



THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

RUMSON BOROUGH | MONMOUTH COUNTY, NEW JERSEY



November 2020

Amended: September 2023



AMENDED

THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

ADOPTED BY THE PLANNING BOARD: OCTOBER 2, 2023

ENDORSED BY THE MAYOR & COUNCIL: OCTOBER 10, 2023

PREPARED BY:

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A SIGNED AND SEALED ORIGINAL IS ON FILE WITH THE BOROUGH CLERK



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INTRODUCTION & EXECUTIVE SUMMARY

Since the 1975 New Jersey Supreme Court decision known as “Mount Laurel I”, New Jersey municipalities have had a constitutional obligation to provide opportunities for creation of low and moderate housing units. This 1975 decision led to a body of case law, legislative changes, and rulemaking by a state agency that, collectively, is now referred to as the “Mount Laurel doctrine”. Through these actions, New Jersey municipalities have been assigned a specific number of affordable housing units that must be created or planned for creation in order to have “satisfied” their constitutional obligation, commonly referred to as their affordable housing obligation. The purpose of this Housing Element and Fair Share Plan (hereinafter the “Plan”) is to present how Rumson Borough will satisfy its affordable housing obligation.

Affordable housing in New Jersey is defined as housing units which are reserved for households with incomes not more than 80% of the regional median income. Each affordable unit, with limited exceptions, must remain reserved for very-low-, low-, and moderate-income households for not less than 30 years and it is typically enforced by a deed restriction. Each affordable unit is eligible for one “credit” against the obligation and certain units are eligible for “bonus credits”, which provide more than one credit per unit. In addition to providing the minimum number of credits, municipalities must ensure diversity in the level of affordability – meaning very-low-, low- and moderate-income units – and diversity in the size of affordable units – meaning one-, two- and three-bedroom units.

Participation in this process, and therefore satisfaction of the affordable housing obligation, can be achieved voluntarily or involuntarily. However, voluntary compliance is heavily incentivized. Municipalities that do not successfully participate may be vulnerable to “builder’s remedy” litigation. A builder’s remedy is a litigation tool that could grant a developer the right to develop what is typically a multi-family project on land that was not zoned to permit the use or the residential density desired by the developer, provided a “substantial” percentage of the units are reserved for low and moderate income households and the developer’s site is “suitable”. Rumson Borough has a final Judgment of Compliance and Repose for the Third Round which gives the Borough immunity from all Mount Laurel lawsuits, including builder’s remedy lawsuits, until July of 2025..

This Plan supersedes all previously adopted housing plans. It has been prepared pursuant to a January 14, 2020 Settlement Agreement between Rumson Borough and Fair Share Housing Center (hereinafter “FSHC”), as was amended in December of 2020, that sets forth the Borough’s affordable housing obligation and a preliminary plan for how it would be satisfied. FSHC is an interested party in the Borough’s Declaratory Judgment filed in Superior Court on July 2, 2015 as permitted by the March 10, 2015 New Jersey Supreme Court decision known as In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) “Mount Laurel IV.” This Supreme Court decision determined that the Council on Affordable Housing (“COAH”) was “moribund” and created a transitional process for municipalities to determine their affordable housing obligation and seek compliance in the State’s trial courts, as opposed to the COAH performing that



function. This Plan will serve as the foundation for the Borough’s application to the Superior Court in Monmouth County for an Amendment to its current Judgment of Compliance Repose Order.

This Plan results from a court-approved Settlement Agreement between the Rumson Borough and Fair Share Housing Center as was amended. Rumson Borough filed a complaint for Declaratory Judgement in Superior Court on July 2, 2015, seeking a declaration of compliance with the Mount Laurel Doctrine and the Fair Housing Act of 1985 (FHA). The Borough agreed to settle the litigation with FSHC and a developer interested party in an effort to avoid delays and move forward with creating a realistic opportunity for the production of housing units affordable to very-low-, low-, and moderate-income households regarding the Borough satisfying its Realistic Development Potential, and also regarding the Borough addressing its remaining “unmet need” obligation. After much negotiation, the Borough entered into the Settlement Agreement with FSHC in January of 2020 as was subsequently amended that sets forth the Borough’s affordable housing obligations, and how said obligations would be satisfied pursuant to Mount Laurel IV, the FHA, and applicable COAH Prior Round Regulations.

As detailed in this Housing Plan, Rumson Borough – like all New Jersey municipalities – has three components of its Court approved affordable housing obligation. Each component of the obligation is identified below.

- Rehabilitation Obligation: 29 units
The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Rumson Borough occupied by low- and moderate-income households.
- Prior Round Obligation: 268 units
The Prior Round obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation.
- Third Round Obligation: 335 units
The Third-Round obligation can be defined as the cumulative 1999 through 2025 new construction affordable housing obligation. This includes the “gap present need” from 1999 through 2015 and the “prospective need” from 2015 through 2025.

Due to the total Prior Round and Third Round obligations being outsized as compared to the availability of developable land in Rumson Borough, the Borough applied a vacant land adjustment that reflects a Realistic Development Potential (hereinafter “RDP”) and a remaining unmet need. The RDP represents the portion of the new construction affordable housing obligation that can theoretically be addressed with inclusionary development (defined as a mix of market and affordable units) on lots identified as being developable in the Vacant Land Analysis (“VLA”). The unmet need is calculated as the difference between the total obligation and the RDP.

The Borough’s vacant land adjustment resulted in a combined Prior Round and Third Round Court approved RDP and unmet need of the following:

- RDP: 51 units



- Unmet Need: 552 units

The Borough will fully satisfy its Rehabilitation Obligation through a newly created Borough Rehabilitation program.

As detailed in this Plan and summarized below, the Borough will utilize a variety of sites and housing types to meet the 51-unit RDP.

- Inclusionary Development: Three (3) existing family rental affordable housing units were created through two inclusionary developments. The Borough can claim three (3) rental bonus credits toward the RDP obligation.
- Yellow Brook Inclusionary Zoning/100% Affordable Housing/Municipally Sponsored program: The Borough provided inclusionary zoning for two parcels under contract or owned outright by Yellow Brook, an interested party developer in which a settlement agreement was reached to provide affordable housing. The settlement agreement was subsequently approved by the Court at a properly noticed Fairness Hearing, which was memorialized by an Order entered by the Court on July 29, 2020. See Appendix 1. In lieu of providing the required affordable housing set-aside on the parcels that are in a low-density zoning district, the developer is contributing an in-lieu contribution to the Borough's Affordable Housing Trust Fund, and has also donated the Carton Street site, which will be developed with affordable housing. The contributed funds and the parcel donated by Yellow Brook will permit the Borough to partner with a non-profit affordable housing developer to construct a 100% affordable housing development consisting of twelve (12) age-restricted rental units.
- 100% Affordable Housing/Municipally Sponsored development – scattered sites: The Borough will partner with non-profit affordable housing developers to construct 100% affordable housing developments consisting of four (4) affordable family units and four (4) supportive and special needs bedrooms on several parcels that the Borough owns and will donate to the non-profit developers.
- West River Road 100% Affordable Housing/Municipally Sponsored program: The Borough purchased 49 West River Road (Block 25, Lot 4) which will be used as the site for a 100% affordable family rental project providing thirteen (13) units. The Borough can claim ten (10) rental bonus credits toward the RDP obligation for this site.

Adoption of this Housing Element and Fair Share Plan and complete implementation of the mechanisms described above to meet the affordable housing obligation will yield an amendment to the Borough's final Judgment of Compliance and Order of Repose from Superior Court, which will continue to protect the Borough from all Mount Laurel lawsuits, including builder's remedy litigation through, July 1, 2025.



AFFORDABLE HOUSING IN NEW JERSEY

In its landmark 1975 decision, now referred to as “Mount Laurel I”, the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide a variety and choice of housing types affordable to low- and moderate-income households. In its 1983 “Mount Laurel II” decision, the NJ Supreme Court extended the regional fair share obligation to all municipalities with any “growth area” as designated in the State Development Guide Plan (NJDCG 1978) and determined that each municipality would have to establish its fair share obligation and provide zoning mechanisms to create a realistic opportunity for fulfillment of the fair share obligation. Mount Laurel II also gave developers, under appropriate circumstances, the opportunity to secure a builder’s remedy. A builder’s remedy is a litigation tool that grants a developer the right to develop what is typically a multi-family project on land that was not zoned to permit the use, or the residential density desired by the developer, provided a “substantial” percentage of the units are reserved for low- and moderate-income households and the developer’s site is suitable.

In 1985, the Legislature enacted the FHA in response to Mount Laurel II. The FHA created the COAH, an administrative alternative to compliance in a court proceeding. The Legislature conferred “primary jurisdiction” on COAH and charged COAH with promulgating regulations to establish housing regions, to estimate the state’s low- and moderate-income housing needs, set criteria and guidelines for municipalities to determine and satisfy their affordable housing obligation, and to create a process for the review and approval of appropriate housing elements and fair share plans. Approval of a municipal housing element and fair share plan by COAH is referred to as “substantive certification” and it provides protection from exclusionary zoning litigation during the time period which the housing element and fair share plan addresses (i.e., the round).

Activity From 1987 - 1993

COAH created the criteria and guidelines for municipalities to determine and address their respective affordable housing obligation. COAH originally established a formula for determining municipal affordable housing obligation for the six-year period between 1987 and 1993 (N.J.A.C. 5:92-1 et seq.), which became known as the “First Round.” These rules established the First-Round rehabilitation obligation (also referred to as the “present need”) and the First-Round new construction obligation.

The First-Round formula was superseded by COAH regulations in 1994 (N.J.A.C. 5:93-1.1 et seq.). The 1994 regulations recalculated a portion of the first round 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 U.S. Census data. The regulations COAH adopted in 1994 to identify a municipality’s “cumulative” obligations for the First and Second Rounds are known as “the Second Round” or “Prior Round” regulations. Under regulations adopted for the Third Round, the obligation of municipalities to create new affordable housing for the First and Second Rounds is referred to as the “Prior Round” obligation. This



Plan refers to the new construction obligation for the First and Second housing cycles as the “Prior Round” obligation.

Activity From 1999 - 2011

On December 20, 2004, COAH’s first version of the Third-Round rules became effective some five years after the end of the Second Round in 1999. At that time, the Third Round was defined as the period from 1999 to 2014 but condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The Third-Round rules marked a significant departure from the methods utilized in COAH’s Prior Round. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These Third-Round rules implemented a “growth share” approach that linked the production of affordable housing to residential and non-residential development within a municipality.

However, on January 25, 2007, the New Jersey Appellate Court decision, In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1, invalidated key elements of the first version of the Third-Round rules, including the growth share approach. The Court ordered COAH to propose and adopt amendments to its rules within six months to address the deficiencies identified by the Court. COAH missed this deadline but did issue revised rules effective on June 2, 2008 (as well as a further rule revision effective on October 20, 2008). COAH largely retained the growth share approach, but implemented several changes intended to create compliance with the 2007 Appellate Court decision. Additionally, the Third Round was expanded from 2014 to 2018.

Just as various parties challenged COAH’s initial Third Round regulations, parties challenged COAH’s 2008 revised Third Round rules. On October 8, 2010, the Appellate Division issued its decision, In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462, with respect to the challenge to the second iteration of COAH’s third round regulations. The Appellate Division upheld the COAH Prior Round regulations that assigned rehabilitation and Prior Round numbers to each municipality but invalidated the regulations by which the agency assigned housing obligations in the Third Round. Specifically, the Appellate Division ruled that COAH could not allocate obligations through a “growth share” formula. Instead, COAH was directed to use similar methods that had been previously used in the First and Second rounds. The Court gave COAH five months to address its ruling and provide guidance on some aspects of municipal compliance.

In addition to the State agency activity and judicial decisions, the New Jersey Legislature has amended the Fair Housing Act. On July 17, 2008, Governor Corzine signed P.L. 2008, c. 46 (referred to as the “Roberts Bill”, or “A500”), which amended the Fair Housing Act. Key provisions of the legislation included the following:

- It established a statewide 2.5% nonresidential development fee instead of requiring nonresidential developers to provide affordable housing;



- It eliminated new regional contribution agreements (hereinafter “RCAs”) as a compliance technique available to municipalities whereby a municipality could transfer up to 50% of its fair share to a so called “receiving” municipality;
- It added a requirement that 13% of all affordable housing units and 13% of all similar units funded by the state’s Balanced Housing Program and its Affordable Housing Trust Fund be restricted to very low-income households (30% or less of median income); and
- It added a requirement that municipalities had to commit to spend development fees within four (4) years of the date of collection after its enactment, which commenced on the four-year anniversary of the law (July 17, 2012).

These amendments to the FHA are not promulgated in any valid COAH regulations or the Uniform Housing Affordability Controls Act (“UHAC”). However, the requirement to expend development fees within four-years of their collection was determined in a Middlesex County Superior Court case to instead have the first four-year period to begin upon a Judgment of Repose, or upon a finding by the Court that the municipality is determined to be non-compliant (IMO of the Adoption of the Monroe Borough Housing Element and Fair Share Plan and Implementing Ordinances). Superior Courts around the State have been guided by this decision.

Activity from 2011 to the Present

COAH sought a stay from the New Jersey Supreme Court of the March 8, 2011 deadline that the Appellate Division imposed in its October 2010 decision for the agency to issue new Third Round housing rules. The New Jersey Supreme Court granted COAH’s application for a stay and granted petitions and cross-petitions to all the various challenges to the Appellate Division’s 2010 decision. The New Jersey Supreme Court heard oral argument on the various petitions and cross-petitions on November 14, 2012.

On September 26, 2013, the New Jersey Supreme Court upheld the Appellate Court decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013), and ordered COAH to prepare the necessary rules. Subsequent delays in COAH’s rule preparation and ensuing litigation led to the New Jersey Supreme Court, on March 14, 2014, setting forth a schedule for adoption.

Although ordered by the New Jersey Supreme Court to adopt revised new rules on or before October 22, 2014, COAH deadlocked 3-3 at its October 20, 2014 meeting and failed to adopt the draft rules it had issued on April 30, 2014. In response, FSHC filed a motion in aid of litigant’s rights with the New Jersey Supreme Court, and oral argument on that motion was heard on January 6, 2015.

On March 10, 2015, the New Jersey Supreme Court issued a ruling on the Motion In Aid of Litigant’s Rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1, aka “Mount Laurel IV”). This long-awaited decision provides a new direction for how New Jersey municipalities are to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges. The implication of this is that municipalities could no longer wait for COAH to adopt Third Round



rules before preparing new Third Round housing elements and fair share plans and municipalities must now apply to the Courts, instead of COAH, if they wished to be protected from exclusionary zoning lawsuits. These trial judges, with the assistance of an appointed Special Master to the Court, review municipal plans in accordance with the established COAH regulations.

While the New Jersey Supreme Court’s decision set a process in motion for towns to address their Third-Round obligations, it did not assign those obligations. Instead, it ordered the trial courts to determine the obligation. However, the New Jersey Supreme Court did direct that the method of determining municipal affordable housing obligations were to be “similar to” the methodologies used in the First and Second Round rules. Additionally, the Court stated that municipalities should rely on COAH’s Second Round rules (N.J.A.C. 5:93) and certain components of COAH’s 2008 regulations that were specifically upheld, as well as the Fair Housing Act (N.J.S.A. 52:27D – 301 et seq.), in their preparation of Third Round housing elements and fair share plans. This plan is prepared in response to and in compliance with the March 10, 2015 New Jersey Supreme Court decision.

FSHC, the only public interest advocacy organization in New Jersey devoted exclusively to promoting the production of housing affordable to low- and moderate-income households, was permitted to serve as an interested party in every municipal Declaratory Judgment Action. In this role the organization calculated municipal affordable housing obligations and offered to settle with municipalities. Such settlements addressed the municipal affordable housing obligation, compliance mechanisms and other terms intended to promote affordable housing production. Most municipalities that filed a Declaratory Judgment Action have found settlement with FSHC to be in the interest of their community and the very-low-, low-, and moderate-income households that will become part of their community. The alternative to settlement with FSHC is conducting a lengthy and expensive trial in Superior Court to determine the municipal affordable housing obligation.

On January 17, 2017, the New Jersey Supreme Court rendered a decision, In Re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), that found that the “gap period,” defined as 1999-2015, generates an affordable housing obligation. This obligation requires an expanded definition of the municipal Present Need obligation to include low- and moderate-income households formed during the gap period; however, this component of the obligation is a new-construction obligation rather than a rehabilitation obligation, including a determination of a municipality’s RDP if applicable, which would in turn be followed by a second trial to determine how the municipality would satisfy its affordable housing obligations.

Accordingly, the municipal affordable housing obligation is now composed of the following 4 parts:

- Present Need (rehabilitation),
- Prior Round (1987-1999, new construction),
- Gap Present Need (Third Round, 1999-2015, new construction), and
- Prospective Need (Third Round, 2015 to 2025, new construction).



While the structure of the obligation established through the Borough's Settlement Agreement with FSHC is different from the findings of this recent Supreme Court decision (i.e. no redefined Present Need (1999-2015) and a Prospective Need (specific to 2015-2025), the Borough's obligation therein reflects that which was calculated for the entire Third Round period (1999-2025).

The Compliance Process

With the Supreme Court's direction that such responsibility must transfer from COAH to Superior Court Trial Judges, municipalities may no longer seek substantive certification. Instead, municipalities now seek a JOR order from Superior Court or the judicial equivalent of substantive certification. Doing so first requires that a Complaint for Declaratory Judgment be filed in Superior Court, which asks the Court to approve a municipality's plan as may be amended.

Most municipalities who filed for Declaratory Judgment, including Rumson Borough, settled with FSHC. This means a Settlement Agreement, agreed to by both parties, sets forth the Affordable Housing Obligation, preliminary compliance mechanisms and other terms intended to promote affordable housing production. This Settlement Agreement must be approved by Superior Court at a "Fairness Hearing" where the Settlement Agreement is evaluated to determine if it is fair to the interests of low- and moderate-income households¹.

Once determined to be "fair" via the issuance of a Court Order, a municipality must adopt and endorse a housing element and fair share plan that reflects the terms of the Settlement Agreement. This housing plan must be subsequently submitted to Superior Court for its review and approval. Should the Court find the plan acceptable, the municipality will receive a Judgment of Compliance and Repose Order, which provides immunity from all Mount Laurel lawsuits including builder's remedy litigation for the remaining portion of the third round, which ends on July 1, 2025. This is equivalent to COAH's substantive certification. To maintain the validity of the Order, the municipality is required to conduct the necessary continued implementation and monitoring.

Aiding in the Judge's evaluation of the Settlement Agreement is a Special Master appointed by the Judge. This person serves at the direction of the Judge, including preparation of reports at each step in the process, and may serve as a mediator between the municipality, FSHC, and/or other intervenors.

¹ These settlement agreements are evaluated according to guidelines established by the Court in two principal cases: Morris County Fair Housing Council v. Boonton Twp., 197 N.J. Super. 359, 369-71 (Law Div. 1984), and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996).



AFFORDABILITY REQUIREMENTS

Affordable housing is defined under New Jersey's FHA as a dwelling, either for sale or rent, that is within the financial means of households of very-low-, low-, or moderate-income, as is measured within each housing region. Rumson Borough is in COAH's Region 4, which includes Mercer, Monmouth, and Ocean counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of the regional median income. Low-income households are those with annual incomes that are 50% or less than the regional median income. Very-low-income households are a subset of "low-income" households and are defined as those with incomes 30% or less than the regional median income.

UHAC at N.J.A.C. 5:80-26.3(d) and (e) requires that the maximum rent for a qualified unit be affordable to households with incomes 60% or less than the median income for the region. The average rent must be affordable to households with incomes no greater than 52% of the median income. The maximum sale prices for affordable units must be affordable to households with incomes 70% or less than the median income. The average sale price must be affordable to a household with an income of 55% or less than the median income.

The regional median income is defined by COAH using the federal income limits established by Department of Housing and Urban Development (hereinafter "HUD") on an annual basis. In the spring of each year, HUD releases updated regional income limits, which COAH reallocates to its regions. It is from these income limits that the rents and sale prices for affordable units are derived. Said income limits post Mount Laurel IV are now set by Court Order.

To update income limits, the Borough will rely on the Order entered for all of Monmouth County on April 18, 2019 by the Monmouth County Superior Court, which establishes the criteria to follow to annually update income limits. The criteria adhere to COAH's Prior Round methodologies, the key aspects of which are outlined below and are to be utilized by Rumson pursuant to the Settlement Agreement.

Income limits for all units that are part of the Borough's Housing Element and Fair Share Plan, excluding those which income limits are already established through a federal program, shall be updated by the Borough as HUD publishes median incomes and income limits as follows:

- Regional income limits shall be established for the region that the Borough is located within (i.e., Region 4) 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 (4) is multiplied by the estimated 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 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 (4).



- The income limit for a moderate-income unit for a household of four (4) shall be 80% of the regional weighted average median income for a family of four (4). The income limit for a low-income unit for a household of four (4) shall be 50% of the HUD determination of the regional weighted average median income for a family of four (4). The income limit for a very low-income unit for a household of four (4) shall be 30% of the regional weighted average median income for a family of four (4). 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.
- 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 the methodology outlined 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.

For 2020, the Affordable Housing Professionals of New Jersey (“AHPNJ”) and FSHC have jointly developed updated income limits for all housing regions in New Jersey, which were calculated using the methodology outlined above. As approved by the Court, these income limits for Region 4 will be utilized for Rumson. See Table 1 for 2023 income limits for Region 4.

Table 1: 2023 Income Limits for Region 4					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Moderate	\$78,032	\$83,234	\$93,639	\$108,205	\$112,367
Low	\$48,770	\$52,022	\$58,524	\$67,628	\$70,229
Very Low	\$29,262	\$31,213	\$35,115	\$40,577	\$42,137
<i>Source: 2023 Income Limits prepared by Affordable Housing Professionals of New Jersey.</i>					



The following tables provide illustrative sale prices and gross rents for 2023. The sample rents and sale prices are illustrative and are gross figures, which do not account for the specified utility allowances for rental units or for specific mortgage rates, taxes, etc. for sales units.

Table 2: Illustrative 2023 Affordable Gross Rents for Region 4			
Household Income Levels (% of Median Income)	1-Bedroom Unit Rent	2-Bedroom Unit Rent	3-Bedroom Unit Rent
Moderate	\$1,317	\$1,570	\$1,800
Low	\$1,073	\$1,570	\$1,462
Very Low	\$586	\$692	\$785

Source: 2023 Affordable Housing Pricing Calculator: Council on Affordable Housing Affordable Housing Calculator prepared by Affordable Housing Professionals of New Jersey.

Table 3: Illustrative 2023 Affordable Sales Prices for Region 4			
Household Income Levels (% of Median Income)	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
Moderate	\$190,029	\$229,913	\$267,137
Low	\$133,053	\$161,541	\$188,130
Very Low	\$118,909	\$144,448	\$168,378

Source: 2023 Affordable Housing Pricing Calculator: New Jersey Council on Affordable Housing Affordable Housing Pricing Calculator prepared by Affordable Housing Professionals of New Jersey.



AFFORDABLE HOUSING IN RUMSON BOROUGH

To comply with COAH's 2004 Third Round regulations, the Borough adopted a Housing Element and Fair Share Plan on December 5, 2005 which was endorsed by the Borough governing body on December 15, 2005 (hereinafter "the 2005 Plan"). The 2005 Plan was submitted to COAH for substantive certification as a response to the Prior Round and Third Round affordable housing obligations and followed COAH's applicable third round rules at that time.

COAH adopted a second iteration of substantive rules (N.J.A.C. 5:97-1 et seq.) that became effective in May 2008 and were further amended in October 2008. In addition, in July 2008 the Governor signed into law Assembly Bill A-500 (P.L.2008, c.46) that made further changes to COAH's regulations and requirements. Therefore, the Borough revised its previously adopted 2005 Plan to conform to the new regulatory and statutory requirements.

On December 17, 2008, in response to COAH's publication of new proposed Third Round regulations on January 22, 2008, the Borough Planning Board adopted an Amended Third Round Housing Element and Fair Share Plan (the "2008 Plan"). The Borough Council endorsed the 2008 Plan on the same day. The Borough then submitted the 2008 Plan to COAH and sought its approval of same.

FSHC filed an objection to the adopted 2008 Plan on April 10, 2009 relating to the RDP analysis within the 2008 Plan. COAH issued a pre-mediation report on September 4, 2009 after review of the FSHC objection and the Borough response and assigned an RDP of 4 units. Mediation ensued but did not end in a conclusion between the two parties.

COAH issued a Mediation Report on August 5, 2010 indicating that FSHC chose to not continue in mediation discussions. FSHC filed a motion on August 18, 2010 for a contested case hearing. On August 30, 2010, the Borough re-petitioned COAH with an amended Housing Element and Fair Share Plan ("the 2010 Plan"), that incorporated the suggestions from COAH's staff.

On March 24, 2011, COAH issued an opinion denying FSHC's motion for a contested hearing and ordered COAH staff to proceed with the review of the Borough's 2010 Plan. Objections were not filed in response to the 2010 Plan. COAH approved the Borough's Spending Plan on May 26, 2011 and an amended Spending Plan on July 12, 2012, allowing the Borough to utilize funds to ensure affordable housing units were constructed to address the four (4) unit RDP. On January 9, 2014, COAH approved an Amended Spending Plan.

Before COAH could grant the Borough Substantive Certification, however, COAH's Third Round rules were



partially invalidated by the Appellate Division, a decision that was upheld by the New Jersey Supreme Court on September 26, 2013.

To comply with the March 10, 2015, Mount Laurel IV decision, Rumson Borough petitioned the Superior Court on July 2, 2015, for a Declaratory Judgment and simultaneously filed a motion for temporary immunity from all Mount Laurel lawsuits, including builder's remedy lawsuits. This action entered the Borough into the process of determining its affordable housing obligations and how such obligations would be satisfied. The Superior Court subsequently granted the Borough's Motion for Immunity from all Mount Laurel lawsuits, including Builder's Remedy lawsuits, and through a series of additional orders, said immunity is still in full force and effect.

To avoid a lengthy and expensive trial on determining the Borough's affordable housing obligations, including a determination of the Borough's RDP, and, a second trial on how said obligations would be satisfied, and under pressure from the Court to settle the matter, the Borough and FSHC came to terms in a January 14, 2020 Settlement Agreement (hereinafter the "January 2020 FSHC Settlement Agreement"). The January 2020 FSHC Settlement Agreement set forth the Borough's affordable housing obligations and preliminary compliance plan and included terms regarding the separate Settlement Agreement between the Borough and developer Yellow Brook, which was entered into on January 16, 2020 (hereinafter "Yellow Brook Settlement Agreement"). Both Settlement Agreements were approved by the Honorable Linda Jones-Grosso during a properly noticed Fairness Hearing, a decision that was memorialized in an Order entered by the Court on July 29, 2020.

A First Amendment to the FSHC Settlement Agreement was entered into on December 18, 2020 and the November 2020 Housing Plan and Fair Share Plan implemented the Borough's December 2020 settlement agreement with FSHC as amended. A combined Fairness and Compliance Hearing was held on February 9, 2021. Judge Jones entered an order on February 24, 2021 approving the First Amendment to the FSHC Settlement Agreement and the Borough's Fair Share Plan through the grant of a conditional Judgment of Compliance and Repose. Another Compliance Hearing was held on May 20, 2021 to review compliance with the short-term conditions of the conditional Judgment of Compliance and Repose. Judge Jones, finding the short-term conditions were met, issued a final order for Judgment of Compliance and Response on June 1, 2021 granting approval of the Borough's Fair Share Plan. Since that time, the Borough has entered two Consent Orders with FSHC, which amended the June 1, 2021 final order and adjusted the bedroom and affordability mixes in some of the affordable housing projects in the Borough. Said changes have been made a part of this amendment to the Housing Element and Fair Share Plan where still applicable.

This amendment to the Housing Element and Fair Share Plan is a result of the Borough purchasing a parcel for the purposes of providing a municipally sponsored 100% affordable housing project. The Borough purchased the property in response to recent market conditions that did not make the nine (9) unit market-to-affordable program realistic for credits against the Borough's Realistic Development Potential (RDP) obligation.



CONSIDERATION OF LAND MOST APPROPRIATE FOR AFFORDABLE HOUSING

As part of this Plan, the Borough has considered land that is appropriate for the construction of low- and moderate-income housing. Although the Borough has limited available and developable land, the Borough successfully satisfied its affordable housing obligation using the Vacant Land Adjustment process and a variety of zoning mechanisms that have or will create low- and moderate-income housing.

In addition to considering vacant land for the creation of affordable housing, the Borough amended its zoning to create overlay zones that provide opportunities to capture very-low, low- and moderate-income housing in future inclusionary development and contribute toward the Borough's unmet need. Additionally, adoption of the Mandatory Set-Aside ordinance ensures unforeseen opportunities for affordable housing are captured.

Through negotiations, a site on Buena Vista Avenue was offered by Yellow Brook but rejected by the Borough as the RDP was successfully satisfied without the need for the Buena Vista Avenue site. Aside from the Buena Vista Avenue site and the sites and projects described in the Plan, no property owner or developer offered a site for inclusion in the Borough's Plan. The Borough believes that the mechanisms proposed in this Plan represent the best options for affordable housing in Rumson Borough. The mechanisms address the Borough's affordable housing obligations as established through the Court approved January 2020 Settlement Agreement as amended. While the Borough recognizes that developers may, in the future, present sites that possess characteristics that could lend themselves to affordable housing development, additional sites are not needed to satisfy the Borough's obligations at this time.

RUMSON BOROUGH'S AFFORDABLE HOUSING OBLIGATION

Since the January 2017 New Jersey Supreme Court ruling on the "gap period", housing plans must address four main components of a municipality's affordable housing obligation. These include the Rehabilitation Obligation to improve substandard housing occupied by low- and moderate-income households, the Prior Round for new construction from 1987 to 1999, the Gap Period Present Need for new construction from 1999 to 2015, and the Prospective Need, or the future new construction demand from 2015 to -2025. In this housing plan, the Gap Period Present Need and Prospective Need are collectively referred to as the Third Round Obligation (1999-2025).

Rehabilitation Obligation

The Rehabilitation Obligation can be defined as an estimate of the number of deteriorated housing units existing in Rumson Borough that are occupied by very-low-, low-, and moderate-income households. The Settlement Agreement with FSHC establishes the Borough's rehabilitation obligation as 29 units. The basis



for this obligation is FSHC's May 2015 calculations, which used the most recent decennial census year, 2010, as the point in time in determining the number of deteriorated housing units.

Prior Round Obligation

The Prior Round obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. This period corresponds to the First and Second Rounds of affordable housing. The Settlement Agreement with FSHC establishes the Borough's Prior Round obligation as 268 units. The Settlement Agreement adheres to the Prior Round obligations, as calculated in 1993-1994, and published by COAH in 2008.

Third Round Obligation

The Borough's Third Round Obligation consists of the Gap Period Present Need (1999-2015) and the Prospective Need (2015-2025) future demand for affordable housing includes the portion of the Third Round (1999- 2015). As established by the Borough's 2019 Settlement Agreement with FSHC, Rumson Borough's total Third Round obligation (1999-2025) is 335 units.

Vacant Land Adjustment

Through the Settlement Agreement with FSHC and the associated Order approving said Settlement Agreement, the Borough received a Vacant Land Adjustment. A Vacant Land Analysis, which was what the Court Master reviewed and approved prior to the Court approving the Borough's Vacant Land Adjustment, is attached to the Court approved Settlement Agreement between the Borough and FSHC as an exhibit. The Vacant Land adjustment divided the combined Prior Round and Third Round obligations (268-units and 335-units respectively) into a 51-unit Realistic Development Potential and a 552-unit Unmet Need. This Vacant Land Analysis was performed consistent with the applicable COAH rules (N.J.A.C. 5:93-4.2) and reflects the amount of developable land in the Borough, as defined by COAH, that could be theoretically developed with inclusionary housing.

However, due to limited vacant and developable land that is within the Borough's land use jurisdiction, the Vacant Land Analysis concluded that the Borough qualifies for a Vacant Land Adjustment. A Vacant Land Adjustment is an adjustment to the Borough's combined Prior Round and Third Round obligations (the new construction affordable housing obligation) due to the lack of vacant and developable land. The downward adjusted new construction affordable housing obligation that results from a Vacant Land Adjustment is known as the Realistic Development Potential or RDP. The RDP represents the portion of the new construction affordable housing obligation that can realistically be addressed with inclusionary development on lots identified in the Vacant Land Analysis.

To calculate the Borough's potential Vacant Land Adjustment, all vacant properties, underutilized properties, and areas that are likely to redevelop were analyzed.



The second step of a Vacant Land Analysis is to narrow the list of identified properties to only those that contain sufficient developable area to create five (5) dwelling units where there is a minimum density of six (6) units an acre (0.8 acres). Developable land is generally defined as the developable portion of land free of wetlands, other site constraints or historic structures. A determination was made that a minimum density of six (6) units to twenty (20) units an acre was appropriate to be applied to the developable vacant properties based upon the location of the vacant parcel.

The Vacant Land Analysis conducted by this office found ten (10) lots which should contribute toward the RDP. The Vacant Land Analysis provides for 51 units of RDP, which has been approved by the Court.

SATISFACTION OF THE AFFORDABLE HOUSING OBLIGATION

The Borough is addressing its affordable housing obligation through a variety of mechanisms that include existing affordable units, inclusionary housing, 100% affordable housing and municipally sponsored projects, market to affordable program and overlay zones. Except for 49 West River Road site, all of the following Borough affordable housing obligations have been approved by the Court.

Satisfaction of the Rehabilitation Obligation

Rumson Borough's Rehabilitation Obligation is 29 units. The Borough is addressing this obligation through a municipally run rehabilitation program. The Borough created a Borough Rehabilitation Program to provide funding to income-eligible homeowners and/or landlords to repair major systems in their home or rental property. All rehabilitated units will comply with the definition of a substandard unit in N.J.A.C. 5:93-5.2(b), which states, "a unit with health and safety code violations that require the repair or replacement of a major system."

Major systems include weatherization, roofing, plumbing, heating, electricity, sanitary plumbing, lead paint abatement and/or load bearing structural systems. All rehabilitated units shall meet the applicable construction code. Additionally, all rehabilitated units shall be occupied by very-low, low- or moderate-income households and subject to 10-year affordability controls, which shall be placed on the property in the form of a lien or deed restriction. The average hard cost for the rehabilitation of a major system will be at least \$10,000.



Satisfaction of the RDP

The Borough is addressing its RDP obligation of 51 with a mix of unit types and projects throughout the Borough.

Market to Affordable Program (Existing) – 2 family for-sale units

The Borough utilized the Market to Affordable Program to successfully buy down market rate single family dwellings and subsidize the cost to make them affordable to low- and moderate-income households. One family for-sale unit was affordable to a moderate-income household, contains two bedrooms and is located at 19 North Street (Block 46, Lot 15). The other for-sale family unit was affordable to a low-income household with three bedrooms and was constructed by Habitat for Humanity on Block 54, Lot 5 with the address of 68 Blackpoint Road.

Washington Street Inclusionary Development (Existing) – 1 family rental unit

One (1) low-income family rental affordable dwelling unit was constructed as part of a three-unit project approved by the Zoning Board of Adjustment via Resolution on December 21, 2012. The low-income unit has one bedroom and is located at 16 Washington Street (Block 8, Lot 5).

Lafayette Street Inclusionary Development (Existing) – 2 family rental units

Two (2) family rental affordable dwelling units were constructed as part of a seven-unit project approved by the Zoning Board of Adjustment via Resolution in December 2008 and November 2009. The low-income dwelling unit has 2 bedrooms, and the moderate-income dwelling unit has 3 bedrooms. Both dwelling units are located at 7 Lafayette Street (Block 8, Lot 4).

12-Unit Carton Street 100% Affordable Housing/Municipally Sponsored Project (Proposed)

12 Affordable Age-Restricted Rental Units

Rumson Borough will address a portion of its combined Prior and Third round RDP obligation through a 100% affordable age-restricted residential development of twelve (12) affordable age-restricted rental units on a 0.51-acre parcel located on Carton Street. This site (Block 59, Lot 10) was conveyed to the Borough by Yellow Brook Property Co., LLC, as indicated in the Yellow Brook/Borough Settlement Agreement as part of the in-lieu affordable housing contribution required as part of the inclusionary zoning provided on 132 Bingham Avenue (Block 94, Lot 5) and on 91 Rumson Road (Block 124, Lot 31), which may yield a maximum of 34 market rate residential dwelling units (18 from Bingham Avenue and 16 from Rumson Road). Yellow Brook is required to provide nine (9) affordable housing units, which equals a 20% affordable housing set-aside. Yellow Brook will provide an in-lieu contribution of \$3.15 million, of which \$1.7 million is attributed to the Carton Street parcel donation and \$1.45 million that will help pay for the actual construction costs of the units.



Both Yellow Brook sites were found by the Court to be available, approvable, developable, and suitable as defined in COAH Prior Round regulations. The Borough Planning Board approved both sites for inclusionary housing (with an off-site contribution for the affordable housing units) on August 9, 2021 (Bingham Avenue site) and on March 7, 2022 (Rumson Road site).

Carton Street (Block 50, Lot 10)

The site is located on the north side of Carton Street and is located within the sewer service area. The Court approved this site as providing a realistic opportunity for affordable housing in compliance with COAH's Prior Round rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93:5.5 for municipally sponsored and 100% affordable programs. The specific regulations are addressed below:

- ✓ Site Control – The Borough owns the site and will convey the property to Bergen County Unite Way (BCUW), a non-profit development of affordable housing..
- ✓ Suitable Site – The site is suitable as defined in COAH's regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in N.J.A.C. 5:93-4.
 - *The site has a clear title and is free of encumbrances that preclude development of affordable housing.* To Rumson's knowledge, the site has a clear title and no legal encumbrances that would preclude its development for affordable rental housing.
 - *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has single-family dwelling units to the north, west and southeast, public park to the southwest and commercial uses to the northeast. The parcel has access to Carton Street, a Borough owned road.
 - *Adequate sewer and water capacity are available.* The site is within the Twin Rivers Water Reclamation Authority's sewer service area. The Borough Engineer verified both water and sewer infrastructure and capacity are available.
 - *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
 - *The site is in a "Smart Growth Planning Area."* The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in the Metropolitan Planning Area (PA 1). Among the intentions of the Metropolitan Planning Area are to provide for much of the state's future redevelopment; promote growth in compact forms; and redesign areas of sprawl. It is a preferred location for affordable housing development.
 - *The location of the site as it relates to a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, Highlands and Meadowlands planning areas. Because of its proximity to



the Navesink River, it is within CAFRA's boundary. The development will comply with CAFRA regulations.

- *The site will comply with all applicable environmental regulations.* There are no wetlands, floodplains or Category One streams. A Phase I Environmental Site Assessment was conducted for the site in July 2018 with additional soil testing occurring in September 2018 and a preliminary assessment report was issued in November 2018. Historic fill with certain contaminants were found on-site. As evidenced in the Yellow Brook Settlement Agreement, the developer and the Borough have agreed to implement the necessary engineering controls during construction in accordance with NJDEP Presumptive and Alternate Remedy Guidance to permit residential use on the site.
- *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.
- ✓ Developable Site – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. According to the Borough Engineer, the site in the Twin Rivers Water Reclamation Authority's sewer service area and water and sewer mains exist on Carton Street. The Borough Engineer confirmed that the Borough's sewer and water system has sufficient capacity.
- ✓ Approvable Site – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site.
- ✓ Administrative Entity – The Borough has entered into an agreement with an experienced Administrative Agent to administer the Borough's affordable housing units pursuant to COAH's regulations. For the proposed Third Round affordable units, the Borough's Administrative Agent or the developer of the 100% project will affirmatively market the units, income qualify applicants, place 30-year affordability control deed restrictions on the units and provide long-term administration of the units in accordance with COAH's rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1, or any successor regulation, with the exception that in lieu of 10% affordable units in rental projects being required to be at 35% of median income, 13% of affordable units in such projects shall be required to be at 30% of median income.
- ✓ Low/Moderate Income Split – At least half of all the affordable units developed at the site will be affordable to low-income households (13% of all affordable units will be very low-income) and an odd number of affordable units will always be split in favor of the low-income unit per UHAC at N.J.A.C. 5:80-26.1.



- ✓ Affirmative Marketing – The Borough’s Administrative Agent or the developer of the 100% project will affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Borough’s Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch and Trenton branches of the NAACP and the Supportive Housing Association.
- ✓ Controls on Affordability – The Borough’s agreement with the developer of the site will require a minimum 30-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.
- ✓ Bedroom Distribution – The units controlled by the developer of the 100% projects which includes the scattered sites projects will be required to be developed in accordance with UHAC requirements regarding bedroom distribution in accordance with N.J.A.C. 5:80-26.1 and as consistent with the Settlement Agreement with FSHC, as amended.
- ✓ Funding – A pro forma statement for the affordable units was provided.. The Borough and the developer will execute an agreement that in exchange for a deed restriction of at least 30 years, the Borough will provide the parcel as a municipal contribution toward the construction of the affordable housing development project. The developer will also look to potential funding from sources including but not limited to DCA Balanced Housing funds, Monmouth County HOME funds, Federal Home Loan Bank funds, and/or HMFA bond financing. The Borough will adopt a resolution of intent to bond for any shortfall in funding the Municipally Sponsored Affordable Housing Construction Program.
- ✓ Construction Schedule – The developer anticipates the beginning of construction to occur prior to July 2025.

Scattered Sites: 100% Affordable Housing/Municipally Sponsored Project (Proposed): 8 units

4 Supportive and Special Needs Bedrooms and 4 Family Affordable Units (1 For-sale and 3 rental)

Rumson Borough is addressing a portion of its third round RDP obligation through a 100% affordable mixed residential use development of four (4) supportive and special needs bedrooms within one dwelling unit (new dwelling at 15 Maplewood Avenue) and four (4) affordable family units (1 for-sale and 3 rental) on scattered sites including 6 Maplewood Avenue (for-sale), 61 South Ward Avenue (2 rentals) and 15 Maplewood Avenue (1 rental) . All sites have been found to meet COAH’s Second Round rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93:5.5 for municipally sponsored and 100% affordable programs. The status of the units are as follows.

- 6 Maplewood Avenue two-bedroom moderate-income family for-sale dwelling unit is complete and occupied;



- 15 Maplewood Avenue three-bedroom moderate-income family rental dwelling unit is complete and occupied;
- 61 South Ward Avenue family rental dwelling units are in process and completion and occupancy are anticipated in 2024, one unit is a three-bedroom low-income unit and the other unit is a three-bedroom moderate-income unit; and
- 15 Maplewood supportive and special needs dwelling unit will have four very-low income bedrooms, and said unit is in the process of being constructed, with completion and occupancy anticipated in 2024.

13-Unit West River Road 100% Affordable Housing/Municipally Sponsored Project (Proposed)

13 Affordable Family Rental Units

Rumson Borough will address a portion of its combined Prior and Third round RDP obligation through a 100% affordable residential development of thirteen (13) affordable family rental units on a 0.76-acre parcel located on West River Road.

49 West River Road (Block 25, Lot 4)

The site is located on the south side of River Road and is located within the sewer service area. This site provides a realistic opportunity for affordable housing in compliance with COAH’s Prior Round rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93:5.5 for municipally sponsored and 100% affordable programs. The specific regulations are addressed below:

- ✓ Site Control – The Borough owns the site and will convey the property to Bergen County United Way (BCUW), a non-profit development of affordable housing..
- ✓ Suitable Site – The site is suitable as defined in COAH’s regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in N.J.A.C. 5:93-4.
 - *The site has a clear title and is free of encumbrances that preclude development of affordable housing.* To Rumson’s knowledge, the site has a clear title and no legal encumbrances that would preclude its development for affordable rental housing.
 - *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has single-family dwelling units to the north, west and south and a commercial office to east. The parcel has access to West River Road, a County owned road.
 - *Adequate sewer and water capacity are available.* The site is within the Twin Rivers Water Reclamation Authority’s sewer service area. The Borough Engineer verified both water and sewer infrastructure and capacity are available.



- *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
 - *The site is located in a “Smart Growth Planning Area.”* While the 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in the Environmentally Sensitive Planning Area (PA 5), the site is fully developed and contains an existing structure that was the site of a commercial bank and is within the CAFRA boundary which provides specific guidelines for development. The site does not contribute to a contiguous land area which supports valuable eco-systems and wildlife habitats. In fact, the site is within 300 feet of the PA1 (Metropolitan Planning Area) which is the preferred location for redevelopment for compact growth. It is not clear if this is a mapping area within the NJ State Plan but it is clear that the developed site does not contain any valuable eco-system or wildlife habitat and the redevelopment of the site will not impact any existing natural resources. The redevelopment of the site is consistent with the overall State Plan goal to direct redevelopment and growth into existing “centers” where infrastructure can support the development and support services such as open space, retail shopping, public transportation, schools are within walking distance.
 - *The location of the site as it relates to a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, Highlands and Meadowlands planning areas. Because of its proximity to the Navesink River, it is within CAFRA’s boundary. The development will comply with CAFRA regulations.
 - *The site will comply with all applicable environmental regulations.* There are no wetlands, floodplains or Category One streams. A Phase I and II Environmental Site Assessment were conducted for the site with additional soil testing occurring in 2022 and 2023. In accordance with the findings, it has been concluded that there is no evidence of contaminants in the soil or groundwater on the site.
 - *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.
- ✓ **Developable Site** – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. According to the Borough Engineer, the site in the Twin Rivers Water Reclamation Authority’s sewer service area and water and sewer mains exist on Carton Street. The Borough Engineer confirmed that the Borough’s sewer and water system has sufficient capacity.



- ✓ Approvable Site – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site.
- ✓ Administrative Entity – The Borough has entered into an agreement with an experienced Administrative Agent to administer the Borough’s affordable housing units pursuant to COAH’s regulations. For the proposed Third Round affordable units, the Borough’s Administrative Agent or the developer of the 100% project will affirmatively market the units, income qualify applicants, place 30-year affordability control deed restrictions on the units and provide long-term administration of the units in accordance with COAH’s rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1, or any successor regulation, with the exception that in lieu of 10% affordable units in rental projects being required to be at 35% of median income, 13% of affordable units in such projects shall be required to be at 30% of median income.
- ✓ Low/Moderate Income Split – At least half of all the affordable units developed at the site will be affordable to low-income households (13% of all affordable units will be very low-income) and an odd number of affordable units will always be split in favor of the low-income unit per UHAC at N.J.A.C. 5:80-26.1.
- ✓ Affirmative Marketing – The Borough’s Administrative Agent or the developer of the 100% project will affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Borough’s Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch and Trenton branches of the NAACP and the Supportive Housing Association.
- ✓ Controls on Affordability – The Borough’s agreement with the developer of the site will require a minimum 30-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.
- ✓ Bedroom Distribution – The units controlled by the developer of the 100% projects which includes the scattered sites projects will be required to be developed in accordance with UHAC requirements regarding bedroom distribution in accordance with N.J.A.C. 5:80-26.1 and as consistent with the Settlement Agreement with FSHC, as amended.
- ✓ Funding – A pro forma statement for the affordable units was provided. The Borough and the developer will execute an agreement that in exchange for a deed restriction of at least 30 years, the Borough will provide the parcel as a municipal contribution toward the construction of the affordable housing development project. The developer will also look to potential funding from sources including but not limited to DCA Balanced Housing funds, Monmouth County HOME funds, Federal Home Loan Bank funds, and/or HMFA bond financing. The Borough will adopt a resolution of intent



to bond for any shortfall in funding the Municipally Sponsored Affordable Housing Construction Program.

- ✓ Construction Schedule – The developer anticipates the beginning of construction to occur prior to July 2025.

Satisfaction of the 51 Total Unit RDP					
Program	Unit Type	Status	Units	Bonus Credits	Total Credits
Market to Affordable	Family For Sale and Rental	Occupied	2	0	2
Washington Street	Inclusionary Family Rental	Occupied	1	1	2
Lafayette Mews	Inclusionary Family Rental	Occupied	2	2	4
Carton Street	100% Affordable Municipally Sponsored (12 age-restricted rentals)	Proposed	12	0	12
W. River Road	100% Affordable Municipally Sponsored (13 family rentals)	Proposed	13	10	23
Scattered Sites	6 Maplewood (1 family for sale)	Occupied	1	0	1
Scattered Sites	15 Maplewood (1 family rental)	Occupied	1	0	1
Scattered Sites	15 Maplewood (4 special needs bedrooms)	Proposed	4	0	4
Scattered Sites	61 South Ward (2 family rentals)	Proposed	2	0	2
Total			38	13	51

In addition to meeting the total 51-unit RDP, the Borough must also meet a rental obligation, total family unit obligation, the very low-income obligation and not exceed the maximum senior unit cap.



Minimum Rental = 13 units

.25 (RDP) = 13 units | .25 (51) = 12.75, rounded up to 13

This obligation is satisfied with 35 credits associated with Washington Street inclusionary development (1), Lafayette Mews inclusionary development (2), Carton Street 100% project (12), West River Road (13) and Scattered Site 100% projects (7).

Maximum Senior = 12 units

.25 (RDP) = 12 units | .25 (51) = 12.75, rounded down to 12

The Borough does not exceed the overall maximum senior units permitted as there are 12 senior rental units proposed.

Minimum Family = 19 units

.50 (RDP) = 19 units | .50 (38) = 19

This obligation is satisfied with 22 credits associated with the Washington Street inclusionary development (1), Lafayette Mews inclusionary development (2), the market to affordable existing units (2), the West River Road 100% affordable housing development (13) and four (4) family units associated with the municipally sponsored 100% scattered sites project.

Minimum Family Rental: 7 units

.50 (rental obligation) = 7 units | .50 (13) = 6.5, rounded up to 7

This obligation is satisfied with 19 credits associated with Washington Street inclusionary development (1), Lafayette Mews inclusionary development (2), West River Road 100% affordable development (13) and the municipally sponsored 100% scattered sites project (3).

Minimum Very Low Income = 5 units

.13 (units created or approved on or after July 1, 2008 including 11 units from the market to affordable program, 3 units from existing inclusionary developments and 24 units from 100%/municipally sponsored projects) = 38 units | .13 (38) = 4.94 rounded up to 5

This obligation is satisfied with a total of nine (9) very low-income units associated with two (2) units at the Carton Street 100% age-restricted project, three (3) units from the West River Road 100% family rental project and four (4) units with the Borough scattered sites 100% project.



AFFORDABLE HOUSING SITES

BOROUGH OF RUMSON



The RDP of 51, subtracted from the agreed upon combined Prior Round and Third Round Obligation of 603 units, results in an Unmet Need of 552 units. The Borough is utilizing an existing accessory apartment program, an existing market to affordable program, overlay zone districts, a mandatory set-aside ordinance and a development fee ordinance as its strategy to satisfy the unmet need.

Accessory Apartment Ordinance (Existing)

The Borough adopted an Accessory Apartment Ordinance on June 12, 2018. Any units created under this program up to 10 will be applied to the Borough’s “unmet need.” The Borough will bolster the existing program through the implementation of an accessory apartment manual in accordance with N.J.A.C. 5:93-5.9 and will affirmatively market the program.

Mixed-Use Overlay Zone (MUMFO): GB, NB, POB Overlay Zone (Existing/Amended/Expanded)

The Borough will amend and expand an affordable housing overlay over the GB, NB, and POB Zones in the Borough. The following amendments are proposed for the existing overlay zoning district:

Enhanced Mixed-Use: The Borough has an existing overlay zone in the GB, NB and POB zone districts that permits the development of residential dwellings on the second floor where the underlying zoning does not permit mixed-use of commercial and residential. The current overlay zone ordinance, which was adopted on June 12, 2018, requires a twenty percent (20%) affordable housing set-aside. The Borough amended the ordinance to permit a third story for residential dwellings, provided certain architectural design standards require a setback of the third story from the right-of-way. The 49 West River Road site Block 25, Lot 4) is within the Mixed-Use and Multi-Family Overlay zoning district currently. The overlay designation for this lot will be removed as the site is being used as credit toward the Borough’s RDP obligation.

Expanded Zone Area: The northern GB district was expanded to include Block 4, Lots 1, 2, 3, 4.01 and 6, 7, 8.01 and 9.01 and Block 3, Lots 1.01, 3, 4, 5, 6 and 7.

Multi-Family Option: The Borough created a new option in this overlay zone that permits multi-family residential dwellings as a permitted principal use, which is currently not permitted in the underlying zone and the existing overlay zone. The maximum density for the multi-family option will be set at 12 du/acre.

An affordable housing set-aside of 20% is required. Fractional affordable unit requirements shall be rounded down where the fraction is .49 or less and rounded up for those .50 or greater. All affordable units shall be restricted, regulated, and administered consistent with the Borough’s affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to income distribution, bedroom distribution, and phasing.



Faith Institution Overlay Zone (FIIO) (Adopted)

The Borough established an affordable housing overlay zone requiring a twenty percent (20%) affordable housing set-aside over the following religious institutions:

Holy Cross Church: This is a 7.6-acre site (Block 104, Lot 1.01), which is in Borough’s R-2 district. The overlay allows for a project to be developed at a density of 6 du/acre.

First Presbyterian Church: This is a 2-acre site (Block 10, Lot 6), which is in Borough’s R-4 district. The overlay allows for a project to be developed at a density of 8 du/acre.

Congregation B’Nai Israel: This is a 5.5-acre site (Block 81, Lot 6), which is in Borough’s R-1 district. The overlay allows for a project to be developed at a density of 6 du/acre.

Fractional affordable unit requirements shall be rounded down where the fraction is .49 or less and rounded up for those .50 or greater. All affordable units shall be restricted, regulated, and administered consistent with the Borough’s affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to income distribution, bedroom distribution, and phasing.

Residential Overlay Zones (Adopted)

The Borough established an affordable housing overlay zone that will require a twenty percent (20%) affordable housing set-aside over the following residential zoning districts:

ROI-2 Overlay Zone: The Borough adopted an overlay zone on Block 95, Lots 1.01, 1.03, 2, 5, 6 and 9, and Block 104 Lot 2 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 housing units associated with a density that exceeds the 3 du/acre. The ordinance indicates that the maximum density will be 6 units per acre will apply if funding for the affordable housing units is not made available.

ROI-4 Overlay Zone: The Borough adopted an overlay zone on Block 100, Lots 11, 16 and 17 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.

ROI-5 Overlay Zone: The Borough is in the process of adopting an overlay zone on Block 60, Lots 6, 7, 8, 9, 10, 11.01, 12.01, 13, 14 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.

Market to Affordable Program (Proposed) – family for-sale units

The Borough intends to utilize the existing Market to Affordable Program to buy down additional existing residential dwellings to become affordable for low- and moderate-income households. The Borough will identify and purchase market-rate residential units as they become available and are financially feasible.



Development fee revenues will be used to acquire any such units, bring them up to code as needed, and deed restrict the units for a minimum of 30 years.

Mandatory Set-aside Ordinance

The Borough adopted a mandatory set-aside ordinance that requires, where via use variance, rezoning, or redevelopment for multi-family housing with 5 units or greater that an affordable housing set-aside will be imposed on the development. The Ordinance requires a 20% set-aside for the affordable units, regardless of whether they are for-sale or rental. Fractional affordable unit requirements shall be rounded down where the fraction is 0.49 or less and rounded up for those 0.50 or greater. All affordable units shall be restricted, regulated, and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to income distribution, bedroom distribution, and phasing.



AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING

Rumson Borough adopted an Affordable Housing Ordinance in accordance with COAH's substantive rules and UHAC. The Affordable Housing Ordinance governs the establishment of affordable units in the Borough as well as regulating the occupancy of such units. The Borough's Affordable Housing Ordinance covers the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc.

The Borough has established the position of the Municipal Housing Liaison and has appointed a staff member to the position. The Borough relies on an affordable housing administrator to conduct the administration and affirmative marketing of its affordable housing sites. However, the Borough will permit developers who demonstrate the appropriate experience and expertise to administer their own units as both are experienced affordable housing administrators. The affirmative marketing plans are 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 the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region, Region 4, consisting of Monmouth, Mercer, and Ocean counties.

The affirmative marketing plans include regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance with N.J.A.C. 5:80-26.1 et seq. All newly created affordable units will comply with the at least 30-year affordability control required by UHAC, N.J.A.C. 5:80-26.5 and 5:80-26.11. This plan must be adhered to by all private, non-profit, and municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit. In accordance with applicable law, all available affordable units must be posted online on the New Jersey Housing Resource Center website.



AFFORDABLE HOUSING TRUST FUND

A Development Fee Ordinance creating a dedicated revenue source for affordable housing was originally adopted by Rumson Borough in 2011 and was recently amended in 2020 in accordance with the Court approved FSHC Settlement Agreement.

The Spending Plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, was prepared in accordance with COAH's applicable substantive rules. All collected revenues will be placed in the Borough's Affordable Housing Trust fund and may be dispensed for the use of eligible affordable housing activities including, but not limited to:

- Rehabilitation program;
- New construction of affordable housing units and related development costs;
- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites;
- Acquisition and/or improvement of land to be used for affordable housing;
- Purchase of affordable housing units for the purpose of maintaining or implementing affordability controls,
- Maintenance and repair of affordable housing units;
- Repayment of municipal bonds issued to finance low- and moderate-income housing activity; and
- Any other activity as specified in the approved spending plan.

However, the Borough is required to fund eligible programs in a Court-approved Housing Element and Fair Share Plan, as well as provide affordability assistance.

At least 30% of collected development fees, excluding expenditures made since July 17, 2008, when affordability assistance became a statutory requirement in the Fair Housing Act, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. At least one-third (1/3) of the affordability assistance must be expended on very-low-income units. Additionally, no more than 20% of the revenues collected from development fees each year, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program.



MONITORING

The Borough's settlement agreement with FSHC put in place monitoring provisions consistent with those required by the Fair Housing Act and similar to those required by COAH. The monitoring requires regular tracking of progress toward meeting the affordable housing obligation and ensuring the affordable units and affordable housing trust fund are administered properly. The agreement requires the following:

- On the first anniversary of the entry of final judgment, 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 FSHC, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC. In addition to the foregoing, the Borough may also post such activity on the CTM system and/ or file a copy of its report with the COAH or its successor agency at the State level.
- 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 the entry of final judgment, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to FSHC, 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 FSHC on the issue of whether the municipality has complied with its very low-income housing obligation under the terms of this settlement.



COST GENERATION

The Rumson Borough's Land Development Ordinance has been reviewed to eliminate unnecessary cost generating standards; it provides for expediting the review of development applications containing affordable housing. Such expedition may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. Furthermore, development applications containing affordable housing shall be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the mandate of the FHA regarding unnecessary cost generating features. Rumson Borough shall comply with COAH's requirements for unnecessary cost generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing.