

# Appendix A - Nov. 1, 2019 Settlement Agreement with FSHC

## **AGREEMENT TO RESOLVE ISSUES BETWEEN THE BOROUGH OF CHESTER AND FAIR SHARE HOUSING CENTER CONCERNING THE BOROUGH'S MOUNT LAUREL FAIR SHARE OBLIGATIONS AND THE MEANS BY WHICH THE BOROUGH SHALL SATISFY SAME.**

**In the Matter of the Borough of Chester, County of Morris,  
Docket No. MRS-L-1661-15**

**THIS SETTLEMENT AGREEMENT** (“Agreement”) made this 1st day of November, 2018, by and between:

**BOROUGH OF CHESTER**, a municipal corporation of the State of New Jersey, County of Morris, having an address at 50 North Road, Chester, New Jersey 07930 (hereinafter the “Borough” or “Chester”);

And

**FAIR SHARE HOUSING CENTER**, having an address at 510 Park Boulevard, Cherry Hill, New Jersey 08002, (hereinafter “FSHC”);

**WHEREAS**, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the Borough filed the above-captioned matter on July 6, 2015 seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”), as may be further amended in accordance with the terms of this settlement, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the Mount Laurel doctrine; and

**WHEREAS**, the Borough simultaneously sought and ultimately secured an Order protecting Chester from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

**WHEREAS**, the immunity secured by Chester remains in place as of the date of this Agreement; and

**WHEREAS**, the trial court appointed a “Special Master”, as is customary in a Mount Laurel case, to assist the Court; and

**WHEREAS**, more specifically, the Court appointed Michael Bolan, P.P., A.I.C.P. to serve as the Special Master;

**WHEREAS**, with Mr. Bolan’s assistance, Chester and FSHC have engaged in good faith negotiations and have reached an amicable accord on the various substantive provisions, terms and conditions delineated herein; and

**WHEREAS**, through that process, the Borough and FSHC agreed to settle the litigation and to present that settlement to the trial court, recognizing that the settlement of Mount Laurel

litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households; and

**WHEREAS**, it is particularly appropriate where, as here, the Court has yet to make a determination of the Borough’s fair share, to arrive at a settlement regarding a municipality’s fair share obligation, instead of doing so through plenary adjudication of that obligation.

**NOW, THEREFORE**, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties hereto, each binding itself, do hereby covenant and agree, each with the other, as follows:

**Settlement Terms**

The Borough and FSHC hereby agree to the following general terms, subject to any relevant conditions set forth in more detail below:

1. Chester’ “Rehabilitation” obligation is 12.
2. Chester’ “Prior Round” obligation is 16.
3. Chester’ allocation of the Round 3 regional need is 111 units.

4. For the purposes of this Agreement, the “Round 3 regional need” (also referenced as the “Third Round Prospective Need”) shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999 to 2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions filed by Various Municipalities, 227 N.J. 508 (2017).

5. Pursuant to N.J.A.C. 5:93-4.2 Chester’s total Round 3 Realistic Development Potential (hereinafter “RDP”) is 66 units as calculated in Exhibit A.

6. **Satisfaction of the Rehabilitation Obligation:** The Borough has a 12-unit rehabilitation obligation, and will work with Morris County or hire a separate entity to implement an indigenous need rehabilitation program to address this component of its fair share. The Borough acknowledges the rental component of the rehab obligation and its requirement to fulfill the same under the terms of this agreement and will satisfy the rental component of its rehabilitation through the Morris County program or any other program as may be necessary.

7. **Satisfaction of the Prior Round Obligation:** The Borough has a 16-unit Prior Round obligation, which is satisfied as follows:

<b><u>Project</u></b>	<b><u>Type</u></b>	<b><u>Status</u></b>	<b><u>Units or Bedrooms</u></b>	<b><u>Bonus</u></b>	<b><u>Total</u></b>	<b><u>Description</u></b>
Project Hope	Supportive	Existing	6	4	10	91 Oakdale Road, Block 110, Lot 13

Trematore	Family Rental	Existing	1	-	1	76 Main Street, LLC, Block 129, Lot 9
CASH	Senior Rental	Existing	4	-	4	Chester Area Senior Housing, Corp. ("CASH") (245 Main Street, Block 110, Lot 48; 19-age-restricted apartments
Asdal Development, LLC			1	-	1	265 Main Street) Block 110, Lot 38; inclusionary apartment in 9-unit apartment - 8 market-rate units plus one (1) affordable unit.
Total					16	

8. **Satisfaction of the Total RDP:** The Borough has a 66-unit Total RDP as calculated in Exhibit A, and shall satisfied that obligation as follows:

<b><u>Project</u></b>	<b><u>Type</u></b>	<b><u>Status</u></b>	<b><u>Units or Bedrooms</u></b>	<b><u>Bonus</u></b>	<b><u>Total</u></b>	<b><u>Description</u></b>
<b>CASH (Senior)</b>	Senior	Existing	15	NA	15	Existing Senior Affordable
<b>TF (Family Rental)</b>	Family Rental	Proposed	36	17	53	Mixed Commercial, Townhomes and Family Affordable Rental at the Turkey Farm and Mill Ridge Site
<b>Little Italian Kitchen</b>	Supportive	Proposed	4	NA	4	Proposed Supportive Housing
<b>Total</b>			55	17	72	

The plan components shown in the above table fully satisfy the minimums and maximums for the Total RDP, inclusive of maximum age-restricted units (25% of RDP less RCAs), minimum rental units (25% including at least half available to families), and maximum rental bonus credits (equal to rental obligation).

9. **Addressing the Remaining “Unmet Need”**: For the purposes of settlement, the Borough agrees to address the 45-unit (111-66=45) remaining portion of its allocation of the Prior Round and Round 3 regional need or “unmet need” through the following mechanisms:

- a) The Borough will adopt an overlay zone at Block 133, Lot 5, as identified on the Borough’s Tax Map (hereinafter the “Chester Mall” Site”), descriptions and mapping of which is attached hereto as Exhibit B. Any affordable units generated by this site will be applied towards satisfying “unmet need.” The overlay zone in Exhibit B will be zoned for mixed use and shall permit a residential density of 10 units per acre, with a required affordable housing set-aside of 20 percent, irrespective of whether project is rental or for sale.
- b) In addition, the Borough will adopt ordinance requiring a mandatory affordable housing set aside for all new multifamily and single-family attached residential developments of five (5) units or more at a density of six or more units per acre for developments not referenced and sites not specifically referenced in this Agreement. The set aside for rental developments shall be fifteen percent (15%) and the set aside for for-sale developments shall be twenty percent (20%). The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. The form of the Ordinance shall be finalized prior to final judgment being issued in this matter through collaboration between FSHC, the Special Master, and representatives of the Borough.

10. The Borough’s RDP shall not be revisited by FSHC or any other interested party absent a substantial changed circumstance and, if such a change in circumstance occurs with the RDP, the Borough shall have the right to address the issue without negatively affecting its continuing entitlement to immunity from all Mount Laurel lawsuits through July 6, 2025.

11. The Borough agrees to require 13% of all the affordable units referenced in this plan, with the exception of units constructed prior to July 6, 2008, and units subject to preliminary or final site plan approval prior to July 1, 2008, to be very low income units (defined as units affordable to households earning 30 percent or less of the regional median income by household size), with half of the very low income units being available to families.

12. Chester will apply “rental bonus credits” in accordance with N.J.A.C. 5:93-5.15(d).

13. At least 50 percent of the units addressing the Borough’s Third Round Prospective Need shall be affordable to a combination of very-low-income and low-income households, while the remaining affordable units shall be affordable to moderate-income households.

14. At least twenty-five percent of the Borough’s Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.

15. At least half of the units addressing the Borough's Third Round Prospective Need in total must be available to families.

16. The Borough agrees to comply with COAH's Round 2 age-restricted cap of 25 percent, and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the Borough claim credit toward its fair share obligation for age-restricted units that exceed 25 percent of all units developed or planned to meet its Prior Round and Third Round fair share obligations.

17. The Borough and/or its Administrative Agent shall add the following entities to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5): Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP, the Latino Action Network (P.O. Box 943, Freehold, NJ 07728), the Morris County NAACP, , Homeless Solutions of Morristown, Morris Urban League, and Morris County Housing Coalition. As part of its regional affirmative marketing strategies during implementation of its Housing Element and Fair Share Plan, the Borough and/or its administrative agent shall also provide notice of all available affordable housing units to the above-referenced organizations.

18. All affordable housing units created pursuant to the measures set forth in this Agreement shall comply with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be affordable to households earning at or below 35 percent of the regional median household income by household size, 13 percent of affordable units in such projects shall be required to be affordable to households earning at or below 30 percent of the regional median household income by household size subject to Paragraph 13 herein, and all other applicable law. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law. The Borough, as part of the Housing Element and Fair Share Plan that will be prepared, adopted and endorsed as a result of this Agreement, shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied.

19. Upon full execution of this Agreement, Chester shall notify the Court so that a Fairness Hearing can be scheduled to approve the Agreement. Chester will place this Agreement on file in the Borough's municipal building and file a copy with the Court at least 30 days prior to the Fairness Hearing, at which the Borough will seek judicial approval the terms of this Agreement pursuant to the legal standard set forth in Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), *aff'd o.b.*, 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. City of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). Notice of the Fairness Hearing shall be published at least 30 days in advance of the Hearing. Within 120 days of the approval of this Agreement by the Court after a Fairness Hearing, Chester will adopt a Housing Element and Fair Share Plan, along with a Spending Plan, and adopt all ordinances required to be adopted as part of this Agreement. The parties recognize this deadline may need to be extended based on any proceedings that must occur through or at the

Highlands Council. On a date to be established by the Court, at a “Compliance Hearing,” the Borough will seek judicial approval of Chester’ adopted Housing Element and Fair Share Plan (hereinafter “Affordable Housing Plan”) and other required documents. Although it is expected that the Special Master will provide the majority of the required testimony at both the Fairness Hearing and the Compliance Hearing, Chester shall also make its consulting planner and any other relevant witnesses available for testimony at the Hearings. As long as the Affordable Housing Plan complies with the terms set forth herein, FSHC shall support the Borough’s application for approval of its Affordable Housing Plan at the Compliance Hearing. If the Court approves this Agreement after a Fairness Hearing, the parties hereto agree not to appeal the Court’s approval. If the Court approves the Affordable Housing Plan following a Compliance Hearing, the parties agree that the Borough will be entitled to either a “Judgment of Compliance and Repose” (“JOR”) or the “judicial equivalent of substantive certification and accompanying protection as provided under the FHA,” 221 N.J. at 6, which shall be determined by the trial judge. Each party may advocate regarding whether substantive certification or repose should be provided by the Court, with each party agreeing to accept either form of relief and to not appeal an order granting either repose or substantive certification. The parties further agree that the final judgment shall insulate the Borough and its Planning Board from, among other things, exclusionary zoning litigation through July 6, 2025.

20. Subsequent to the signing of this Agreement, if a binding legal determination by the Judiciary, the Legislature, or any administrative subdivision of the Executive Branch determines that Chester’ Round 3 obligation is decreased to 99 or less, with any relevant appeal periods having passed, the Borough may file a proposed form of Order, on notice to FSHC and the Borough’s Service List, seeking to reduce its Round 3 obligation accordingly. Such relief shall be presumptively granted. Notwithstanding any such reduction, the Borough shall be obligated to implement the Housing Element and Fair Share Plan prepared, adopted and endorsed as a result of this Agreement, including by leaving in place any site specific zoning adopted or relied upon in connection with the Plan approved pursuant to this settlement agreement, maintaining all mechanisms to continue to address the remaining portion of the Borough’s allocation of the Round 3 regional need, and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Borough's obligation below what is established in this Agreement does not provide a basis for seeking leave to amend this Agreement or the Fair Share Plan adopted pursuant to this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its Round 3 obligation, the Borough may carry over any resulting surplus credits to Round 4.

21. The Borough shall prepare a Spending Plan for approval by the Court during, or prior to, the duly-noticed Compliance Hearing. FSHC reserves its right to provide any comments or objections on the Spending Plan to the Court upon review. Upon approval by the Court, the Borough and FSHC agree that the expenditures of funds contemplated in the Borough’s Spending Plan shall constitute the “commitment” for expenditure required pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period contemplated therein commencing in accordance with the provisions of applicable law. Upon approval of its Spending Plan, the Borough shall also provide an annual Mount Laurel Trust Fund accounting report to the New Jersey Department of Community Affairs, Council on Affordable Housing, Local Government Services, or other entity designated by the State of New Jersey, with a copy

provided to FSHC and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services.

22. 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 Council on Affordable Housing or its successor agency at the State level.

23. The Fair Housing Act includes two provisions regarding actions to be taken by the Borough during the ten-year period of protection provided in this agreement. The Borough agrees to comply with those provisions as follows:

- a) For the midpoint realistic opportunity review date, the parties agree that the midpoint for purposes of this agreement will be July 1, 2020 pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
- b) For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of 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.
- c) In addition to the foregoing postings, the Borough may also elect to file copies of its reports with the Council on Affordable Housing or its successor agency at the State level.

24. This Agreement may be enforced by the Borough or FSHC through a motion to enforce litigant's rights or a separate action filed in Superior Court, Morris County. If FSHC

determines that such action is necessary, the Borough consents to the entry of an order providing FSHC party status as an intervenor solely for purposes of its motion to enforce litigant's rights.

25. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement. However, if an appeal of the Court's approval or rejection of the Settlement Agreement is filed by a third party, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division, and New Jersey Supreme Court, and to continue to implement the terms of the Settlement Agreement if the Agreement is approved by the Trial Court unless and until an appeal of the Trial Court's approval is successful, at which point the Parties reserve their right to return to the *status quo ante*. In this regard, the Borough and FSHC acknowledge that the parties have entered into this Agreement to settle the litigation and that each is free to take such position as it deems appropriate should the matter return to the *status quo ante*.

26. The Borough agrees to pay \$15,000 to FSHC, payable within 150 days of the issuance of an Order declaring this agreement fair and reasonable by the Court.

27. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

28. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

29. This Agreement may not be modified, amended or altered in any way except by a writing signed by both the Borough and FSHC.

30. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.

31. The Borough and FSHC acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each person to sign this Agreement is the proper person and possesses the authority to sign the Agreement, that this Agreement contains the entire understanding of the Borough and FSHC and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

32. The Borough and FSHC acknowledge that this Agreement was not drafted by the Borough and FSHC, but was drafted, negotiated and reviewed by representatives of the Borough and FSHC and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. The Borough and FSHC expressly represent that: (a) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (b) it has conferred due authority for execution of this Agreement upon the persons executing it.

33. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both the Borough and FSHC.

34. This Agreement constitutes the entire Agreement between the Borough and FSHC hereto and supersedes all prior oral and written agreements between the Borough and FSHC with respect to the subject matter hereof except as otherwise provided herein.

35. No member, official or employee of the Borough shall have any direct or indirect interest in this Settlement Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

36. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which representatives of the Borough and FSHC have executed and delivered this Agreement.

37. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the Borough and FSHC by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

**TO FSHC:**

**Kevin D. Walsh, Esq.**  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
Phone: (856) 665-5444  
Fax: (856) 663-8182  
Email: adamgordon@fairsharehousing.org

**TO THE BOROUGH:**

**Michael J. Edwards, Esq.**  
Jeffrey R. Surenian and Associates, LLC  
707 Union Avenue, Suite 301  
Brielle, NJ 08730  
Phone: (732) 612-3100  
Fax: (732) 612-3101  
Email: MJE@Surenian.com

**WITH A COPY TO THE  
BOROUGH ADMINISTRATOR:**

**Marvin Joss**  
50 North Road  
Chester, NJ 07930  
Phone: (908) 879-3660  
Fax: (908) 879-0122  
Email: administrator@chesterborough.org

**WITH A COPY TO THE  
SPECIAL MASTER:**

**Michael P. Bolan, PP /AICP**  
104 Howard Way  
P.O. Box 295  
Pennington, NJ 08534  
Phone: (609) 466-4259  
Fax: (609) 466-1588  
Email: michaelbolan@verizon.net

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:

**FAIR SHARE HOUSING CENTER:**

\_\_\_\_\_

By: \_\_\_\_\_

Kevin D. Walsh, Esq.  
On Behalf of Fair Share Housing Center

Dated: \_\_\_\_\_, 2018

Witness/Attest:

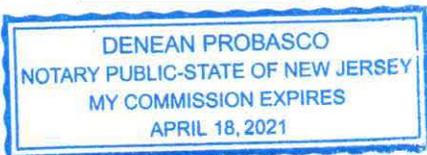
**BOROUGH OF CHESTER:**

  
\_\_\_\_\_

By:  \_\_\_\_\_

Janet Hoven, Mayor  
On Behalf of the Borough of Chester

Dated: November 14, 2018



**Marvin Joss**  
50 North Road  
Chester, NJ 07930  
Phone: (908) 879-3660  
Fax: (908) 879-0122  
Email: administrator@chesterborough.org

**WITH A COPY TO THE  
SPECIAL MASTER:**

**Michael P. Bolan, PP /AICP**  
104 Howard Way  
P.O. Box 295  
Pennington, NJ 08534  
Phone: (609) 466-4259  
Fax: (609) 466-1588  
Email: michaelbolan@verizon.net

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**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:

**FAIR SHARE HOUSING CENTER:**



By: 

Kevin D. Walsh, Esq.  
On Behalf of Fair Share Housing Center

Dated: 11/6/1, 2018

Witness/Attest:

**BOROUGH OF CHESTER:**

\_\_\_\_\_

By: \_\_\_\_\_

Janet Hoven, Mayor  
On Behalf of the Borough of Chester

Dated: \_\_\_\_\_, 2018

# EXHIBIT A

**EXHIBIT A  
CHESTER BOROUGH RDP**

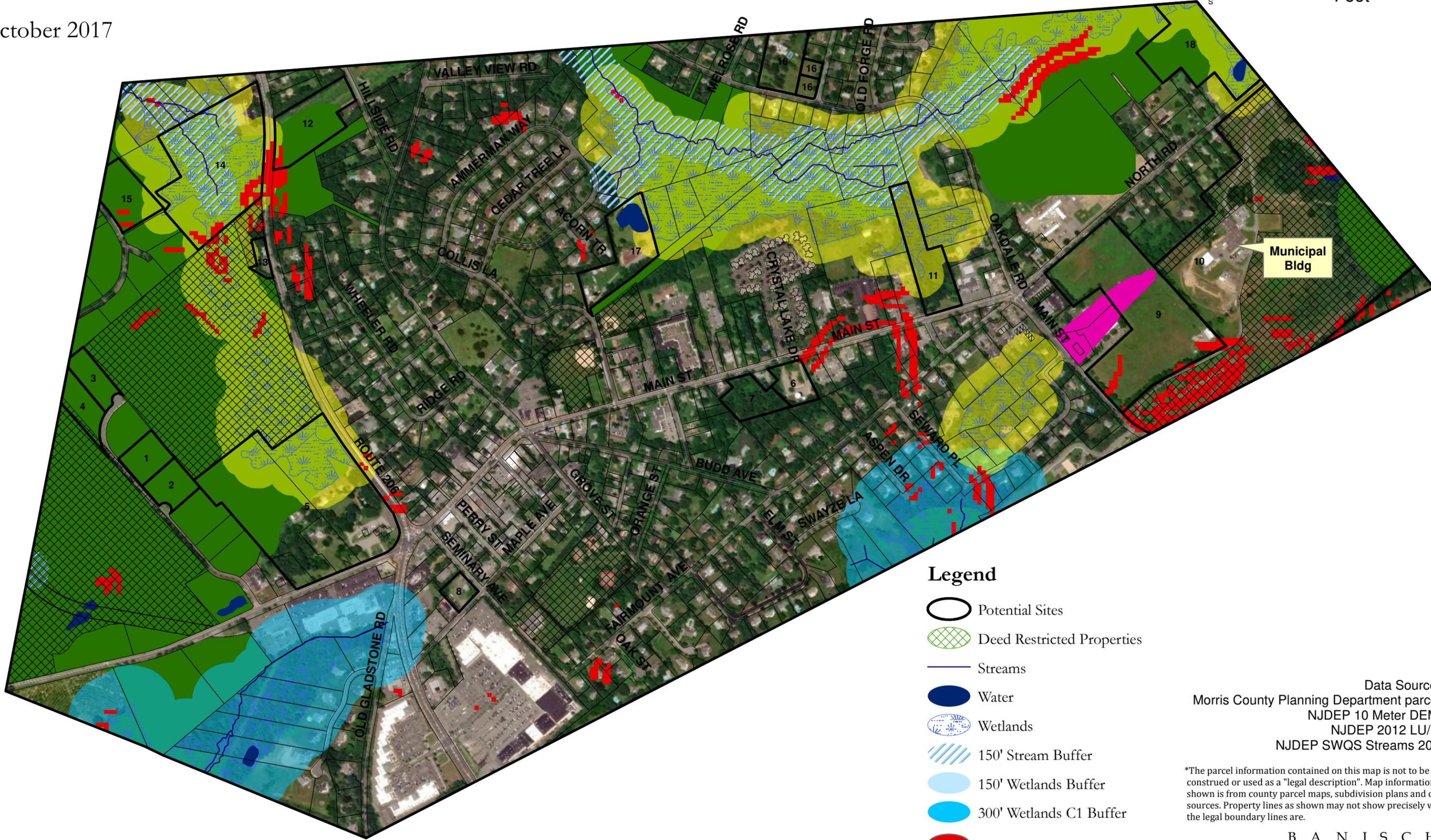
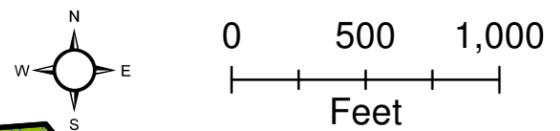
ID	Bl./Lot / Name	Gross Acres	Combined Constrained Areas -Acres	Un-constrained Acres	Density	FSHC & Boro
#1 - #4	110/ Lots 12.07, .08, .10, .11 (Mill Ridge Lane)	8.6	3.78	4.82	8	38.56
#5	110/ Lots 13, 14, 15 & 16 (Turkey Farm)	24	10.7	13.3	8	106.4
#6	119/8 - 300 Main St. Boro-old mun. bldg.	1.95	0.02	1.93	6	11.58
7	119 / 6 –280 Main St. (Braemar at Chester, LLC)	2.55	0	2.55	6	15.3
8	131 / 4 –65 Maple (Meenan Oil)	1.07	0	1.07	6	6.42
#9	119/6 (Borough/Lucent polluted tract)	18.94	1.77	17.17	6	103.02
#10	119/17 (Boro mun.bldg & open space)	56.39	53.5	2.89	6	17.34
11	110/28 –437 Main St. (Chester Realty, LLC)	4.87	4.87	2.24	6	13.44
14	101/9 –313 Rte. 206 (Storms)	15.64	15.64	0	6	0
16	Block 112, Lots 3,4 & 5 (Grace Bible Chapel)	4.16	3.20	.9613	6	5.7678
17	Block 110, Lot 57 (Roskum)	5.6	3.75	1.85	6	11.1

Total units on RDP sites: 328.9278

RDP 65.78556

Vacant Land and Exclusions as per N.J.A.C. 5:93-4.2  
 Chester Borough, Morris County

October 2017



- Legend**
- Potential Sites
  - Deed Restricted Properties
  - Streams
  - Water
  - Wetlands
  - 150' Stream Buffer
  - 150' Wetlands Buffer
  - 300' Wetlands C1 Buffer
  - Slopes greater than 15%
  - CEA plume

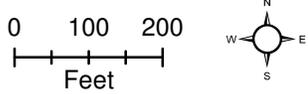
Data Sources:  
 Morris County Planning Department parcels  
 NJDEP 10 Meter DEMS  
 NJDEP 2012 LU/LC  
 NJDEP SWQS Streams 2010

\*The parcel information contained on this map is not to be construed or used as a "legal description". Map information as shown is from county parcel maps, subdivision plans and other sources. Property lines as shown may not show precisely where the legal boundary lines are.

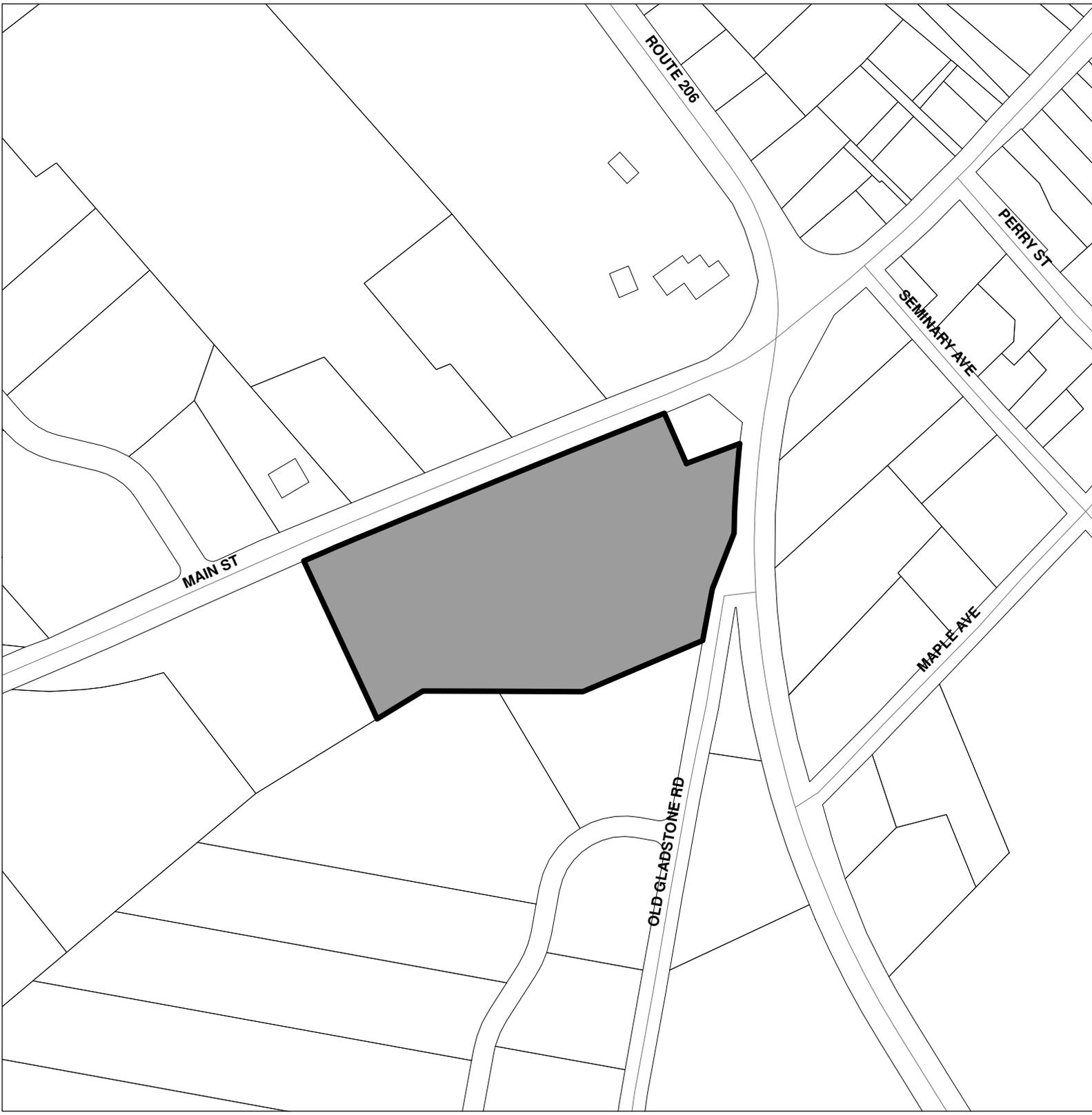
**BANISCH**  
 ASSOCIATES, INC.  
 Planning and Design

# **EXHIBIT B**

**Exhibit B**  
**Unmet Need Overlay Zone**  
**Block 133, Lot 5**  
**Borough of Chester**



**November 2018**



**Legend**

 **Block 133, Lot 5**

7.25-acres. Zoning will permit rental apartments @ 10 d.u./gross acre -up to 73 total rental units with a 20% affordable rental set-aside for a total of 15 affordable rental units available to the general public. Permitted building height is 40' and 3-stories. May be mixed-use with nonresidential development equal to existing nonresidential floor area. Affordable units shall be constructed and marketed in accordance with N.J.A.C. 5:80-26.1 et seq. & N.J.A.C. 5:93-1 et seq.

**Data Sources:**  
 Morris County Planning Department parcels

\*The parcel information contained on this map is not to be construed or used as a "legal description". Map information as shown is from county parcel maps, subdivision plans and other sources. Property lines as shown may not show precisely where the legal boundary lines are.

# Appendix B - Court Master's Fairness Report 12/10/19

**Michael P. Bolan, AICP, PP**  
**P.O. Box 295**  
**Pennington, NJ 08534**

December 10, 2018

(via e-mail and regular mail)

The Honorable Maryann L. Nergaard, J.S.C.  
Morris/Sussex Vicinage Superior Court  
PO Box 910  
Morristown, NJ 07963

Re: In re Borough of Chester, Docket No. MRS-L-1661-15  
Report for Fairness Hearing

Dear Judge Nergaard:

The purpose of this letter report is to present my recommendations to the Court as the Court-appointed Special Master concerning the fairness of the settlement between Chester Borough (Chester or Borough) and the Fair Share Housing Center (FSHC), interested party/defendant, to the interests of existing and future low and moderate income households in Chester's housing region. This report also addresses the fairness of the Settlement Agreement between the Borough and Larison's Corner LLC/Turkey Farms Acquisitions LLC, intervener/developer (Turkey Farms).

Notice of the fairness hearing scheduled for December 14, 2018 was provided in accordance with the Court's instructions by the Borough's affordable housing Attorney Michael J. Edwards, Esq. The Notice of Hearing provided a description of the Settlement Agreement and indicated the Settlement Agreement was available for public inspection and copying at the Office of the Borough Clerk.

The following analysis, comments and recommendations are based on the Settlement Agreement, signed by FSHC on November 6, 2018 and the Chester Mayor on November 1, 2018, and the Settlement Agreement between the intervener/developer, signed by the Chester Mayor on October 16, 2018 and the intervener/developer on October 4 and October 14, 2018. This report reviews the terms of the Settlement Agreement to determine whether it is fair and reasonable to low and moderate income households.

## **Substance of the Settlement Agreement**

My review of the substance of the Settlement Agreement is divided into sections dealing with the Borough's Present Need (rehabilitation obligation); Prior Round obligation (1987-1999); estimated Third Round Prospective Need Obligation (1999-2025), which includes Present Need for the period 1999-2015 and prospective need for 2015-2015 in accordance with the N.J.

Supreme Court decision of January 18, 2017 on the "gap" period; and, mechanisms to address the Third Round Prospective Need Obligation.

#### Present Need (Rehabilitation Obligation)

The Settlement Agreement indicates that the Borough has a present need of 12 affordable units. The Borough intends to satisfy this obligation through participation in the Morris County rehabilitation program or through the designation of a separate entity.

#### Prior Round Obligation (1987-1999)

The Borough had a Prior Round Obligation of 16 affordable units. The Settlement Agreement indicates that this obligation is satisfied through the following mechanisms:

- 6 existing affordable supportive housing units (bedrooms) and 4 rental bonus credits through Project Hope
- One existing affordable family rental unit at the Trematore project
- 4 existing affordable age-restricted rental units at the Chester Area Senior Housing Corporation (CASH), which consists of a total of 19 age-restricted apartments
- One existing affordable apartment as part of the Asdal Development inclusionary development

#### Gap (1999-2015) and Prospective Need (2015-2025) Obligations and Mechanisms

The Gap and Prospective Need Obligation of 111 affordable units is based on the report prepared for the Court titled "Determination of Low and Moderate Income Housing Needs in Morris County Based upon the Mercer County Opinion", prepared by Richard B. Reading and dated July 17, 2018.

The Borough prepared a vacant land analysis which resulted in a total Realistic Development Potential (RDP) of 66 affordable units, resulting in an unmet need of 45 affordable units. The Settlement Agreement identifies the following mechanisms to address the Borough's RDP:

- 15 existing affordable age-restricted rental units at the CASH project
- 36 proposed affordable family rental units at the Larison's Corner/Turkey Farms property, with 17 rental bonus credits
- 4 proposed affordable supportive housing units (bedrooms) at the Little Italian Kitchen project

The above mechanisms to address the RDP result in an excess of 6 affordable units/credits that can be applied to the unmet need.

To address the unmet need, the Borough agrees to the following additional mechanisms:

- Adoption of an affordable housing overlay zone on Block 133, Lot 5 (Chester Mall), shown on Exhibit B of the Agreement, which will permit a residential density of 10 units per acre with a 20% set-aside, regardless of whether the project is rental or for-sale
- Adoption of a mandatory set-aside ordinance for all new multifamily and single-family attached residential development of five new units or more at a density of 6 or more units per acre, with a mandatory set-aside of 15 percent for rental developments and 20 percent for for-sale developments

Thus, the Borough satisfies its Prior Round and Gap and Prospective Need obligations by means of already constructed and occupied affordable units, a Redevelopment Plan and associated zoning amendments, age-restricted units, bonus credits, supportive housing, overlay zoning and a mandatory set-aside ordinance.

### **Settlement Agreement with Larison's Corner/Turkey Farms Acquisitions (Developer)**

As mentioned previously the Borough finalized a Settlement Agreement with Turkey Farms in October 2018. The purpose of the Agreement is to settle the developer intervention and to provide a realistic opportunity for the construction of affordable units for the Borough to apply to its affordable housing obligations. The Agreement permits 36 family rental affordable units, a 20,000 square foot medical facility, a 5,000 square foot office building, a 6,500 square foot restaurant, and a 15,000 square foot CVS drug store. Turkey Farms will provide recreation and maintain an organic farm, and on a separate parcel be permitted 20 townhouses and 2 single-family detached dwellings. Ordinance standards and plans for the properties are included in Exhibits A through E of the Agreement. Affordable units shall comply with Uniform Housing Affordability Controls (UHAC) and COAH rules. The project will require a Redevelopment Plan, WQMP amendment and Highlands approval, and the Agreement includes a phasing schedule related to affordable housing and sewers.

Under the Settlement Agreement the Borough is obligated to adopt a Redevelopment Plan within 30 days of the Court's approval of the Settlement Agreement or approval of the project from the Highlands Council, whichever is later. The Borough also is obligated to maintain the Redevelopment Plan and zoning standards for 30 years; to process the Developer's land use applications with reasonable diligence; to refrain from imposing cost-generative requirements; to exempt the residential components from development fees, subject to a condition concerning 9% tax credits; and, to support farmland preservation funding. In addition to its affordable housing obligation, the Developer is obligated to post a performance bond for the affordable housing; to escrow funds for the Borough to secure approvals; to pay for costs and attorney fees; and, to escrow funds for the preparation of a Redevelopment Plan and ordinances to implement the Agreement.

### **Analysis of the Settlement Agreement with FSHC**

I reviewed the Settlement Agreement reached between the Borough of Chester and FSHC in an effort to determine whether or not there was any element of the settlement that would not be fair to the interests of existing and future low and moderate income households in Chester's housing region. I evaluated the Settlement Agreement in terms of the criteria set forth in East/West

Venture v. Borough of Fort Lee, 286 N.J. Super 311, 329 (App. Div. 1996), which outlines the issues involved in approving a settlement of *Mount Laurel* litigation. While this case differs in that the Borough is the plaintiff and FSHC is an interested party and, through the settlement, a defendant in the proceedings, the East/West Venture case provides a good framework for evaluating any settlement arising out of *Mount Laurel* litigation.

As a result of my analysis, it is my opinion that the settlement provides for the Borough's fair share of affordable housing and satisfies the criteria set forth by the Appellate Court in East/West Venture. I am recommending the Court's approval of the settlement with conditions.

#### Summary of Key Terms of the Settlement Agreement

The Settlement Agreement provides that the parties agree that the Borough has a Prior Round Obligation of 16 affordable units, which is satisfied, and a rehabilitation obligation of 12 units, which is addressed through the programs outlined in the Agreement. The Agreement acknowledges that the Third Round Prospective Need, including the Gap Period, is 111 affordable units, and that the Borough has a RDP of 66 affordable units, leaving 45 affordable units as unmet need. The Agreement further acknowledges that the mechanisms provided in the Agreement address the municipal affordable housing obligations.

The Borough agrees to require that 13% of all affordable units referenced in the plan, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval prior to July 1, 2008, to be very low income units (defined as units affordable to households earning 30% or less than the regional median income by household size), and that half of these units shall be available to families. The Borough will apply bonus credits in accordance with N.J.A.C. 5:93-5.15(d).

The Borough agrees to comply with specified minimums for family housing, low income housing, very low income housing, very low income family housing, rentals and family rentals, and agrees to a specified maximum for age-restricted housing. At least 50% of the units addressing the Borough's Third Round Prospective Need shall be affordable to very low income and low income households and to families.

The Borough agrees to add to the list of community and regional organizations in its affirmative marketing plan receiving notice the FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, the Morris County NAACP, Homeless Solutions of Morristown, Morris Urban League, and the Morris County Housing Coalition, and shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organization of all available affordable housing units.

The Borough agrees that all affordable housing units created pursuant to the measures set forth in the Agreement will comply with the requirements of the Uniform Housing Affordability Controls (UHAC), with the exception that in lieu of 10% of affordable units in rental projects being required to be at or below 35% of median income, 13% of affordable units in such projects shall be required to be at or below 30% of median income. In addition, the Borough agrees that, as part of the Housing Element and Fair Share Plan (HEFSP) that will be prepared, adopted and

endorsed as part of the Agreement, it shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. All new construction units shall be adaptable in conformance with N.J.S.A. 52:27D-311a and -311b and all other applicable law.

The Agreement provides that within 120 days of Court approval of the Agreement after a Fairness Hearing, the Borough shall adopt its HEFSP, along with a Spending Plan, and adopt all ordinances required to be adopted as part of this Agreement, and will submit them to the Court, Court Master and FSHC for review, with the understanding that the deadline may need to be extended based on any proceedings that must occur at the Highlands Council. If the Court approves the Agreement after a Fairness Hearing, the parties agree not to appeal the Court's approval. The Borough will then seek judicial approval of the adopted HEFSP (Affordable Housing Plan) at a Compliance Hearing, and so long as the Affordable Housing Plan complies with the terms of the Agreement, the FSHC shall support the Borough's application for approval of its Affordable Housing Plan at the Compliance Hearing. If the Compliance Hearing results in approval of this Agreement and the Borough's Affordable Housing Plan, the parties agree that the Borough will be entitled to a Judgment of Compliance and Repose or the "judicial equivalent of substantive certification and accompanying protection as provided under the Fair Housing Act (FHA)".

The parties agree that if a binding legal determination by the Judiciary, the Legislature, or any administrative subdivision of the Executive Branch determines that Chester's Round Three obligation is decreased to 99 affordable units or less, the Borough may file a proposed form of Order seeking to reduce its Round 3 obligation accordingly, and such relief shall be presumptively granted. Notwithstanding any such reduction, the Borough shall be obligated to implement the Housing Element and Fair Share Plan prepared, adopted and endorsed as a result of the Agreement, leave in place any site specific zoning adopted or relied upon in connection with the Plan approved pursuant to the Agreement, maintain all mechanisms to continue to address the Borough's Round 3 regional need, and otherwise fulfill fully the fair share obligations established in the Agreement. If the Borough prevails in reducing its Round 3 obligation, the Borough may carry over any resulting surplus credits to Round 4.

The Agreement indicates that the Borough will prepare a Spending Plan for approval by the Court during, or prior to, the Compliance Hearing. The parties agree that, upon approval by the Court, the expenditures of funds contemplated under the Spending Plan shall constitute the "commitment" for expenditure pursuant to the Fair Housing Act. Upon approval of its Spending Plan, the Borough shall provide an annual Trust Fund accounting report to the NJ Department of Community Affairs, COAH or Local Government Services, or other entity designated by the State, with a copy to the FSHC and posted on the municipal website, using forms previously developed for this purpose by COAH or Local Government Services.

On the first anniversary of the approval of the Agreement after a Fairness Hearing, and every anniversary thereafter through the end of the Agreement, the Borough shall provide annual reporting of the status of all affordable housing activity through posting on the Borough website, with a copy of such posting to the FSHC, using forms previously developed for this purpose by COAH 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 COAH or its successor agency at the State level.

The Borough agrees to comply with two monitoring provisions of the Fair Housing Act regarding action to be taken by the Borough during the ten-year period of protection provided in this agreement. For the midpoint realistic opportunity review due on July 1, 2020, the Borough will post on its municipal website, with a copy provided to the FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented, and by motion request a hearing before the Court regarding these issues. For the review of very low income housing requirements, 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 requirement. Such posting shall invite any interested party to submit comments to the Borough and FSHC on the issue of whether the Borough has complied with its very low income housing obligation under the terms of the Agreement. In addition to the foregoing, the Borough may also elect to file copies of its report with COAH or its successor agency at the State level.

The Borough agrees to pay \$15,000 to FSHC for payment of fees and costs within 150 days of the issuance of an Order declaring this agreement fair and reasonable by the Court.

#### Evaluation of the Settlement Agreement

The Appellate Court established, in the East/West Venture case, the standard that must be used in evaluating the fairness of a settlement in a *Mount Laurel* lawsuit. That standard is whether or not “the settlement adequately protects the interests of the lower-income persons on whose behalf the affordable units proposed by the settlement are to be built”. The determination of whether or not the standard is met is based upon a five-part analysis, as follows:

1. **Consideration of the number of affordable units being constructed.** The result of the Settlement Agreement is the plaintiff Borough's adoption of zoning and a Redevelopment Plan to provide for affordable housing and its compliance with the constitutional obligation to provide its fair share of the regional need for low and moderate income housing. There is still some uncertainty concerning the methodology that might ultimately be used to establish affordable housing obligations. The fair share obligation agreed to by the parties is the affordable housing need developed by this Court's Regional Special Master, Richard Reading, based on the methodology outlined by Judge Mary C. Jacobson, A.J.S.C, of Mercer County Superior Court, and is within 10% of the capped FSHC calculation. Given the above, and that this Court's approval of a settlement is not an adjudication of the fair share obligation, the number of affordable housing units addressed in the settlement is reasonable.

2. **The methodology by which the number of affordable units provided is derived.** The adjustment for insufficient vacant developable land was undertaken in compliance with COAH's Prior Round Rules, at N.J.A.C. 5:93-4.1 and 4.2. The methodology established in Judge Jacobson's methodology opinion to calculate third round new construction obligations was designed to follow the Prior Round methodology used by COAH in 1994 to determine cumulative 1987-1999 fair share obligations, as directed by the Supreme Court in Mt. Laurel IV. Currently, there is no statewide agreed to methodology. The FSHC has agreed to reductions from its published allocations of up to 40% in other Vicinages. Consequently, I am satisfied that the methodology by which the number of affordable units provided is derived is valid.

3. **Other contributions by the developer.** This prong of the East/West Venture test originally applied to a plaintiff/developer. In this case the plaintiff/Borough has agreed to the following, which are described in more detail above in the sections discussing mechanisms and Key Terms of the Settlement Agreement:

- agreement to adopt a compliant Housing Element and Fair Share Plan and all implementing ordinances;
- agreement to adopt a Redevelopment Plan and associated zoning;
- agreement to adopt a zoning ordinance amendment to establish an affordable housing overlay zone;
- agreement to adopt a mandatory set-aside zoning ordinance;
- agreement that 13% of affordable units shall be for very low income households;
- agreement that at least 25% of the Third Round Prospective Need shall be rental units;
- agreement that at least 50% of rental units shall be available to families;
- agreement that at least 50% of all affordable units addressing the Third Round Prospective Need shall be available to families;
- agreement to an age-restricted cap of 25% of affordable units;
- agreement that an least 50% of units shall be available to very low income and low income households;
- agreement to comply with the requirements of UHAC;
- agreement to prepare and implement a Spending Plan; and,
- agreement to pay \$15,000 to FSHC for fees and costs

4. **Other components of the Agreement that contribute to the satisfaction of the constitutional obligation.** The Borough further agrees to take the steps necessary to amend and implement its Housing Element and Fair Share Plan in accordance with the terms of the settlement agreement and the zoning contemplated therein. The Borough has agreed to adopt a Redevelopment Plan and associated zoning ordinance amendments, to establish an overlay inclusionary housing zone with an affordable housing set-aside, and to adopt a mandatory set-aside ordinance. The Borough agrees to expand and adopt a revised affirmative marketing program, which benefits all lower income households in the region, and to adopt a Spending Plan outlining the use of its Affordable Housing Trust Fund.

5. **Other factors that may be relevant to the fairness of the settlement.** As discussed in more detail in the previous section of Key Terms of the FSHC Settlement Agreement, the Agreement provides for a continuing monitoring program throughout its ten-year duration,

including annual and triennial reporting requirements. This program will ensure that the interests of lower income households in the future will be advanced through the Court's approval. The process of obtaining the Court's approval of the Settlement Agreements with FSHC and the intervener/developer, the scrutiny the documents have received as a result of the intervention by FSHC and the developer/intervener, and the conditions contained in this report requiring the Borough to adopt a HEFSP and certain ordinance amendments and Resolutions will allow the Borough to move forward in the satisfaction of its constitutional obligation. Lastly, the Court's approval of the settlement is subject to a final compliance hearing.

In conclusion, the Court is being asked to determine whether the interests of low and moderate income households will be served by the approval of the settlement between Chester and FSHC and the settlement between Chester and the intervener/developer. In my opinion, the interests of low and moderate income households will be advanced by the Court's approval of the Settlement Agreements.

#### Endorsement of the Settlements

Based upon the analysis undertaken herein, I endorse the fairness of the settlement achieved between Chester and FSHC, and the settlement between the Borough and the intervener/developer, and recommend their favorable consideration by the Court.

#### Conclusion and Conditions

This report has been prepared in anticipation of the upcoming Fairness Hearing before the Honorable Maryann Nergaard, J.S.C. on December 14, 2018 in the matter of the Application of the Borough of Chester for a Determination of *Mount Laurel* Compliance (Docket No. MRS-L-1661-15). The Borough is asking the Court to determine that the Settlement Agreements with FSHC and Larison's Corner LLC/Turkey Farms Acquisitions LLC are fair to low and moderate income households and create a realistic opportunity for satisfaction of the Borough's affordable housing obligations. Ultimately the Borough is seeking a Judgment of Compliance and Repose or the judicial equivalent of substantive certification formally approving the Settlement Agreement, subject to conditions imposed by the Court, which Judgment of Compliance and Repose or the judicial equivalent of substantive certification will entitle the Borough to protection from any *Mount Laurel* builder's remedy lawsuits. A final compliance hearing will be held to determine if the Borough has satisfied the conditions of the Court and is therefore eligible for a final Judgment of Compliance and Repose or the judicial equivalent of substantive certification.

For the reasons provided herein, I recommend that the Court approve the Settlement Agreements and grant the Borough a preliminary Judgment of Compliance and Repose, as the Agreements are designed to implement the March 10, 2015 decision of the N.J. Supreme Court In Re N.J.A.C. 5:96 and 5:97, insofar as can be determined at this time. The recommended approval of the Borough's Application for a Determination of *Mount Laurel* compliance is subject to the following conditions, all of which should be addressed within 120 days of the Court's Order, after which a final compliance hearing will be held:

1. The Borough Planning Board shall adopt and the Mayor and Council shall endorse a Housing Element and Fair Share Plan, and the Mayor and Council shall endorse a Spending Plan, consistent with the terms of this Agreement.
2. The Borough shall adopt amendments to the Affordable Housing Ordinance and Zoning Ordinance to implement the terms of the Settlement Agreement. The updated Affordable Housing Ordinance shall incorporate all of the applicable provisions of the Settlement Agreement, Uniform Housing Affordability Controls (UHAC) and COAH rules, and any other provisions that result from the adopted Housing Plan Element and Fair Share Plan.
3. The Agreement with Turkey Farms provides that the Borough shall adopt a Redevelopment Plan and associated zoning to implement the terms of the Settlement Agreement with Turkey Farms within 30 days following the Court approval of the Agreement or approval of the project from the Highlands Council, whichever is later. As it is subject to approval by the Highlands Council, the adoption and approval of this Plan may extend beyond the 120 day compliance period, and may require a condition in the final Judgment of Compliance and Repose.
4. The Borough shall adopt an overlay zone for Block 133, Lot 5 providing for a residential density of 10 units per acre with a 20% set-aside for affordable housing.
5. The Borough shall provide additional information concerning the proposal for supportive housing (Little Italian Kitchen), including addressing the standards of N.J.A.C. 5:93-5.5 concerning municipally sponsored construction.
6. The Borough shall provide additional information as to the proposed rehabilitation program, including details on its participation in the Morris County Community Development program and/or its implementation of some other municipal program, including the administrative procedures for the program.
7. The Borough shall prepare an Affirmative Marketing Plan incorporating the revisions outlined in the Agreement, and the Mayor and Council shall adopt a Resolution adopting the Borough's Affirmative Marketing Plan.
8. The Mayor and Council shall adopt a Resolution appointing the Borough's Administrative Agent to administer affordable units in accordance with the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.), if it has not already done so.
9. The Borough shall appoint, if it has not already done so, a specific municipal employee as Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, and monitoring and reporting.

The monitoring and reporting requirements identified in Paragraphs 21, 22 and 23 of the Settlement Agreement shall be continuing conditions of the Court's approval.

Sincerely,



Michael P. Bolan, AICP, PP

- cc. Michael J. Edwards, Esq., via e-mail only
- Kevin D. Walsh, Esq., via e-mail only
- Henry L. Kent-Smith, Esq., via e-mail only
- David Banisch, AICP, PP, via e-mail only
- Supreme Court service list, via e-mail only

# Appendix C - Fairness Order 12/14/19

FILED

DEC 14 2018

Maryann L. Nergaard  
J.S.C.

**PREPARED BY THE COURT:**

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IN THE MATTER OF THE  
APPLICATION OF THE BOROUGH OF  
CHESTER FOR A  
DETERMINATION OF MOUNT  
LAUREL COMPLIANCE,

Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, MORRIS COUNTY  
Docket No. MRS-L-1661-15

Civil Action

**ORDER ON FAIRNESS AND  
PRELIMINARY COMPLIANCE HEARING**

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**THIS MATTER**, having come before the Court by Jeffrey H. Surenian and Associates, LLC (Michael J. Edwards, Esq. appearing), attorneys for Petitioner Borough of Chester ("Municipality"); Fox Rothschild, LLP (Henry L. Kent-Smith, Esq. appearing), attorneys for Intervenors Larison's Corner LLC and Turkey Farms Acquisitions, LLC (collectively, "Turkey Farm"); and Interested Party Fair Share Housing Center, Inc. ("FSHC") (Kevin D. Walsh, Esq. appearing), by way of a Fairness and Preliminary Compliance Hearing held pursuant to and in accordance with East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996); and sufficient notice of this hearing having been given in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV") and Morris County Fair Housing Council v. Boonton Tp., 197 N.J.

Super. 359 (Law. Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986) ("Morris County Fair Housing"); and the Court having considered the following: (a) the testimony and report dated December 10, 2018 of the Court-appointed Special Master Michael Bolan, P.P., A.I.C.P.; (b) the testimony of the Municipality's expert David J. Banish, P.P., A.I.C.P.; (c) the Agreement dated November 1, 2018 between the Municipality and FSHC (the "Agreement"); (d) the Settlement Agreement dated October 4, 2018 between the Municipality and Turkey Farm; and the comments of the attorneys for the Municipality, Turkey Farm and FSHC; and good cause having been shown;

**IT IS** on this 14th day of December, 2018;

**ORDERED**, as follows:

1. The Court finds that adequate notice of this hearing was provided in accordance with Mount Laurel IV and Morris County Fair Housing; and
2. The Court approves the Agreement between the Municipality and FSHC, finding that the Agreement is fair, reasonable and adequately protects the interests of low and moderate income persons with the Municipality's housing region based upon the criteria set forth in East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) for approving a settlement of Mount Laurel litigation, ; and
3. The Court preliminarily finds that the Agreement provides a fair and reasonable opportunity for the Municipality to meet its obligation under Mount Laurel IV that is facially constitutionally compliant, subject to the Municipality's adoption of a final Housing Element and Fair Share Plan and addressing the conditions set forth by the Special Master, and further subject to the Court's approval by way of a Final Compliance Hearing to be held as hereinafter set forth; and

4. The Court grants the Municipality's request that it be permitted to conduct a survey of housing units in need of rehabilitation; and
5. A Final Compliance Hearing shall be scheduled by the Court on or after April 15, 2019, by which time the Municipality shall have complied with the above-referenced conditions, shall have submitted the Municipality's Housing Element and Fair Share Plan and all Resolutions and Ordinances required to implement the Housing Element and Fair Share Plan to Mr. Bolan, Turkey Farm and FSHC for review and comment, and shall have provided for the Planning Board of the Municipality to finalize and adopt the Housing Element and Fair Share Plan and the Municipality's governing body to endorse same and to adopt all necessary effectuating Resolutions and Ordinances; and
6. FSHC be and hereby is granted status of Intervenor in this matter;
7. The temporary immunity previously granted to the Municipality is hereby extended until and through the day following the completion of the Final Compliance Hearing herein scheduled and the entry of an Order granting Final Judgment in this matter; and
8. A copy of this Order shall be served upon all parties on the service list in this matter within 10 days of the Municipality's receipt thereof.

  
MARYANN L. NERGAARD, J.S.C.

**Appendix D - Land Use Board Adopting Amended HPE/FSP**

**RESOLUTION No. \_\_\_\_\_ - 2019**

**RESOLUTION OF THE CHESTER BOROUGH LAND USE BOARD ADOPTING AMENDED THIRD ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN**

**WHEREAS**, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015)(Mount Laurel IV), the Borough of Chester (hereinafter "Chester" or the "Borough") filed a Declaratory Judgment Complaint on July 2, 2015 in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Plan Element and Fair Share Plan, to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

**WHEREAS**, the Borough simultaneously sought, and ultimately secured, a protective order providing Chester Borough immunity from all exclusionary zoning lawsuits while it pursued approval of its Amended Third Round Housing Element and Fair Share Plan, which is still in full force and effect; and

**WHEREAS**, the Court also appointed Michael P. Bolan, PP/AICP as the Special Court Master (hereinafter the "Court Master"), as is customary in Mount Laurel matters adjudicated in the courts; and

**WHEREAS**, with assistance from the Court Master, the Borough and Fair Share Housing Center (hereinafter "FSHC") engaged in good faith negotiations, which resulted in the entering into of a Settlement Agreement between the Borough and FSHC on November 1, 2018 (hereinafter "FSHC Settlement Agreement"); and

**WHEREAS**, a Fairness Hearing was held on December 14, 2018, during which the FSHC Settlement Agreement was approved, and said approval was memorialized by an Order entered by the Court on the same date; and

**WHEREAS**, as per the terms of the November 1, 2018 FSHC Settlement Agreement and the Court's December 14, 2018 Order, the Borough's Planner has prepared an Amended Third Round Housing Plan Element and Fair Share Plan and which is attached hereto with Appendices; and

**WHEREAS**, the members of the Land Use Board have reviewed the Amended Housing Element and Fair Share Plan, and have determined to adopt same; and

**WHEREAS**, the Appendices attached to the Amended Housing Plan Element and Fair Share Plan consist of a series of compliance documents conforming to the terms of the Court's order including the FSHC Settlement Agreement, draft compliance ordinances and resolutions to be adopted as part of Court compliance that may be revised by recommendation or requirement by the Court, the Court Master, the Borough's professionals, or Fair Share Housing Center, during the course of Court compliance, any of which would be consistent with the Settlement Agreement or procedural requirements for affordable housing compliance; and

**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Land Use Board held a public hearing on the Amended Third Round Housing Plan Element and Fair Share Plan on May \_\_\_\_\_, 2018; and

**WHEREAS**, the Land Use Board has determined that the attached Amended Third Round Housing Plan Element and Fair Share Plan is consistent with the goals and objectives of the Borough of

Chester’s current Master Plan, and that adoption and implementation of the Housing Element and Fair Share Plan is in the public interest and protects public health and safety and promotes the general welfare;

**NOW THEREFORE BE IT RESOLVED** by the Land Use Board of the Borough of Chester, County of Morris, State of New Jersey, that the Land Use Board hereby adopts the Amended Third Round Housing Plan Element and Fair Share Plan dated May, 2019; and

**BE IT FURTHER RESOLVED**, that the Board approves the correction to, and revision of compliance documents in the Appendices to the Amended Housing Plan Element and Fair Share Plan that may be revised by recommendation or requirement by the Court, the Court Master, the Borough’s professionals, or Fair Share Housing Center, during the course of Court compliance, any of which would be consistent with the Settlement Agreement or procedural requirements for affordable housing compliance.

I hereby certify that this is a true copy of the resolution adopting the Chester Borough Amended Third Round Housing Plan Element and Fair Share Plan of the Borough of Chester, County of Morris, on May\_\_\_\_\_, 2019.

\_\_\_\_\_  
Kerry Brown, Land Use Board Secretary

\_\_\_\_\_  
Date:

**RESOLUTION No. 2019-\_\_\_\_\_**

**A RESOLUTION OF THE GOVERNIN BODY OF THE BOROUGH OF CHESTER, COUNTY OF MORRIS, STATET OF NEW JERSEY ENDORSING THE AMENDED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE BOROUGH OF CHESTER**

WHEREAS, on July 2, 2015, the Borough filed a declaratory judgment action seeking a declaration that it has satisfied its constitutional fair share obligation under the Mt. laurel doctrine and Fair Housing Act and an order immunizing it from builder's remedy suits; and

WHEREAS, the Hon. Steven Hansbury, A.J.S.C. entered orders granting such immunity for specified periods subsequently, the Hon. Maryann Nergaard assumed jurisdiction of the case; and

WHEREAS, on November 1, 2018 the Governing body approved a Settlement Agreement between Fair Share Housing Center, an interested party in the declaratory judgment action, and the Borough establishing the Rehabilitation Share at 12, the Prior Round Obligation at 16 and the Third Round (1999-2025) Prospective Need at 111 affordable units; and

WHEREAS, on December 14, 2018, Judge Nergaard conducted a fairness hearing on the Settlement Agreement and considered the report of the Special Master, Michael P. Bolan, PP/AICP dated December 10, 2018; and

WHEREAS, on December 14, 2018 Judge Nergaard rendered a decision from the bench, with reasons spread upon the record, approving the Settlement Agreement on that same day entered an Order Approving the Settlement Agreement; and

WHEREAS, such Order requires the adoption of a Housing Plan Element and Fair Share Plan and implementing ordinances satisfying a number of conditions set forth in the Order and as detailed in the Court Master's report of December 10, 2014; and

WHEREAS, the Order also continued the Borough's immunity from builder's remedy suits until entry of a final judgment of compliance and repose, which will contain a provision extending the grant of immunity through July 2025; and

WHEREAS, a Master Plan hearing on the Housing Element and Fair Share Plan was duly noticed and held on May\_\_\_\_\_, 2019; and

WHEREAS, the Housing Element and Fair Share Plan that was the subject of the May \_\_\_\_\_, 2019 Master Plan hearing was adopted by the Chester Borough Land Use Board at such public hearing; and

WHEREAS, the Housing Plan Element and Fair Shore Plan conforms to the Borough's Settlement Agreement and the Order Approving the Settlement Agreement; and

WHEREAS. it is in the best interest of the Borough for the Governing Body to endorse such Housing Plan Element and Fair Share Plan.

NOW, THEREFORE, BE IT RESOLVED on this \_\_\_\_\_ day of May, 2019 that the Chester Borough Governing Body endorses the Amended Housing Plan Element and Fair Share Plan.

Adopted: May \_\_\_\_\_, 2019

I hereby certify that the above resolution was adopted by the Governing Body of the Borough of Chester at their regular meeting held on May \_\_\_\_\_, 2019.

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Denean Probasco, CMC, Chester Borough Clerk

**RESOLUTION No. \_\_\_\_\_ - 2019**

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHESTER, COUNTY OF MORRIS, STATE OF NEW JERSEY ADOPTING A SPENDING PLAN REGARDING THE COLLECTION AND DISTRIBUTION OF FUNDS FOR AFFORDABLE HOUSING FROM THE CHESTER BOROUGH AFFORDABLE HOUSING TRUST FUND AND REQUESTING COURT APPROVAL OF SAME**

**WHEREAS**, through the COAH process, the Borough of Chester enacted a Development Fee Ordinance for the collection of development fees and other income to use to address municipal affordable housing obligations;

**WHEREAS**, the Development Fee Ordinance established an Affordable Housing Trust Fund that includes development fees, payments from developers and other income as may be realized for use in connection with implementation of Chester Borough's Housing Plan Element and Fair Share Plan addressing municipal affordable housing obligations and for the purposes of rehabilitation of affordable units, construction of new units, affordability assistance and administration of the Borough's affordable housing plan;

**WHEREAS**, the Borough of Chester is under the jurisdiction of the Court as a result of the Borough's declaratory judgment action, filed July 2, 2015 in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Plan Element and Fair Share Plan, to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

**WHEREAS**, through the Court process, the Borough of Chester has entered into a settlement agreement with the Fair Share Housing Center (FSHC Settlement Agreement) dated November 1, 2018, which fully addresses the Borough of Chester's Third Round affordable housing obligations; and

**WHEREAS**, a Fairness Hearing was held on December 14, 2018, during which the FSHC Settlement Agreement was approved, and said approval was memorialized by an Order entered by the Court on the same date; and

**WHEREAS**, the Borough of Chester is desirous of seeking approval of an updated Spending Plan from the Court for the collection and distribution of affordable housing trust funds in connection with fulfilling the Borough's affordable housing obligations; and

**WHEREAS**, the Borough of Chester has prepared a Spending Plan consistent with P.L. 2008, c. 46, Council on Affordable Housing ("COAH") regulations and the Settlement Agreement entered into between the Borough of Chester and Fair Share Housing Center on November 1, 2018 and the Court's December 14, 2018 Order.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of Borough of Chester, County of Morris, State of New Jersey, hereby approves the Spending Plan, dated June 2019 that is attached hereto and made a part hereof, and requests that the Court review and approve the Borough's Spending Plan, so that it can continue to collect and expend funds in its Affordable Housing Trust Fund.

I, Denean Probasco, CMC, Clerk of the Borough of Chester, hereby certify that the foregoing is a true copy of a Resolution duly passed and adopted by the Governing Body of the Borough of Chester at a regular meeting held by the Governing Body on June \_\_\_\_\_, 2019.

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Denean Probasco, CMC, Chester Borough Clerk

# Appendix G - AHO - Affordable Housing Ordinance

## **BOROUGH OF CHESTER MORRIS COUNTY NEW JERSEY**

### **ORDINANCE NO. 2019-XX**

#### **AN ORDINANCE OF THE BOROUGH OF CHESTER, ESTABLISHING A NEW CHAPTER 45, ENTITLED “AFFORDABLE HOUSING,” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT, THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGULATIONS, AND THE BOROUGH OF CHESTER COURT-APPROVED SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Chester, Morris County, New Jersey, that the Code of the Borough of Chester, is hereby amended to establish a new Chapter 45 entitled “Affordable Housing”, which shall consist of the below provisions addressing Chester Borough’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Chester Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Council. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

#### **Section 1. Monitoring and Reporting Requirements**

The Borough of Chester shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Housing Element and Fair Share Plan:

1. Beginning on November 1, 2019, and on every anniversary of that date through November 1, 2024, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for

which any funds have been expended.

2. Beginning on November 1, 2019, and on every anniversary of that date through April 1, 2025, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

3. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.

4. By October 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, 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 its family very low-income requirements. 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 and family very low-income housing obligations.

## **Section 2. Definitions**

The following terms when used in this Ordinance shall have the meanings given in this Section:

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

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

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

“Affordability average” means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

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

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

### **Section 3. Applicability**

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Chester pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
2. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units, and also including projects funded with Low Income Housing Tax Credits.
3. Any property in the Borough of Chester that is currently zoned for nonresidential uses and subsequently receives a zoning change or use variance or approval of a redevelopment plan to permit residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment plan to permit higher density residential development, provided such density is at least twice the density previously permitted, shall provide an affordable housing set-aside of 15% if the affordable units will be for rent and 20% if the affordable units will be for sale. No property shall be subdivided so as to avoid compliance with this requirement. Moreover, this provision governs municipal actions only and shall not entitle any property owner or developer to such action by the Borough. All affordable units created pursuant to this paragraph shall be governed by the provisions of this Ordinance.

### **Section 4. Alternative Living Arrangements**

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
  - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
  - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**Section 5. Phasing Schedule for Inclusionary Zoning**

In inclusionary developments, the following schedule for the issuance of certificates of occupancy for the required affordable housing units relative to the issuance of certificates of occupancy for the permitted market units shall be followed:

Maximum Percentage of Market-Rate Units Completed (COs Issued)	Minimum Percentage of Low- and Moderate-Income Units Completed (COs Issued)
25	0
25+1	10
50	50
75	75
90	100

**Section 6. New Construction**

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
  - a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low-income units shall be counted as part of the required number of low-income units within the development.
  - b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.
  - c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
    - 1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
    - 2) At least 30 percent of all low- and moderate-income units shall be two bedroom units;
    - 3) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
    - 4) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

2. Accessibility Requirements:

a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

1) An adaptable toilet and bathing facility on the first floor; and

2) An adaptable kitchen on the first floor; and

3) An interior accessible route of travel on the first floor; and

4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

5) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Chester has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

b) To this end, the builder of restricted units shall deposit funds within the Borough of Chester's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

c) The funds deposited under paragraph 6)b) above shall be used by the Borough of Chester for the sole purpose of making the

adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Chester for the conversion of adaptable to accessible entrances.

e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

7) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

3. Design:

a In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

b In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

a In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and using calculation procedures approved by the Court.

b The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

c The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one and one-half person household;
- 3) A two-bedroom unit shall be affordable to a three-person household;
- 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
- 5) A four-bedroom unit shall be affordable to a six-person household.

f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
- 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for Region 2, consisting of Essex, Morris, Union and Warren Counties. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

j. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

### **Section 7. Utilities**

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

### **Section 8. Occupancy Standards**

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

### **Section 9. Control Periods for Restricted Ownership Units and Enforcement Mechanisms**

1. Control periods for newly constructed restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, except as modified by the terms of the settlement agreement between the Borough of Chester and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented, and each newly constructed restricted

ownership unit shall remain subject to the requirements of this Ordinance for a period of at least fifty (50) years, until Chester takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, except as modified by the terms of the settlement agreement between the Borough of Chester and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented.

2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**Section 10. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices**

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of approved capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

### **Section 11. Buyer Income Eligibility**

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

### **Section 12. Limitations on Indebtedness Secured by Ownership Unit: Subordination**

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.6(b).

### **Section 13. Capital Improvements To Ownership Units**

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

### **Section 14. Control Periods for Restricted Rental Units**

1. Control periods for newly constructed restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, except as modified by the terms of the settlement agreement between the Borough of Chester and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented, and each newly constructed restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least fifty (50) years, until Chester takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, except as modified by the terms of the settlement agreement between the Borough of Chester and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented.

2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Morris. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

- a. Sublease or assignment of the lease of the unit;
- b. Sale or other voluntary transfer of the ownership of the unit; or
- c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

### **Section 15. Rent Restrictions for Rental Units; Leases**

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

### **Section 16. 100% Affordable Projects**

All 100% affordable projects, including projects funded through Low Income Housing Tax Credits, shall comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et. seq., except as modified by the terms of the settlement agreement executed between the Borough of Chester and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented. All such projects shall be required to have an initial thirty (30) year affordability control period plus a fifteen (15) year extended use period.

### **Section 17. Tenant Income Eligibility**

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

- a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - c. The household is currently in substandard or overcrowded living conditions;
  - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

**Section 18. Municipal Housing Liaison — Duplicates** Chapter 50, Officers and Employees, Article X, Municipal Housing Liaison §§ 50-41 – 50-43.

- 1. There is hereby created the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Chester, including the following responsibilities which may not be contracted out to the Administrative Agent:

- a. Serving as Chester's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- b. Monitoring the status of all restricted units in Chester's Fair Share Plan;
- c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
- d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
- e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

2. The Borough of Chester shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Borough's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Borough's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Chester shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

3. Subject to the approval of the Court, the Borough of Chester shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

### **Section 19. Administrative Agent**

An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:
  - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Chester and the provisions of N.J.A.C. 5:80-26.15; and
  - b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
2. Household Certification:
  - a. Soliciting, scheduling, conducting and following up on interviews with interested households;
  - b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  - c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
  - e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
  - f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Chester when referring households for certification to affordable units; and
  - g. Notifying the following entities of the availability of affordable housing units in the Borough of Chester: Fair Share Housing Center, the New Brunswick, Plainfield Area, Perth Amboy and Metuchen/Edison branches of the NAACP, the Latino Action Network, the Morris County NAACP, , Homeless Solutions of Morristown, Urban League of Morris County, and Morris County Housing Coalition.
3. Affordability Controls:
  - a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

- c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Morris County Register of Deeds or Morris County Clerk's office after the termination of the affordability controls for each restricted unit;
  - d. Communicating with lenders regarding foreclosures; and
  - e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- 4. Resales and Re-Rentals:
  - a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
  - b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
- 5. Processing Requests from Unit Owners:
  - a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
  - b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
  - c. Notifying the municipality of an owner's intent to sell a restricted unit; and
  - d. Making determinations on requests by owners of restricted units for hardship waivers.
- 6. Enforcement:
  - a. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

- b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
  - c. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
  - d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
  - e. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
  - f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.
7. Additional Responsibilities:
- a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
  - b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
  - c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

## **Section 20. Affirmative Marketing Requirements**

1. The Borough of Chester shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, which is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region.

It is a continuing program that directs marketing activities toward Housing Region 2 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2, comprised of Essex, Morris, Union and Warren Counties.

4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Borough of Chester shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Chester, and copies of the application forms, to the following entities: Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002); the New Jersey State Conference of the NAACP; the Latino Action Network (P.O. Box 943, Freehold, NJ 07728); East Orange NAACP (P.O. Box 1127, East Orange, NJ 07019), Newark NAACP (P.O. Box 1262, Newark, NJ 07101), Morris County NAACP (P.O. Box 2256, Morristown, NJ 07962), Elizabeth NAACP (P.O. Box 6732, Elizabeth, NJ 07206) the Morris County NAACP, Homeless Solutions of Morristown, Urban League of Morris County, Morris County Housing Coalition and the Supportive Housing Association.

10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

## **Section 21. Enforcement of Affordable Housing Regulations**

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

1) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Chester Affordable Housing Trust Fund of the gross amount of rent illegally collected;

3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

b. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred

by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

3) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept

an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

**Section 22. Appeals**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

**REPEALER**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**EFFECTIVE DATE**

This Ordinance shall take effect upon passage and publication as provided by law.

INTRODUCED BY: SECONDED BY:


Appendix H --B-3-IMUO-Inclusionary Mixed-use Overlay Ord. B.133/L5  
& Mandatory Multi-Family Set-aside Ord.

**ORDINANCE No. XX-2019**

**AN ORDINANCE OF THE BOROUGH OF CHESTER, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING THE CODE OF THE BOROUGH OF CHESTER, CHAPTER 163, LAND DEVELOPMENT AND PROCEDURES, ARTICLE IX ZONING - ZONE REQUIREMENTS, SECTION 163-72 BUSINESS ZONES TO ESTABLISH THE B-3 REGIONAL COMMERCIAL INCLUSIONARY MIXED-USE OVERLAY ZONE DESIGNATION (B-3-IMUO ZONE) FOR BLOCK 133, LOT 5 WITH A RESIDENTIAL DEVELOPMENT OPTION ADDRESSING A PORTION OF THE BOROUGH OF CHESTER'S AFFORDABLE HOUSING OBLIGATIONS; AND SUPPLEMENTING AND AMENDING CHAPTER 163, LAND DEVELOPMENT AND PROCEDURES, ARTICLE XIV – GROWTH SHARE AFFORDABLE HOUSING REQUIREMENTS, SECTION 163-100, REQUIRED GROWTH SHARE AFFORDABLE HOUSING PRODUCTION BY REALING GROWTH SHARE REQUIREMENTS AND ESTABLISHING “MANDATORY AFFORDABLE HOUSING SET-ASIDE” REGULATIONS.**

**Explanatory Statement:** This is an inclusionary zoning overlay ordinance affecting Block 133, Lot 5, commonly known as the Chester Mall located at the corner of West Main Street and State Highway 206 in the Borough of Chester that is currently developed with commercial development. This ordinance establishes a new B-3-IMUO Regional Commercial Inclusionary Mixed-use Overlay Zone designation to permit redevelopment of Block 133, Lot 5 with mixed-use Regional Commercial and Residential Development at a maximum residential density of 10 dwelling units per acre provided that twenty-percent (20%) of the residential dwelling units constructed are affordable housing. The new B-3-IMUO Zone will continue to permit existing “B-3” Regional Commercial Zone nonresidential development as currently permitted. Existing non-residential developed lots may continue to exist with lawfully existing structures and permitted uses in accordance with underlying zoning and may change in accordance with existing nonresidential development ordinance standards. In addition, this ordinance repeals existing “Growth Share” affordable housing production requirements and establishes new “Mandatory Affordable Housing Set-aside” regulations for all multi-family developments where the number of dwellings proposed results in a net increase of five (5) or more dwellings than would otherwise be permitted by the existing development regulations.

**WHEREAS**, Chester Borough has maintained full compliance in addressing its constitutional Mount Laurel affordable housing obligations, first through the New Jersey Council on Affordable Housing (COAH) substantive certification process and most recently through the participation in the Court process established by the New Jersey Supreme Court in its landmark affordable housing decision in March of 2015 (Mount Laurel IV), which resulted in a settlement agreement on November 1, 2018 with the Fair Share Housing Center (the “Agreement”) fully addressing Chester Borough’s Third Round affordable housing obligations; and

**WHEREAS**, the Agreement was approved by the Court on December 14, 2018, which included specific affordable housing compliance mechanisms that the Borough of Chester will implement to address Third Round Mount Laurel affordable housing obligations; and

**WHEREAS**, through the Court Process and under the supervision of a Special Court Master appointed by the Superior Court, and in accordance with the “Agreement”, Chester Borough identified zoning mechanisms to address the Third Round municipal affordable housing obligations; and

**WHEREAS**, Chester Borough is desirous of implementing overlay zoning ordinance amendments responsive to meeting its unmet need portion of the Third Round municipal affordable housing obligation assigned to the Borough through the Court process, thereby maintaining full compliance in addressing the municipal constitutional Mount Laurel affordable housing obligation as articulated through the Agreement; and

**WHEREAS**, the governing body of the Borough of Chester has identified Block 133, Lot 5, commonly known as the Chester Mall situated at the corner of West Main Street, Gladstone Road and US Route 206 in the Borough of Chester, that appears to be capable of supporting mixed-use commercial and residential development in the form of inclusionary affordable housing development if zoning standards are established to permit alternative residential development options with the existing B-3 Regional Commercial non-residential development zoning, which will aid in the Borough addressing a portion of Third Round affordable housing obligations; and

**WHEREAS**, it is necessary to amend Chapter 163, Land Development and Procedures, Article IX, Zone Requirements, Section 163-72 Business Zones to add a mixed use inclusionary zoning overlay designation to the existing B-3 Regional Commercial zoning designation of Block 133, Lot 5 in accordance with the Agreement; and

**WHEREAS**, it is necessary to amend Chapter 163, Article XVI – Growth Share Affordable Housing Requirements, Section 163-100, Required Growth Share Affordable Housing Production, by replacing “Growth Share Requirements” and establishing new “Mandatory Affordable Housing Set-aside” regulations;

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the the Borough of Chester, County of Morris, and State of New Jersey that Chapter 163, Land Development and Procedures, Article IX, Zoning - Zone Requirements, is hereby amended, supplemented and revised, to establish affordable housing development standards for the provision of affordable housing development to address Chester Borough’s Mount Laurel constitutional obligations, as follows:

**SECTION I.** Amend the Code of the Borough of Chester, Chapter 163, Land Development and Procedures, Article IX, Zoning - Zone Requirements, as follows:

1. Amend Section 163-68 Zone Map, by adding the following new zoning district designation to the Zoning Map: B-3-IMUO Regional Commercial Inclusionary Mixed-use Overlay Zone
2. Amend the Zoning Map, Section 163-68 Zone Map, by designating Block 133, Lot 5, as follows: B-3-IMUO Regional Commercial Inclusionary Mixed-use Overlay Zone

**SECTION II.** The Code of the Borough of Chester, Chapter 163, Land Development and Procedures, Article IX, Zoning - Zone Requirements is hereby amended and supplemented by adding the following new Section § 163-72, subsection F. B-3-IMUO Regional Commercial Inclusionary Mixed-use Overlay Zone, as follows:

§ 163-72. F. B-3-IMUO Regional Commercial Inclusionary Mixed-use Overlay Zone.

Purpose Statement: The purpose of the B-3-IMUO Regional Commercial Inclusionary Mixed-use Overlay Zone is to address a portion of the Borough of Chester's affordable housing obligations by adding an inclusionary residential development option to the existing B-3 Regional Commercial development and use provisions on Block 133, Lot 5 to encourage the redevelopment of the site with residential inclusionary development and permitted Regional Commercial uses. This zone permits Regional Commercial uses on the ground floor and inclusionary residential development above first floor permitted Regional Commercial uses.

(1) Permitted uses.

(a) Uses permitted and regulated in Subsection **D**, above

(b) Mixed-use multi-family housing development at a maximum density of ten (10) dwelling units per acre with a 20% affordable housing set-aside with all non-residential development limited to the first floor of buildings and residential development limited to floors above non-residential development; and with all affordable units built, constructed, administered, maintained and operated in accordance with the provisions of the Borough of Chester's Affordable Housing Ordinance and all other applicable rules, regulations, statutes and Court decisions, including, but not limited to N.J.A.C. 5:93-1 et seq., and N.J.A.C. 5:80-26.1 et seq., Uniform Housing Affordability Controls, as amended, and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), as amended.

(2) Permitted accessory uses.

(a) Permitted accessory uses as regulated in Subsection A(2), above.

(b) Usual and customary accessory uses for multi-family accessory uses that contribute to the comfort, convenience or necessity of occupants of the multi-family housing.

(3) Conditional uses. The following uses may be permitted by the Planning Board subject to the conditions and procedures as specified in § 163-75.

(a) None.

(4) Area, yard and building requirements for the B-3-IMUO shall be as specified below:

- (a) Lot Area Requirements:
1. Minimum area: 7 .25 acres
  2. Minimum lot width: 200'
  3. Minimum lot depth: 150'

4. Maximum density: 10 dwelling units per acre / 20% affordable units
  5. Minimum coverage (buildings and structures): 30%
  6. Maximum impervious coverage: 70%
- (b) Yard Requirements (Principal building):
1. Front yard: 100'
  2. One side: 20'
  3. Both sides: 50'
  4. Rear yard: 50'
- (c) Yard Requirements (Accessory building):
1. Front yard: N/A
  2. Side yard: 20'
  3. Rear yard: 50'
- (d) Building Size Requirements:
1. Maximum height: 3-stories / 48', provided, however, that the maximum height of a building located within 100' of any residential zone or use shall be limited to 2-1/2 stories / 35'.
  2. Minimum gross floor area: N/A
- (e) Minimum parking and driveway setback: 40' – The minimum parking setback from a public road, residential zone or use shall be suitably landscaped with a parking and driveway setback buffer, consisting of lawn, planted buffer screen with trees and shrubs, a fence, or combination of the three as may be required by the Planning Board. Access driveways may be located in the parking and driveway setback buffer, provided that access driveways cross the buffer in the shortest distance between the public road and on site parking and circulation driveways. The minimum parking and driveway setback from an adjoining B-3 use shall be 0'.

(5) Off-street parking requirements. As per Article X as defined for the particular nonresidential use. Parking shall be provided as per RSIS for multi-family housing. Shared parking may be permitted where it is demonstrated to the satisfaction of the Planning Board that a portion of the combined parking demand of nonresidential and multi-family uses can be accommodated in a shared parking arrangement.

(6) An internal pedestrian circulation system consisting of pathways, sidewalks and paths shall be provided with connections to public sidewalks, off-site regional trails, pathways, and public open space, which shall include a continuous loop of walking paths on site for the benefit and enjoyment of the residents and for access to permitted residential and non-residential development.

(7) Signs. As per Article XII.

(8) Affordable housing requirements / very low-, low- and moderate-income units.

(a) Affordable units shall conform to the requirements of the NJ Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (“FHA”), the “Round 2” regulations adopted by the NJ Council on Affordable Housing, N.J.A.C. 5:93-1.1 et. seq., the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq., all other relevant statutes, regulations, and policies and the Chester Borough Third Round Affordable Housing Ordinance.

- (b) Affordability average; bedroom distribution. Affordable units shall be provided in accordance with N.J.S.A. 5:80-26.3 Affordability average; bedroom distribution.
- (c) Very low, low and moderate-income housing shall be constructed and rented in accordance with the NJ Fair Housing Act and Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq. including standards for the split between very low-, low- and moderate-income housing. Pursuant to N.J.S.A. 52:27D-329.1, a minimum of 13% of the affordable units shall be very low-income households, i.e., affordable to households earning 30% of median income for the region; and at least 37% of the affordable units shall be low income units. The balance of units shall be moderate income units.
- (d) Affordable units shall be affirmatively marketed in accordance with the affirmative marketing provisions identified at N.J.A.C. 5:80-26.15.
- (e) Controls on Affordability. There shall be an income control period pursuant to N.J.A.C. 5:80-26.11 of at least 30 years for all affordable units.
  - (a) The applicant shall submit a copy of the draft deed restriction to be placed on affordable units at the time of application for site plan approval for Planning Board Attorney review and approval prior to the Planning Board granting preliminary site plan approval.
  - (b) Affordability controls shall be established in the form of a deed restriction, which shall be approved by the Planning Board Attorney and recorded with the County Clerk and filed with Chester Borough Clerk.
- (f) Affordable units shall be administered by a qualified administrative agent in accordance with the administrative procedures for affordable units identified in the UHAC. The developer shall be responsible for the cost for all aspects of administering the affordable units, including but not limited to affirmative marketing, income qualification, tenant placement/purchaser selection, maintenance of controls, etc.

(9). Site plan review required as set forth under Article VI. An application for site plan approval shall comply with the Borough’s submission requirements, procedures, design standards and requirements for a site plan application pursuant to all applicable standards in Chapter 163.

- (a) A comprehensive traffic study shall be submitted with the application for development. This study will include a matrix with estimated projections for vehicle movements in and out of the facility in each hour of each day in a typical seven-day week. The projections for each hour will be built up from separate estimates for ingress and egress, and for different categories of use. The latter will include, but not be limited to, residents, deliveries and visitors. Added together the separate categories will equal all traffic in and out. The study will also include background traffic in each direction on the

public road servicing the facility in the same twenty-four-hour, seven-day format. The factual and analytical basis for all estimates will be explained.

(b) The Planning Board may use the traffic study to foster proper design and to determine the applicant's pro-rata share of off-site and off-tract improvements, if any, that may be required. The Planning Board shall not use the traffic study to alter the density of sites to be developed with inclusionary zoning.

(c) The applicant shall have the option of preparing the traffic study or choosing a consultant from a list of at least two professionals (prepared by the municipality) to prepare the studies. If the developer chooses a consultant from the municipally prepared list, the developer and municipality shall rely on the consultant's recommendations.

(10) A landscaped buffer shall be required on any side or rear yard adjacent to any property used or zoned for nonresidential purposes. The buffer shall be a minimum of 25 feet in width and shall be landscaped via massed evergreen trees and/or shrubs having a minimum height of eight feet (8') at the time of planting. Such buffer areas may also be required upon site plan review to have walls and/or fences in order to screen the multifamily use from the single-family zone. No building or other structure, parking area, driveway or storage area shall encroach upon such buffer area.

**SECTION III.** Chapter 163, Article XVI – Growth Share Affordable Housing Requirements, Section 163-100, Required Growth Share Affordable Housing Production, is hereby amended and supplemented, as follows:

1. The title of Article XVI “Growth Share Affordable Housing Requirements” is hereby repealed and replaced with the following new title: “Mandatory Affordable Housing Set-aside” Regulations”.
2. Section 163-100 entitled “Required Growth Share Affordable Housing Production” is repealed in its entirety and replaced with the following new Section 163-100, entitled “Mandatory Affordable Housing Set Aside for Multi-family Dwellings” as follows:

**§ 163-100 Mandatory Affordable Housing Set-Aside for Multi-family Dwellings.**

A. In addition to specific zoning districts with required income restrictions intended to create affordable housing, there shall apply Borough-wide within any zoning district a mandatory setaside of affordable housing that shall apply to any multiple dwelling or townhouse development, including the residential portion of a mixed-use project, meeting the following criteria:

- (1) The number of dwellings proposed results in a net increase of five (5) or more dwellings than would otherwise be permitted by the existing development regulations; and
- (2) Results in a gross density of six (6) units per acre or greater.

B. Such requirement shall apply regardless of whether the additional dwellings are by an adopted zoning amendment, a use variance granted by the Zoning Board, adoption of a Redevelopment Plan, or amended Redevelopment Plan, except as exempted in Paragraph –C, below.

C. This requirement shall not apply to residential expansions, additions, renovations, replacement, single family detached, single family semi-detached, or any other type of residential development that does not result in a net increase in the number of dwellings or gross density as established in Paragraph -A, above; or any property specifically identified as providing affordable housing in the duly adopted Housing Element and Fair Share Plan of the municipality.

D. The presumptive apportionment of affordable low and moderate income units shall be a minimum of twenty percent (20%) for dwellings offered for sale and a minimum of fifteen percent (15%) when offered for rent. The calculation of the number of units to be constructed shall be as required by Chapter 97. Any fractional unit shall be rounded up to the next whole number.

E. Any property subdivided or developed in such a manner that has the effect of preventing the development of low and moderate income dwellings in accordance with this section shall be considered null and void. The board of jurisdiction may impose reasonable conditions to ensure compliance with this Paragraph.

F. Nothing in this Section precludes the municipality from imposing an affordable housing set aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and any other applicable law.

G. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.

**SECTION III. RENUMBERING.**  
codification purposes.

This ordinance may be renumbered for

**SECTION IV. SEVERABILITY.**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder off this Ordinance shall not be affected thereby.

**SECTION V. REPEALER.**

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

**SECTION VI. EFFECTIVE DATE.**

This Ordinance shall not take effect until approved by the Court and as may be required by the New Jersey Highlands Council.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Governing Body of Chester Borough held on May, 2019, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Governing Body to be held on June\_\_\_\_\_, 2019 **at 7:00 p.m.** or as soon thereafter as the Governing Body may hear this Ordinance at the Chester Borough Municipal Building, 50 North Road, NJ 07930, at which time all persons interested may appear for or against the passage of said Ordinance.

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Denean Probasco, RMC, Borough Clerk

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Janet Hoven, Mayor,

Adopted:

Attest: I herein certify that the foregoing ordinance was duly adopted by the Governing Body of the Borough of Chester at a regular meeting held by the Governing Body on June\_\_\_\_\_, 2019.

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Denean Probasco, RMC, Borough Clerk

## Appendix I - Little Italian Kitchen Supportive Housing Site

5. Block 101, Lot 11 – 235 Route 206, Chester, NJ  
Soldier On (formerly Community Hope) Group Home for US Veterans.  
**Addressing Criteria Set Forth in N.J.A.C. 5:93-5.5**

This is a municipally sponsored project that will be constructed on land that Chester Borough acquired for affordable housing development. In 2012, the Borough contracted with Community Hope, a private, non-profit developer, to construct the project. Community Hope proposed the project as two apartment units, each with two-bedrooms, for occupancy by chronically homeless US Veterans. Community Hope operates a transitional housing facility for US Veterans at the US Veterans Administration campus in Lyons, NJ. The transitional housing facility is the initial intake facility for chronically homeless veterans. That facility treats US Veterans for a variety of physical, psychological and addiction maladies suffered by homeless US Veterans. After a period of stabilization and case-supervised rehabilitation, some of the homeless US Veterans progress to a point self-sufficiency. At that point, placement in a supervised independent living situation is possible.

In December 2018, Community Hope advised that they no longer had the financial capacity to construct the facility. At that time, Community Hope introduced Chester Borough to a sister non-profit organization, “Soldier On” based in Massachusetts that is currently developing US Veteran housing in New Jersey and Soldier On expressed an interest in the project and asked to assume the project from Community Hope. Soldier On has a demonstrated track-record constructing affordable housing for US Veterans – their first project is in Pittsfield, MA and they’ve completed a US Veterans housing project for women in Westfield MA, and they have a their New York state presence with projects from Poughkeepsie to Buffalo.

In April 2019, the Borough of Chester and Soldier On completed a development agreement for Soldier On to build the project at 235 Route 206 as four one-bedroom apartments – this is essentially an assignment of the prior agreement with Community Hope to Soldier. Following execution of the new agreement the Borough met with Soldier On for a kick-off meeting on April 23, 2019 to identify local development approvals required for the project, which include only local Land Use Board re-approval of revised architectural plans. Representatives of Soldier On attended the meeting with their architect and advised that revised plans would be forthcoming for local review and approval in the near future.

Soldier On has partnered with a New Jersey non-profit group, Shelter Our Soldiers to assist in material procurement, fund-raising and construction of the 235 Route 206 project. Bruce Buckley, Ex. Dir. for Soldier On described funding discussions with Chuck Richman at NJHMFA for financing for the project, but we are aware of no firm commitment from NJHMFA at this time. Todd Reit, Scott Akin and Pat Conturso from Shelter Our Soldiers explained that they will be seeking approval of a site sign for donations and fund-raising when Soldier On

- Chester Borough will be providing \$150,000 from the Affordable Housing Trust Fund to Soldier On for the project. As of 12/31/18 the balance was \$692,774.73.
- Chester Borough will be providing the site (235 Route 206, Block 101, Lot 11) to Soldier On to build the project (tax records verify that the Borough owns the site).

- Soldier On and Shelter Our Soldiers will be fund-raising within the community and seeking material donations for the project.
- Soldier On will secure NJHJFA financing for the project.
- The occupants, chronically homeless US Veterans, will receive Veterans Administration Supportive Housing (VASH) vouchers to assist with rental payments. – VASH certificates are essentially Section 8 certificates/subsidies that are targeted to the chronically homeless and disabled Veteran. Typically, but not always, the VASH recipient’s income subsidies from the Veterans Administration meet NJ’s very low-income limits.

Income verification and homeless US Veteran placement will be administered through the US Veterans Administration and the VASH program with Soldier On.

Soldier On’s operational model is called a “Peer Program” – Staff and others related to Veteran’s care with a vehicle will supervise residents by regularly visiting the site. The “Peers” will provide transportation for medical visits and other residents’ needs.

At this juncture in the process, Soldier On is revising architectural plans, but no pro-forma document is yet provided. Community Hope had conducted due diligence for the site in preparing a site plan, evaluating the existing on-site septic system and well and securing the Chester Borough Land Use Board approval of project plans. Soldier On will be verifying the information generated by Community Hope’s Engineer (Richard Schommer, PE, of Morristown, NJ) and continuing any additional investigations that may be necessary.

**Schedule:** Based on the progress explained by Soldier On and Shelter Our Soldiers on April 23, it is the Borough’s impression that this project will begin in 2019 following the local Land Use Board approval of revised architectural plans for the 4-unit rental project.

The following outline is an estimated schedule for the project, prepared by the Borough Planner, based on the April 23, 2019 discussions with the project partners Soldier On and Shelter Our Soldiers:

June / July 2019: Chester Borough Land Use Board approval of revised plans and site signs for the project;

August / September 2019: Groundbreaking and commencement of fund-raising and material donation solicitations;

September 2019 – September 2020: Construction activities and project completion.



# Does YOUR House Need Work?

**The Morris County  
Housing Rehabilitation Program**

## The Morris County Housing Rehabilitation

**Program** provides funds to income eligible homeowners to address major system failures in their primary residence.

---

### General Requirements

Please check the box that applies: **YES** **NO**

1. Are you a permanent Morris County resident (except Dover, Mendham Borough and Parsippany)?
2. Do you own and have you lived in the house for at least one year?
3. Is this your principal residence?
4. Do you fall within the income limits in the chart below?

<b>INCOME LIMITS</b>	
<b>Family Size</b>	<b>Gross Income</b>
<b>1</b>	<b>\$50,350</b>
<b>2</b>	<b>\$57,550</b>
<b>3</b>	<b>\$64,750</b>
<b>4</b>	<b>\$71,900</b>
<b>5</b>	<b>\$77,700</b>
<b>6</b>	<b>\$83,450</b>
<b>7</b>	<b>\$89,200</b>
<b>8</b>	<b>\$94,950</b>

Effective: 4/25/18

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## Program Requirements



Funds are to be used for major repairs or conditions related to health or safety.



Examples of Work: roof replacement, furnace replacement, upgrade electrical, construct new well or septic, sewer or water hook-ups, provide handicapped access, etc.



Type of assistance: No Interest, No Payment 6-Year or 10-Year Forgivable Loan (Term is dependent on amount of assistance).



Contact Community Development **BEFORE** any work is done or contracts are signed.

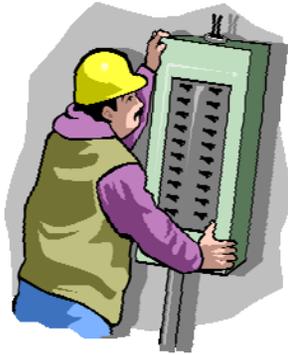
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## Interested?

If you have answered **YES** to the questions on the preceding page and you are in need of our help, call or write:

**Morris County Office of Community  
Development  
POB 900  
Morristown, NJ 07963-0900  
(973) 285-6032  
HOgorman@co.morris.nj.us**

*The Morris County Community Development Program is funded through the U.S. Department of Housing and Urban Development (HUD). This program is a cooperative effort of the federal government through the Morris County Board of Chosen Freeholders and 37 municipalities to meet housing and neighborhood needs throughout the County. The Housing Rehabilitation Program is only one of the many activities receiving funding through this annual grant.*



**A Publication of the  
Morris County Board of Chosen Freeholders**



# Appendix K - Affirmative Marketing Plan (AMP) & Resolution

## AFFIRMATIVE FAIR HOUSING MARKETING PLAN For Affordable Housing in **(REGION 2)** **Chester Borough, Morris County, NJ**

### I. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number		1b. Development or Program Name, Address	
1c. Number of Affordable Units:  Number of Rental Units:  Number of For-Sale Units:	1d. Price or Rental Range  From Very low-income (region 2)  To Moderate-income (Region 2)	1e. State and Federal Funding Sources (if any)	
1f. Age Restricted  Non-Age Restricted	1g. Approximate Starting Dates  Advertising: Occupancy:		
1h. County <b>Essex, Morris, Union, Warren</b>		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

### II. RANDOM SELECTION

<p>2. Describe the random selection process that will be used once applications are received.</p> <ol style="list-style-type: none"> <li>1. An initial deadline date, no less than 60 days after the start of the marketing process, will be established. All of the preliminary applications received by the Administrative Agent, on or before the initial deadline date, shall be deemed received on that date.</li> <li>2. Households that apply for very low-, low- and moderate-income housing will be prescreened by the Administrative Agent for preliminary income eligibility by comparing their total income and household size to the very low-, low- and moderate-income limits adopted by the Court, COAH or its successors and other program restrictions that may apply. All households will be notified as to their preliminary status.</li> <li>3. A drawing (using a web-based randomizer) will be held under the direction of the Administrative Agent to determine the priority order of the pre-qualified applications received on or before the initial deadline date. All preliminary applications received after the initial deadline will be processed on a "first come, first served" basis after the applicants who were in the random selection.</li> <li>4. In order to ensure an adequate supply of qualified applicants, the advertising phase will continue</li> </ol>
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until there are at least ten (10) pre-qualified applicants for each very low-, low- and moderate-income unit available, or until all of the affordable units within the development have been rented.

5. Final applications will be mailed by the Administrative Agent to an adequate number of pre-qualified applicants, in priority order, for each available affordable unit. The final application will require the applicants to supply documents to verify their identity and household composition as well as their income and assets.
6. Completed final applications will be forwarded to the Administrative Agent. The Administrative Agent will make a determination as to their eligibility for an affordable unit.
7. Applicants will receive a letter from the Administrative Agent with respect to the status of their application each time a review is performed.
8. Applicants will be reviewed by the Landlord for compliance with the tenant selection criteria set for the property. The tenant selection criteria shall comply with all fair housing standards and be set forth in a policy statement made available to all applicants by the Landlord. The Landlord will be responsible for the assessment of all criteria beyond the income and household size criteria set forth by the affordable housing criteria.
9. Certified applicants will be given a pre-determined amount of time to sign a lease agreement with the Landlord.

### III. MARKETING

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

- White (non-Hispanic Native)     
  Black (non-Hispanic)     
  Hispanic     
  American Indian or Alaskan Native  
 Asian or Pacific Islander     
  Other group:

3b. **HOUSING RESOURCE CENTER** ([www.njhousing.gov](http://www.njhousing.gov)) A free, online listing of affordable housing Chester Borough, 50 North Road, Chester, NJ 07930 (<https://chesterborough.org/>)

3c. Commercial Media (required) (Check all that applies)

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
<b>TARGETS ENTIRE HOUSING REGION 2</b>			
Daily Newspaper			
<input checked="" type="checkbox"/>	At start of affirmative marketing process -addl. advertising as needed	Star-Ledger	
<input type="checkbox"/>		New York Times	
<b>TARGETS PARTIAL HOUSING REGION 2</b>			
Daily Newspaper			

X	At start of affirmative marketing process -addl. advertising as needed	Daily Record	Morris
X	At start of affirmative marketing process -addl. advertising as needed	Observer Tribune	Morris
<input type="checkbox"/>		Express Times	Warren
Weekly Newspaper			
<input type="checkbox"/>		Belleville Post	Essex
<input type="checkbox"/>		Belleville Times	Essex
<input type="checkbox"/>		Bloomfield Life	Essex
<input type="checkbox"/>		East Orange Record	Essex
<input type="checkbox"/>		Glen Ridge Paper	Essex
<input type="checkbox"/>		Glen Ridge Voice	Essex
<input type="checkbox"/>		Independent Press	Essex
<input type="checkbox"/>		Irvington Herald	Essex
<input type="checkbox"/>		Item of Millburn and Short Hills	Essex
<input type="checkbox"/>		Montclair Times	Essex
<input type="checkbox"/>		News-Record	Essex
<input type="checkbox"/>		Nutley Journal	Essex
<input type="checkbox"/>		Nutley Sun	Essex
<input type="checkbox"/>		Observer	Essex
<input type="checkbox"/>		Orange Transcript	Essex
<input type="checkbox"/>		Progress	Essex
<input type="checkbox"/>		Vailsburg Leader	Essex
<input type="checkbox"/>		Verona-Cedar Grove Times	Essex
<input type="checkbox"/>		West Essex Tribune	Essex
<input type="checkbox"/>		West Orange Chronicle	Essex
<input type="checkbox"/>		Atom Tabloid & Citizen Gazette	Middlesex, Union
<input type="checkbox"/>		Chatham Courier	Morris
<input type="checkbox"/>		Chatham Independent Press	Morris
<input type="checkbox"/>		Citizen of Morris County	Morris
<input type="checkbox"/>		Florham Park Eagle	Morris
<input type="checkbox"/>		Hanover Eagle	Morris

<input type="checkbox"/>		Madison Eagle	Morris
<input type="checkbox"/>		Morris News Bee	Morris
<input type="checkbox"/>		Mt. Olive Chronicle	Morris
<input type="checkbox"/>		Neighbor News	Morris
<input type="checkbox"/>		Randolph Reporter	Morris
<input type="checkbox"/>		Roxbury Register	Morris
<input type="checkbox"/>		Parsippany Life	Morris
<input type="checkbox"/>		Clark Patriot	Union
<input type="checkbox"/>		Cranford Chronicle	Union
<input type="checkbox"/>		Echo Leader	Union
<input type="checkbox"/>		Elizabeth Reporter	Union
<input type="checkbox"/>		Hillside Leader	Union
<input type="checkbox"/>		Leader of Kenilworth & Roselle Park	Union
<input type="checkbox"/>		Madison Independent Press, The	Union
<input type="checkbox"/>		Millburn and Short Hills Independent Press	Union
<input type="checkbox"/>		News Record	Union
<input type="checkbox"/>		Record-Press	Union
<input type="checkbox"/>		Scotch Plains Times (Fanwood Times)	Union
<input type="checkbox"/>		Spectator Leader	Union
<input type="checkbox"/>		Union Leader	Union
<input type="checkbox"/>		Warren Reporter	Warren

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL TV STATION(S)	CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE HOUSING REGION 2</b>			
<input type="checkbox"/>		2 WCBS-TV Cbs Broadcasting Inc.	
		3 KYW-TV Cbs Broadcasting Inc.	
<input type="checkbox"/>		4 WNBC NBC Telemundo License Co. (General Electric)	
<input type="checkbox"/>		5 WNYW Fox Television Stations, Inc. (News Corp.)	

<input type="checkbox"/>		7 WABC-TV American Broadcasting Companies, Inc (Walt Disney)	
<input type="checkbox"/>		9 WWOR-TV Fox Television Stations, Inc. (News Corp.)	
<input type="checkbox"/>		11 WPIX Wpix, Inc. (Tribune)	
<input type="checkbox"/>		13 WNET Educational Broadcasting Corporation	
<input type="checkbox"/>		25 WNYE-TV New York City Dept. Of Info Technology & Telecommunications	
<input type="checkbox"/>		31 WPXN-TV Paxson Communications License Company, Llc	
<input type="checkbox"/>		41 WXTV Wxtv License Partnership, G.p. (Univision Communications Inc.)	
<input type="checkbox"/>		47 WNJU NBC Telemundo License Co. (General Electric)	
<input type="checkbox"/>		50 WNJN New Jersey Public Broadcasting Authority	
<input type="checkbox"/>		52 WNJT New Jersey Public Broadcasting Authority	
<input type="checkbox"/>		54 WTBY-TV Trinity Broadcasting Of New York, Inc.	
<input type="checkbox"/>		58 WNJB New Jersey Public Broadcasting Authority	
<input type="checkbox"/>		62 WRNN-TV Wrnn License Company, Llc	
<input type="checkbox"/>		63 WMBC-TV Mountain Broadcating Corporation	
<input type="checkbox"/>		68 WFUT-TV Univision New York Llc	Spanish
<b>TARGETS PARTIAL HOUSING REGION 2</b>			
<input type="checkbox"/>		42 WKOB-LP Nave Communications, Llc	Essex
<input type="checkbox"/>		22 WMBQ-CA Renard Communications Corp.	Essex, Morris, Union
<input type="checkbox"/>		66 WFME-TV Family Stations Of New Jersey, Inc.	Essex, Morris, Union
<input type="checkbox"/>		21 WLIW Educational Broadcasting Corporation	Essex, Union
<input type="checkbox"/>		60 W60AI Ventana Television, Inc	Essex, Union
<input type="checkbox"/>		36 W36AZ New Jersey Public Broadcasting Authority	Morris

<input type="checkbox"/>		6 WPVI-TV American Broadcasting Companies, Inc (Walt Disney)	Morris, Union, Warren
<input type="checkbox"/>		65 WUVP-TV Univision Communications, Inc.	Morris, Union, Warren
<input type="checkbox"/>		23 W23AZ Centenary College	Morris, Warren
<input type="checkbox"/>		28 WBRE-TV Nexstar Broadcasting, Inc.	Morris, Warren
<input type="checkbox"/>		35 WYBE Independence Public Media Of Philadelphia, Inc.	Morris, Warren
<input type="checkbox"/>		39 WLVT-TV Lehigh Valley Public Telecommunications Corp.	Morris, Warren
<input type="checkbox"/>		44 WVIA-TV Ne Pa Ed Tv Association	Morris, Warren
<input type="checkbox"/>		56 WOLF-TV Wolf License Corp	Morris, Warren
<input type="checkbox"/>		60 WBPH-TV Sonshine Family Television Corp	Morris, Warren
<input type="checkbox"/>		69 WFMZ-TV Maranatha Broadcasting Company, Inc.	Morris, Warren
<input type="checkbox"/>		10 WCAU NBC Telemundo License Co. (General Electric)	Warren
<input type="checkbox"/>		16 WNEP-TV New York Times Co.	Warren
<input type="checkbox"/>		17 WPHL-TV Tribune Company	Warren
<input type="checkbox"/>		22 WYOU Nexstar Broadcasting, Inc.	Warren
<input type="checkbox"/>		29 WTXF-TV Fox Television Stations, Inc. (News Corp.)	Warren
<input type="checkbox"/>		38 WSWB Mystic Television of Scranton Llc	Warren
<input type="checkbox"/>		48 WGTW-TV Trinity Broadcasting Network	Warren
<input type="checkbox"/>		49 W49BE New Jersey Public Broadcasting Authority	Warren
<input type="checkbox"/>		55 W55BS New Jersey Public Broadcasting Authority	Warren
<input type="checkbox"/>		57 WPSG Cbs Broadcasting Inc.	Warren
<input type="checkbox"/>		61 WPPX Paxson Communications License Company, Llc	Warren

	DURATION & FREQUENCY OF OUTREACH	NAMES OF CABLE PROVIDER(S)	BROADCAST AREA
<b>TARGETS PARTIAL HOUSING REGION 2</b>			
<input type="checkbox"/>		Cablevision of Newark	Partial Essex
<input type="checkbox"/>		Comcast of NJ (Union System)	Partial Essex, Union

<input type="checkbox"/>		Cablevision of Oakland	Partial Essex, Morris
<input type="checkbox"/>		Cable Vision of Morris	Partial Morris
<b>X</b>	At start of affirmative marketing process -addl. advertising as needed	Comcast of Northwest NJ	Partial Morris, Warren
<input type="checkbox"/>		Patriot Media & Communications	Partial Morris
<input type="checkbox"/>		Service Electric Broadband Cable	Partial Morris, Warren
<input type="checkbox"/>		Cablevision of Elizabeth	Partial Union
<input type="checkbox"/>		Comcast of Plainfield	Partial Union
<input type="checkbox"/>		Cable Vision of Morris	Partial Warren
<input type="checkbox"/>		Service Electric Cable TV of Hunterdon	Partial Warren

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL RADIO STATION(S)	BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE HOUSING REGION 2</b>			
AM			
<input type="checkbox"/>		WFAN 660	
<input type="checkbox"/>		WOR 710	
<input type="checkbox"/>		WABC 770	
FM			
<input type="checkbox"/>		WFNY-FM 92.3	
<input type="checkbox"/>		WPAT-FM 93.1	Spanish
<input type="checkbox"/>		WNYC-FM 93.9	
<input type="checkbox"/>		WFME 94.7	Christian
<input type="checkbox"/>		WPLJ 95.5	
<input type="checkbox"/>		WQXR-FM 96.3	
<input type="checkbox"/>		WQHT 97.1	
<input type="checkbox"/>		WRKS 98.7	
<input type="checkbox"/>		WAWZ 99.1	Christian
<input type="checkbox"/>		WHTZ 100.3	
<input type="checkbox"/>		WCBS-FM 101.1	
<input type="checkbox"/>		WKXW-FM 101.5	
<input type="checkbox"/>		WQCD 101.9	

<input type="checkbox"/>		WNEW 102.7	
<input type="checkbox"/>		WKTU 103.5	
<input type="checkbox"/>		WAXQ 104.3	
<input type="checkbox"/>		WWPR-FM 105.1	
<input type="checkbox"/>		WLTW 106.7	
<b>TARGETS PARTIAL HOUSING REGION 2</b>			
AM			
<input type="checkbox"/>		WWRL 1600	Essex
<input type="checkbox"/>		WXMC 1310	Essex, Morris
<input type="checkbox"/>		WWRV 1330	Essex, Morris (Spanish)
<input type="checkbox"/>		WZRC 1480	Essex, Morris (Chinese/Cantonese)
<input type="checkbox"/>		WMCA 570	Essex, Morris, Union (Christian)
<input type="checkbox"/>		WNYC 820	Essex, Morris, Union
<input type="checkbox"/>		WCBS 880	Essex, Morris, Union
<input type="checkbox"/>		WPAT 930	Essex, Morris, Union (Caribbean, Mexican, Mandarin)
<input type="checkbox"/>		WWDJ 970	Essex, Morris, Union (Christian)
<input type="checkbox"/>		WINS 1010	Essex, Morris, Union
<input type="checkbox"/>		WEPN 1050	Essex, Morris, Union
<input type="checkbox"/>		WKMB 1070	Essex, Morris, Union (Christian)
<input type="checkbox"/>		WBBR 1130	Essex, Morris, Union
<input type="checkbox"/>		WLIB 1190	Essex, Morris, Union (Christian)
<b>X</b>	At start of affirmative marketing process -addl. advertising as needed	WMTR 1250	Essex, Morris, Union
<input type="checkbox"/>		WADO 1280	Essex, Morris, Union (Spanish)
<input type="checkbox"/>		WNSW 1430	Essex, Morris, Union (Portuguese)
<input type="checkbox"/>		WJDM 1530	Essex, Morris, Union (Spanish)
<input type="checkbox"/>		WQEW 1560	Essex, Morris, Union
<input type="checkbox"/>		WWRU 1660	Essex, Morris, Union (Korean)
<input type="checkbox"/>		WCTC 1450	Union
		WCHR 1040	Warren
		WEEX 1230	Warren

		WNNJ 1360	Warren
X	At start of affirmative marketing process -addl. advertising as needed	WRNJ 1510	Warren
FM			
<input type="checkbox"/>		WMSC 90.3	Essex
<input type="checkbox"/>		WFUV 90.7	Essex
<input type="checkbox"/>		WBGO 88.3	Essex, Morris, Union
<input type="checkbox"/>		WSOU 89.5	Essex, Morris, Union
<input type="checkbox"/>		WKCR-FM 89.9	Essex, Morris, Union
<input type="checkbox"/>		WFMU 91.1	Essex, Morris, Union
<input type="checkbox"/>		WNYE 91.5	Essex, Morris, Union
<input type="checkbox"/>		WSKQ-FM 97.9	Essex, Morris, Union (Spanish)
<input type="checkbox"/>		WBAI 99.5	Essex, Morris, Union
<input type="checkbox"/>		WDHA -FM 105.5	Essex, Morris, Union
<input type="checkbox"/>		WCAA 105.9	Essex, Morris, Union (Latino)
<input type="checkbox"/>		WBLS 107.5	Essex, Morris, Union
<input type="checkbox"/>		WHUD 100.7	Essex, Morris, Warren
<input type="checkbox"/>		WPRB 103.3	Essex, Union, Warren
<input type="checkbox"/>		WMNJ 88.9	Morris
<input type="checkbox"/>		WJSV 90.5	Morris
<input type="checkbox"/>		WNNJ-FM 103.7	Morris, Warren
<input type="checkbox"/>		WMGQ 98.3	Union
<input type="checkbox"/>		WCTO 96.1	Union, Warren
X	At start of affirmative marketing process -addl. advertising as needed	WNTI 91.9	Warren
<input type="checkbox"/>		WSBG 93.5	Warren
<input type="checkbox"/>		WZZO 95.1	Warren
<input type="checkbox"/>		WAEB-FM 104.1	Warren
<input type="checkbox"/>		WHCY 106.3	Warren

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters)  
(Check all that applies)

	NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE HOUSING REGION 2</b>			
Monthly			
<input type="checkbox"/>	Sino Monthly	North Jersey/NYC area	Chinese-American
<b>TARGETS PARTIAL HOUSING REGION 2</b>			
Daily			
<input type="checkbox"/>	24 Horas	Bergen, Essex, Hudson, Middlesex, Passaic, Union Counties	Portuguese-Language
Weekly			
<input type="checkbox"/>	Arab Voice Newspaper	North Jersey/NYC area	Arab-American
<input type="checkbox"/>	Brazilian Voice, The	Newark	Brazilian-American
<input type="checkbox"/>	Catholic Advocate, The	Essex County area	Catholic
<input type="checkbox"/>	La Voz	Hudson, Union, Middlesex Counties	Cuban community
<input type="checkbox"/>	Italian Tribune	North Jersey/NYC area	Italian community
<input type="checkbox"/>	New Jersey Jewish News	Northern and Central New Jersey	Jewish
<input type="checkbox"/>	El Nuevo Coqui	Newark	Puerto Rican community
<input type="checkbox"/>	Banda Oriental Latinoamérica	North Jersey/NYC area	South American community
<input type="checkbox"/>	El Especialito	Union City	Spanish-Language
<input type="checkbox"/>	La Tribuna Hispana	Basking Ridge, Bound Brook, Clifton, East Rutherford, Elizabeth, Fort Lee, Greebrook, Linden, Lydenhurst, Newark, North Plainfield, Orange, Passaic, Paterson, Plainfield, Roselle, Scotch Plains, Union, Union City, West NY	Spanish-Language
<input type="checkbox"/>	Ukranian Weekly	New Jersey	Ukranian community
3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies)			
<b>DURATION &amp; FREQUENCY OF OUTREACH</b>	<b>NAME OF EMPLOYER/COMPANY</b>	<b>LOCATION</b>	
1. Duration & Frequency of Outreach - At start of affirmative marketing process with additional advertising as needed. 2. Name of Employer/Company – See list below for each County in Region 2. 3. Location – Employer/Company location by County, including location address.			

<b>Essex County</b>		
Newark Liberty International Airport Newark Airport Newark, NJ 07114	A.J. Seabra, Inc. 574 Ferry St Newark, NJ 07105	Applied Business Concepts 324 Belleville Ave. Bloomfield, NJ 07003
Berkeley College 536 Broad Street Newark, NJ 07102	Cambridge Bagel Factory 648 Bloomfield Ave Bloomfield, NJ 07003	Horizon Blue Cross/Blue Shield 540 Broad St Newark, NJ 07102
Horizon Blue Cross & Blue Shield 3 Raymond Plaza W. Newark, NJ 07102	IDT Telecom 520 Broad St Newark, NJ 07102	PNC Bank Bloomfield Center 2 Broad St Bloomfield, NJ 07003
Prudential Insurance 751 Broad Street Newark, NJ 07102	Prudential Financial, Inc. 751 Broad St Newark, NJ 07102	PSE&G 80 Park Plaza Newark, NJ 07102
Public Service Enterprise Group 80 Park Plaza Newark, NJ 07102	Rutgers 1 Washington Pl Newark, NJ 07102	St. Barnabas Hospital 94 Old Short Hills Road Livingston, NJ 07039
University of Medicine & Dentistry Office of Marketing & Media Relations 150 Bergen St Rm D347 Newark, NJ 07102	United Airlines 1000 Newark International Airport St Newark, NJ 07114	Verizon Communications 540 Broad St Newark, NJ 07192
Livingston Board of Education 148 N. Livingston Ave Livingston, NJ 07039	Catholic Charities 321 Central Ave Newark, NJ 07102	Episcopal Community Development 31 Mulberry St Newark, NJ 07102
<b>Morris County</b>		
Atlantic Health System Morristown Memorial Hospital 100 Madison Ave Morristown, NJ 07962	AT&T 340 Mt Kemble Ave Morristown, NJ 07932	AT&T 295 N. Maple Ave Basking Ridge, NJ 07920
Lucent Technologies 67 Whippany Rd Whippany, NJ 07981	Lucent Technologies 24 Mountain Ave Mendham, NJ 07945	Lucent Technologies 475 South St Morristown, NJ 07960
Pfizer 369 Interpace Pkwy Parsippany, NJ 07054	Kraft Foods 200 DeForest Ave East Hanover, NJ 07936	Kraft Food 7 Campus Dr Parsippany, NJ 07054
Honeywell 101 Columbia Rd Morristown, NJ 07960	Honeywell 115 Tabor Rd Morris Plains, NJ 07950	Johnson & Johnson 185 Tabor Rd Morris Plains, NJ 07950
Pfizer 400 Webro Rd Parsippany, NJ 07054	Mennen Arena 161 E Hanover Ave Morristown, NJ 07963	Novartis Pharmaceutical 59 State Route 10 East Hanover, NJ 07936
Pfizer 1 Geralda Farms Madison, NJ 07940	GlaxoSmithKline 1500 Littleton Rd Parsippany, NJ 07054	Immunomedics, Inc. 300 The American Rd Morris Plains, NJ 07950
St. Clare's Hospital 25 Pocono Rd Denville, NJ 07834	St. Clare's Hospital 400 W Blackwell St Dover, NJ 07801	St Clare's Hospital 130 Powerville Rd Boonton, NJ07005
St. Clare's Hospital 3219 Roue 46 East Ste 110 Parsippany, NJ 07054	US Army Armament R&D 21 Picatinny Arsenal Picatinny Arsenal, NJ 07806	Drew University Madison House 36 Madison Ave Madison, NJ 07940
Borough of Chester Municipal Building 50 North Rd. Chester, NJ 07930	Chester Library 250 West Main Street Chester, NJ 07930	
<b>Union County</b>		

A&M Industrial Supply Co. 37 West Cherry St Rahway, NJ 07065	Bristol-Myers Squibb Co. 1350 Liberty Ave Hillside, NJ 07205	Cede Candy, Inc. 1091 Lousons Rd PO Box 271 Union, NJ 07083
Comcast Network 800 Rahway Ave Union, NJ07083	Ruger Chemical Co., Inc. 1515 West Blancke St Bldg 1501 Linden, NJ 07036	Howard Press 450 West First Ave Roselle, NJ 07203
IBM Corporation 27 Commerce Dr Cranford, NJ 07016	Lucent Technologies 600 Mountain Ave Murray Hill, NJ 07974	Merck & Co., Inc. 126 E. Lincoln Ave PO Box2000 Rahway, NJ 07065
Rahway Hospital 865 Stone St Rahway, NJ 07065	Rotuba Extruders, Inc. 1401 Park Ave South Linden, NJ 07036	Union County College 1033 Springfield Ave Cranford, NJ 07016
Veterans of Foreign Wars Post 335 479 South Ave Cranford, NJ 07016	L'Oreal 222 Terminal Ave Clark, NJ 07066	Kerry Industries 200-222 Terminal Ave Clark, NJ 07066
Kerry Ingredients and Flavors 160 Terminal Ave Clark, NJ 07066		
<b>Warren County</b>		
Atlantic States Cast Iron Pipe Co. 183 Sitgreaves St Phillipsburg, NJ 08865	Centenary University 400 Jefferson St Hackettstown, NJ 07840	Hackettstown Hospital 651 Willow Grove St Hackettstown, NJ 07840
Lopatcong Care Center 390 Red School Lane Phillipsburg, NJ 08865	MallinckrodUBaker Inc. 222 Red School Lane Phillipsburg, NJ 08865	Masterfoods USA 800 High St Hackettstown, NJ 07840
Pechiney Plastics Packaging, Inc. 191 Route 31 North Washington, NJ 07676	Roche Vitamins, Inc. 206 Roche Dr Belvidere, NJ 07823	Warren Hospital 545 Heckman St Phillipsburg, NJ 08865
Warren Hospital 755 Memorial Pkwy Phillipsburg, NJ 08865	Heath Village 430 Schooley's Mtn Rd Hackettstown, NJ 07840	Mars Chocolate North America 800 County Rd 517, Hackettstown, NJ 07840

3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing)			
Name of Group/Organization	Outreach Area	Racial/Ethnic Identification of Readers/Audience	Duration & Frequency of Outreach
Fair Share Housing Center 510 Park Blvd Cherry Hill, NJ 08002	Statewide	Diverse	At start of affirmative marketing process -addl. advertising as needed
NJ State Conference of the NAACP 13 East Front St Trenton, NJ 08608	Statewide	African-American	At start of affirmative marketing process -addl. advertising as needed
The Latino Action Network PO Box 943 Freehold, NJ 07728	Statewide	Latino	At start of affirmative marketing process -addl. advertising as needed
East Orange NAACP 34 Prospect Street East Orange, NJ	Region 2	African-American	At start of affirmative marketing process -addl. advertising as needed
Newark NAACP PO Box 1262 Newark, NJ 07102-1262	Region 2	African-American	At start of affirmative marketing process -addl. advertising as needed
Morris County NAACP PO Box 2256 Morristown, NJ 07960	Region 2	African-American	At start of affirmative marketing process -addl. advertising as needed
Elizabeth NAACP PO Box 6732 Elizabeth, NJ 07206	Region 2	African-American	At start of affirmative marketing process -addl. advertising as needed
Housing Partnership for Morris County 2 E. Blackwell St Dover, NJ 07801	Region 2	African-American	At start of affirmative marketing process -addl. advertising as needed
Community Access Unlimited, Inc. 80 West Grand St Elizabeth, NJ 07202	Region 2	Diverse	At start of affirmative marketing process -addl. advertising as needed
Northwest New Jersey Community Action Program, Inc. (NORWESCAP) 350 Marshall St Phillipsburg, NJ 08865	Region 2	Diverse	At start of affirmative marketing process -addl. advertising as needed
Homeless Solutions of Morristown 540 W. Hanover Ave Morristown, NJ 07960	Region 2	Diverse	At start of affirmative marketing process -addl. advertising as needed
Morris County NAACP John McCullough PO Box 2256 Morristown 07962			
Urban League of Morris County 300 Madison Ave.Ste. A Morristown, NJ - 07960 mdavis@ulmcnj.org			
Morris County Housing Coalition			
Supportive Housing Association 185 Valley St So. Orange, NJ 07079	Region 2	Diverse	At start of affirmative marketing process -addl. advertising as needed

**IV. APPLICATIONS**

Applications for affordable housing for the above units will be available at the following locations:		
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that applies)		
	<b>BUILDING</b>	<b>LOCATION</b>
<input checked="" type="checkbox"/>	Morris County Library	30 East Hanover Avenue, Whippany, NJ 07981
<input type="checkbox"/>	Warren County Library Headquarters	199 Hardwick Street, Belvidere, NJ 07823
<input type="checkbox"/>	Essex County/Hall of Records	465 Dr. Martin Luther King, Jr. Blvd, Newark, NJ 07102 (973)621-4400
<input type="checkbox"/>	Union County/Administration Building	Elizabethtown Plaza, Elizabeth, NJ 07207 (908)527-4100
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)		
	Borough of Chester Municipal Building 50 North Rd. Chester, NJ 07930	
	Chester Township Public Library 250 West Main Street Chester, NJ 07930	
4c. Sales/Rental Office for units (if applicable)		

**V. CERTIFICATIONS AND ENDORSEMENTS**

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality’s substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI/CHOICE funding).	
<u>David J. Banisch, PP/AICP</u> __Name (Type or Print)	
<u>Borough Planner, Chester Borough, Morris County, NJ</u> __Title/Municipality	
_____	
Signature	Date

**RESOLUTION No. \_\_\_\_\_ - 2019**

**RESOLUTION OF THE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHESTER, COUNTY OF MORRIS STATE OF NEW JERSEY ADOPTING THE 'AFFIRMATIVE MARKETING PLAN' FOR THE BOROUGH OF CHESTER**

**WHEREAS**, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, et seq., the Borough of Chester is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created by the rehabilitation of rental housing units within the Borough of Chester, are affirmatively marketed to low and moderate income households, with preference provided to homeless veterans, disabled veterans, and family members who are the primary residential caregivers to disabled veterans residing with them, particularly those households living and/or working within Housing Region 2 (Essex, Morris, Union and Warren counties), the COAH Housing Region encompassing the Borough of Chester; and

**WHEREAS**, Chester Borough has prepared an Affirmative Marketing Plan entitled “Affirmative Fair Housing Marketing Plan for Affordable Housing in REGION 2 for Borough of Chester, Morris County, NJ, dated May 2019 (hereafter “Affirmative Marketing Plan); and

**WHEREAS**, the Affirmative Fair Marketing Plan conforms to the requirements of N.J.A.C. 5:80-26-1, et seq. and N.J.A.C. 5:93-1 et. seq. as required in the Chester Borough Settlement Agreement with Fair Share Housing Center, dated November 1, 2018 and approved by the Court on December 14, 2018;

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Chester, County of Morris, State of New Jersey, do hereby adopt the Affirmative Marketing Plan, attached hereto and made a part hereof.

**ATTEST:**

I, Denean Probasco, CMC, Borough Clerk of the Borough of Chester, herein certify that the foregoing resolution was duly adopted by the Mayor and Council of the Borough of Chester at a regular meeting of the governing body held on May \_\_\_\_\_, 2019.

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Denean Probasco, CMC, Chester Borough Clerk

# Appendix L - Resolution Appointing Administrative Agent

**Appendix L - Resolution Appointing Administrative Agent**

**RESOLUTION # \_\_\_\_\_ - 2019**

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHESTER,  
COUNTY OF MORRIS, STATE OF NEW JERSEY APPOINTING ADMINISTRATIVE  
AGENT CONCERNING AFFORDABLE HOUSING MATTERS**

**WHEREAS**, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), the Borough of Chester is implementing a program to provide affordable housing units to low- and moderate-income households within the Borough; and

**WHEREAS**, the Borough has prepared an amendment to its Affordable Housing Ordinance in conformance with the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, the Chapter 45 of the Code of the Borough of Chester, entitled "Affordable Housing", sets forth the duties of the administrative agent pursuant to N.J.A.C. 5:80-26.14 et seq. that requires the affordability controls of affordable housing units be administered by an administrative agent acting on behalf of a municipality; and

**WHEREAS**, the Borough of Chester has selected \_\_\_\_\_ to be the Administrative Agent for the purposes of providing affordability control services for all affordable housing within the Borough.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Chester, County of Morris, State of New Jersey, that the Borough of Chester hereby appoints \_\_\_\_\_ as the Chester Borough Administrative Agent in affordable housing matters.

I, Denean Probasco, CMC, Clerk of the Borough of Chester do hereby certify that the foregoing is a true copy of a Resolution adopted at a Regular Meeting of the Mayor and Borough Council held on \_\_\_\_\_, 2019.

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Denean Probasco, CMC, Chester Borough Clerk

# Appendix M -Resolution Appointing MHL-Municipal Housing Liaison

## RESOLUTION XX-2019

### RESOLUTION OF THE BOROUGH OF CHESTER APPOINTING MUNICIPAL HOUSING LIAISON (MHL) FOR THE BOROUGH OF CHESTER

**WHEREAS**, The Borough of Chester's Highlands's Housing Element and Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act N.J.S.A. 52:27D-301 et. seq., applicable Council on Affordable Housing ("COAH") regulations and Uniform Housing Affordability Controls ("UHAC") regulations; and

**WHEREAS**, the Borough of Chester has chosen to appoint a Municipal Housing Liaison for the administration of the Borough of Chester's affordable housing program to enforce the requirements of applicable COAH and UHAC regulations; and

**WHEREAS**, in accordance with regulations, the Municipal Housing Liaison (MHL) is to be an employee of the municipality to oversee and administer the Borough's affordable housing program.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Chester, in the County of Morris, and the State of New Jersey, that \_\_\_\_\_, an employee of the Borough of Chester, is hereby appointed by the Mayor and Council of the Borough Chester as the Municipal Housing Liaison for oversight and administration of the Borough's affordable housing program.

I, Denean Probasco, Borough Clerk of the Borough of, in the County of Morris, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Denean Probasco, CMC

\_\_\_\_\_  
Date: