGH OF RUMSON AND FAIR SHARE HOUSING CENTER AND THE BOROUGH OF RUMSON AND YELLOW BROOK PROPERTY CO., LLC**

THIS MATTER having been opened to the Court by Surenian, Edwards & Nolan, LLC, attorneys for declaratory plaintiff, Borough of Rumson (hereinafter the "Borough" or "Rumson") via a Declaratory Judgment Complaint filed on July 2, 2015 to approve the Borough's Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), as may be amended, in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mount Laurel IV"); and the Court having granted the Borough immunity from all Mount Laurel lawsuits from the time of the filing of the Borough's Declaratory Judgment action (hereinafter "DJ Action") to the present; and the Court having appointed Frank J. Banisch, III, P.P., A.I.C.P., as the Special Mount Laurel Court Master (hereinafter the "Court Master"); and Fair Share Housing Center ("FSHC"), having participated in the Borough's DJ Action as an interested party; and FSHC's expert, David Kinsey, Ph.D., P.P., F.A.I.C.P., having issued an expert report that calculated fair share obligations for all of the

municipalities in the state; and the Borough having hired Econsult Solutions, Inc., which produced its own expert report calculating fair share obligations for all municipalities in the state; and the Borough's representatives and Kevin D. Walsh, Esq., of FSHC having entered into Court required confidential mediation supervised by the Court Master to try to agree on the magnitude of the Borough's Round 3 fair share obligation, and how the Borough would comply with same; and the Court having allowed Yellow Brook Property Co., LLC (hereinafter "Yellow Brook") to intervene in the DJ Action; and the Borough's representatives and Yellow Brook having entered into confidential mediation under the supervision of the Court Master; and the Borough's representatives and FSHC having agreed upon a form of Settlement Agreement, which was executed by Kevin D. Walsh, Esq., on behalf of FSHC (hereinafter the "FSHC Settlement Agreement," which is attached hereto as Exhibit P-1); and the Borough's representatives and Yellow Brook having agreed upon a form of Settlement Agreement, which was executed by Roger Mumford on behalf of Yellow Brook (hereinafter the "Yellow Brook Settlement Agreement," which is attached hereto as Exhibit P-3); and after a public presentation was held regarding both settlement agreements on January 14, 2020, the Borough Council having adopted resolutions (attached hereto as Exhibits P-2 and P-4) authorizing the Mayor of Rumson to execute the FSHC Settlement Agreement and the Yellow Brook Settlement Agreement, which he did; and the Court having originally set a date of March 12, 2020 for a Fairness Hearing to entertain approval of the settlement agreements, and to determine whether said settlements are fair, reasonable and adequately protect the interest of very low, low, and moderate income households; and the Borough having provided proper public and actual notice of the Fairness Hearing; and Rumson Open Space and Affordable Housing, Inc. (hereinafter "ROSAH") having objected to the settlement agreements and having asked for an adjournment of the Fairness Hearing, which the Court granted by moving the Fairness Hearing to March 26, 2020; and other residents of Rumson

having objected to the settlement agreements; and due to the Covid-19 virus nationwide emergency, the Court having adjourned the Fairness Hearing to begin instead on June 15, 2020; and the Court Master having submitted a report to the Court on April 10, 2020 (attached hereto as Exhibit P-5), in which he recommended that the Court approve both the FSHC Settlement Agreement and the Yellow Brook Settlement Agreement; and counsel for the Borough having prepared a Notice Certification, (attached hereto as Exhibit P-6), to document that proper public and direct notice of the Fairness Hearing had been given; and the Fairness Hearing having begun on June 15, 2020, having continued on June 22, 2020, July 9, 2020, July 15, 2020, and having concluded on July 20, 2020, during which Borough Exhibits P-1 to P-7, FSHC Exhibits FS-1 to FS-11, Yellow Brook Exhibits YB-1 to YB-6, and ROSAH Exhibits R-1a, R-2 to R-10 were marked into evidence; and the Court having considered the testimony taken, the objections made, and the comments of counsel during the Fairness Hearing; and the Court having reviewed all of the documents submitted into evidence during the Fairness Hearing, as well as all of the written objections that were filed with the Court; and the Court being satisfied that the parties are entitled to the relief sought; and good cause having been shown;

It is hereby ordered on this 29th day of July, 2020 as follows:

1. The Court finds and determines, pursuant to the judicial standards prescribed by the Appellate Division in East/West Venture v. Bor. Of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), and through analysis of the FSHC Settlement Agreement (attached hereto as Exhibit P-1) and the Yellow Brook Settlement Agreement (attached hereto as Exhibit P-3), the Court Master's report (attached hereto as Exhibit P-5), and on the basis of the testimony taken during the Fairness Hearing conducted in June and July of 2020; that the settlement agreements between FSHC and the Borough, and Yellow Brook and the Borough, are fair, reasonable and adequately protect the interest of very low, low, and moderate income households, the Court hereby approves the FSHC

Settlement Agreement and the Yellow Brook Settlement Agreement, which are attached hereto as Exhibits P-1 and P-3.

2. Within 120 days of the date of the Fairness Hearing, the Borough and its Planning Board shall (a) prepare, adopt and endorse a Housing Element and Fair Share Plan, which shall include a Spending Plan, and shall reflect all of the terms and conditions of the FSHC Settlement Agreement (Exhibit P-1), and will also satisfy all of the conditions listed in Attachment A on pages 20-21 of the Court Master's April 10, 2020 report (Exhibit P-5); and shall (b) submit at least thirty (30) days before the Compliance Hearing the adopted and endorsed Housing Element and Fair Share Plan, with all required supplementary documentation and adopted ordinances and resolutions needed to implement the plan, to the Court, the Court Master and FSHC for final review and recommendation by the Court Master for consideration of approval by the Court.

3. A Compliance Hearing to consider approval of the Borough's Housing Element and Fair Share Plan and the issuance of a Judgment of Compliance and Repose, which will provide the Borough and its Planning Board immunity from all Mount Laurel lawsuits, other than those brought to enforce the terms of the Settlement Agreements or the Court's orders through July 2, 2025, is scheduled for December 1, 2020 at 9:00 a.m.

4. The temporary immunity from all Mount Laurel lawsuits, including builder's remedy lawsuits, that is currently in place for the Borough and its Planning Board, will remain in place until one month after a final Compliance Hearing is completed.

5. As a result of the Settlement between the Borough and FSHC, the Borough's Rehabilitation Obligation is 29, the Borough's Prior Round Obligation (1987-1999) is 268 and the Borough's Gap (1999-2015) + Prospective Need (2015-2025) or Round 3 Obligation is 335. Said affordable housing obligations are hereby approved by the Court.

6. The Borough will address its Rehabilitation Obligation of 29 by working with Monmouth County, and by working with an entity to run a local rehabilitation program to rehabilitate units in the Borough in accordance with the requirements in the Court Master's report (Exhibit P-5) and the FSHC Settlement Agreement (Exhibit P-1).

7. The Borough prepared a Vacant Land Analysis (Appendix A to Exhibit P-1), and, as a result of that analysis, the Borough, FSHC and the Court Master have agreed that the Borough is entitled to a Vacant Land Adjustment such that it has combined Prior Round (1987-1999) and Round 3 (1999-2025) Realistic Development Potential (hereinafter "RDP") of 51, and a remaining portion of its combined Prior Round and Round 3 Obligations (hereinafter "Unmet Need") of 552. The Court hereby approves the Borough's RDP of 51.

8. The Borough will address its combined Prior Round (1987-1999) and Round 3 (1999-2025) RDP of 51 as follows:

Compliance Mechanisms 51 RDP Third Round Obligation (1999-2025)	VL Units Senior/SN	VL Units Family	Credits	Bonuses	Total
Market to Affordable					
Completed			2		2
Proposed			9		9
Inclusionary Development - Complete					
Washington Street (family rental)			1	1	2
Lafayette Mews (family rental)			2	2	4
100% Municipally Sponsored					
Carton Street: BCUW (4 SN beds + 10 family rentals)	2	3	14	10	24
North Street: BCUW (4 SN beds + 6 senior rentals)			10		10
Total Credits Provided	**2**	**3**	**38**	**13**	**51**
				Balance	**0**
Micro-requirements			**Required**		**Provided**
Min. Total Family- 50% of obligation-surplus-bonus			19		19
Min. Very Low Required - 13% of units developed after 7/17/2008			5		5
Min. Very Low Family Required- 50% of Total VL			3		3
Min. Total Rental - 25% of obligation			13		19
Min. Family Rental - 50% of total rental			7		13
Maximum Senior - 25% of obligation			12		6

9. The Borough will address its remaining combined Prior Round (1987-1999) and Round 3 (1999-2025) unmet need as follows:

a. Faith Institution Overlay Zone: The Borough will adopt an overlay zone that will require a twenty percent (20%) affordable housing set-aside over the Holy Cross Church (Block 104, Lot 1.01) at 6 du/acre, the First Presbyterian Church (Block 10, Lot 6) at 8 du/acre, Congregation B'Nai Israel (Block 81, Lot 6) at 6 du/acre.

b. Downtown GB/NB/POB Overlay Zone: The Borough will amend the existing overlay zone over the GB, NB and POB zones to expand the GB zone, permit three story mixed use development and permit multi-family development at 12 du/acre, all with a twenty percent (20%) affordable housing set-aside requirement.

c. R-2 Overlay Zone: The Borough will adopt an overlay zone on certain parcels in the R-2 district to permit multi-family housing (townhouse, duplex, triplex, quads) at a density of 3 du/acre on a minimum lot size of 3 acres, but with an affordable housing set-aside equal to what would be required at a density of 6 du/acre. The Borough will subsidize the affordable units associated with a density that exceeds 3 du/acre or will allow a density of 6 du/acre if funding is not made available. The overlay zone will require a twenty percent (20%) affordable housing set-aside.

d. R-4 Overlay Zone: The Borough will adopt an overlay zone on certain parcels in the R-4 district to permit multi-family housing (townhouse, duplex, triplex, quads) at a density of 8 du/acre on a minimum lot size of 1 acre. The overlay zone will require a twenty percent (20%) affordable housing set-aside.

e. R-5 Overlay Zone: The Borough will adopt an overlay zone on certain parcels in the R-5 district to permit multi-family housing (townhouse, duplex, triplex, quads) at a density of 12 du/acre on a minimum lot size of 1 acre. The overlay zone will require a twenty percent (20%) affordable housing set-aside.

f. 10 Accessory Apartment Units: The Borough will run an Accessory Apartment program to create up to 10 affordable Accessory Apartment units.

g. Mandatory Set-Aside Ordinance ("MSO"): The Borough will adopt a Borough-wide Mandatory Set-Aside Ordinance ("MSO"), which will require a twenty percent (20%) affordable housing set-aside for residential developments comprised of five (5) or more dwelling units.

h. Development Fee Ordinance: The Borough will continue to collect residential and non-residential development fees under an updated Development Fee Ordinance ("DFO").

10. All other terms and conditions in the FSHC Settlement Agreement (Exhibit P-1) and the Yellow Brook Settlement Agreement (Exhibit P-3) shall be adhered to, and all such terms and conditions are hereby incorporated by reference.

11. Counsel for the Borough shall provide copies of this Order to all counsel of record and to the Court Master within seven (7) days of receipt.

/s/Linda Grasso Jones, J.S.C.

Hon. Linda Grasso Jones, J.S.C.