

MAY 2022 AMENDED

THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

CHATHAM BOROUGH | MORRIS COUNTY, NEW JERSEY

MAY 2022 AMENDED

THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

ADOPTED BY THE PLANNING BOARD _____

ENDORSED BY THE MAYOR & COUNCIL _____

PREPARED BY:



KENDRA LELIE, PP, AICP, LLA
NEW JERSEY PROFESSIONAL PLANNER LICENSE #5537

T&M ASSOCIATES

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

CHATHAM BOROUGH PLANNING BOARD

Susan W. Favate, Chairwoman
Matthew Wagner, Vice Chairman
Mayor Thaddeus J. Kobylarz
Councilman Frank Truilo
Stephen W. Williams
H.H. Montague
Curt Dawson
William Heap
Torri Van Wie
Gregory Xikes , Alternate #1
Thomas Belding, Alternate #2

Frances Boardman, Planning Board Secretary
Liz Holler, Minutes Secretary
Robert C. Brightly, P.E., Planning Board Engineer
Vince Loughlin, Esq., Planning Board Attorney

CHATHAM BOROUGH MAYOR & COUNCIL

Honorable Thaddeus J. Kobylarz, Mayor
Irene Trelour, Council President
Jocelyn Mathiasen, Council Member
Karen Koronkiewicz, Council Member
Frank Truilo, Council Member
Caroline Dempsey, Council Member
Leonard Resto, Council Member

Stephen W. Williams, Borough Administrator
Steve Kleinman, Esq., Borough Attorney
Jonathan Drill, Esq., Borough Special Affordable Housing Counsel

TABLE OF CONTENTS

Fair Share Plan Amendment	1
The Compliance Process	1
Affordable Housing in Chatham Borough	3
Consideration of Affordable Housing Options	4
Affordable Housing Obligation	4
Rehabilitation Obligation	4
Prior Round Obligation	5
Third Round Obligation	5
Vacant Land Adjustment	5
Satisfaction of the Affordable Housing Obligation	6
Satisfaction of the Rehabilitation Obligation	6
Satisfaction of the RDP	6
Addressing Unmet Need	12
Affordable Housing Administration & Affirmative Marketing	18
Affordable Housing Trust Fund	18
Monitoring	19
Cost Generation	20

APPENDICES

A. FSHC Settlement Agreement and Fairness Order	D. Governing Body Resolution
B. Realistic Development Potential Calculation	E. RDP Documentation
C. Planning Board Resolution	F. Unmet Need Documentation
	G. Spending Plan

FAIR SHARE PLAN AMENDMENT

This Fair Share Plan Amendment has been prepared pursuant to a June 14, 2021 Amendment to a November 7, 2016 Settlement Agreement (the “Amended Settlement Agreement”) between Chatham Borough and Fair Share Housing Center (hereinafter “FSHC”) that set forth the Borough’s updated affordable housing obligation and amended plan for how it would be satisfied. FSHC is an interested party and intervening defendant in the Borough’s Declaratory Judgment which was filed in Superior Court on July 6, 2015 as permitted by the March 10, 2015 NJ Supreme Court decision known as “Mount Laurel IV.” This Supreme Court decision dissolved the administrative process established in the Fair Housing Act of 1985 (the “FHA”) administered by the Council on Affordable Housing (“COAH”) and returned affordable housing matters to the State’s trial courts.

This Amended Housing Element and Fair Share Plan (“Amended HEFSP”) implements the Amended Settlement Agreement between the Borough and FSHC. The Amended Settlement Agreement was subject to a “fairness hearing” and was found to be “fair” to low and moderate income households in an Order issued by Judge Michael C. Gaus on September 1, 2021.

The Compliance Process

Pursuant to Mount Laurel IV, municipalities may no longer seek substantive certification from COAH. Instead, those municipalities seeking the judicial equivalent of substantive certification now seek a Judgment of Compliance and Repose from the Superior Court. Doing so first requires that a complaint for Declaratory Judgment be filed in Superior Court.

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

Once determined to be “fair” via the issuance of a Court Order, a municipality must adopt and endorse a housing element and fair share plan (“HEFSP”) that reflects the terms of the Settlement Agreement. The HEFSP must be subsequently submitted to Superior Court for its review and approval at a so-called “Compliance” hearing. Should the Court find the HEFSP acceptable, the municipality will receive a Judgment of Compliance and Repose which grants it immunity from exclusionary zoning litigation, including builder’s remedy litigation, for the remaining portion of the third round, which ends on July 1,

¹ These settlement agreements are evaluated according to guidelines established by the Courts in two principal cases: Morris County Fair Housing Commission v. Boonton Twp. 197 N.J. Super. 359, 369-71 (Law Div. 1984), *aff’d o.b.*, 209 N.J. Super. 108 (App. Div. 1986), followed and expanded upon in East/West Venture v. Borough of Fort Lee 286 N.J. Super. 311 (App. Div. 1996).

2025. To maintain the validity of the Order, the municipality is required to conduct the necessary continued implementation and monitoring.

Affordable Housing in Chatham Borough

The Borough adopted a HEFSP on November 24, 2015 with a revision date of April 20, 2016 pursuant to Section 10 of the FHA (N.J.S.A. 52:27D-310) which included information required in a Housing Element, including the following:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- b. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing , for the next ten (10) years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age; and
- d. An analysis of the existing and probable future employment characteristics of the municipality.
- e. A determination of the municipality's present and prospective fair share of low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low and moderate income housing; and
- f. A consideration of the lands most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

The 2015/2016 HEFSP implemented the Borough's initial settlement agreement with FSHC. This Amended HEFSP incorporates the 2015/2016 Housing Element data and information and only amends the Fair Share Plan. If a particular housing compliance mechanism is not updated or revised, it is also incorporated within this Amended HEFSP.

Consideration of Affordable Housing Options

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

In addition to considering vacant land for the creation of affordable housing, the Borough has amended its zoning ordinances to create overlay zones that will create low- and moderate-income housing and contribute toward the Borough's unmet need. Additionally, the Borough adopted the mandatory set-aside ordinance which ensures unforeseen opportunities for affordable housing are captured.

The Borough considered several sites, projects and mechanisms to meet the affordable housing obligation over the course of several months and much public input. While some of those sites, projects and mechanisms are not included in this Amended HEFSP, the Borough believes that the projects that exist and are proposed in this document represent the best options for affordable housing in the Borough. The mechanisms within this Amended HEFSP satisfy the Borough's affordable housing obligation as established through the Amended Settlement Agreement. While the Borough recognizes that developers may, in the future, present sites that possess characteristics that could lend themselves to affordable housing development, additional sites are not needed to satisfy the obligation at this time. Additionally, the Borough may consider appropriate sites or projects in the future for an inclusionary or 100% affordable housing project.

Affordable Housing Obligation

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

Rehabilitation Obligation

The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Chatham Borough that are occupied by low- and moderate-income households. The Settlement Agreement with FSHC establishes the Borough's rehabilitation obligation as 0 units. The basis for this obligation is FSHC's May 2015 calculations, which used the most recent decennial census year, 2010, as the point in time in determining the number of deteriorated housing units.

Prior Round Obligation

The Prior Round obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. This time period corresponds to the First and Second Rounds of affordable housing. The Settlement Agreement with FSHC establishes the Borough's Prior Round obligation as 77 units. The Settlement Agreement adheres to the Prior Round obligations, as calculated in 1993-1994, and published by COAH in 2008.

Third Round Obligation

The future demand for affordable housing includes the portion of the Third Round (1999- 2015) that has already passed – referred to as Gap Period Present Need, as well as a 10-year projection into the future (2015-2025) – referred to as the Prospective Need. As established by the Borough's 2020 Settlement Agreement with FSHC, Chatham Borough's total Third Round obligation (1999-2025) is 337 units.

Vacant Land Adjustment

Due to limited vacant and developable land that is within the Borough's land use jurisdiction, the Borough qualifies for a vacant land adjustment. A vacant land adjustment is an adjustment to the prior round and third round obligation (the new construction affordable housing obligation) due to a lack of vacant and developable land. The downward adjusted new construction affordable housing obligation that results from a vacant land adjustment is known as the realistic development potential or RDP. The RDP represents the portion of the new construction affordable housing obligation that can realistically be addressed with inclusionary development on lots identified in the vacant land adjustment.

In order to calculate the Borough's potential vacant land adjustment, all vacant properties, and underutilized properties must be analyzed.

The second step is to narrow the list of identified properties to only those that contain sufficient developable area to create five (5) dwelling units where there is a density of six (6) units an acre (.83 ac). Developable land is generally defined as lands free of wetlands, other site constraints or historic structures. The updated RDP calculation is provided in Appendix B.

Through the Amended Settlement Agreement with FSHC and the associated Order approving said Settlement Agreement, the Borough received a vacant land adjustment. The vacant land adjustment divided the combined Prior Round and Third Round obligations (77-units and 337-units respectively) into a 94-unit (23-unit Prior Round and 71-unit Third Round) Realistic Development Potential and a 320-unit (54-unit Prior Round and 266-unit Third Round) Unmet Need. This vacant land adjustment was performed consistent with the applicable COAH rules (N.J.A.C. 5:93-4.2) and reflects the amount of developable land in the Borough, as defined by COAH, that could be theoretically developed with inclusionary housing.

Satisfaction of the Affordable Housing Obligation

The Borough is addressing its affordable housing obligation through a variety of mechanisms that include existing affordable units, inclusionary housing, 100% affordable housing and overlay zones.

Satisfaction of the Rehabilitation Obligation

Chatham Borough's rehabilitation obligation is zero units. Therefore, the Borough is not obligated to implement a rehabilitation program to satisfy this zero unit obligation.

Satisfaction of the RDP

Prior Round Obligation. As indicated in the 2015/2016 HEFSP, the Borough fully complied with its Prior Round RDP of 23 units. While the 2015/2016 HEFSP indicated that there were two (2) credits anticipated from the Averett inclusionary site (Block 98, Lot 2), the one (1) surplus credit anticipated from the Averett inclusionary site (Block 98, Lot 2) was not provided in the approved development of the property. This Amended HEFSP acknowledges that the anticipated surplus credit was not realized as the Planning Board recently approved the development of an 8-unit rental townhouse community which includes one (1) affordable family non-age-restricted rental unit. Therefore, the surplus credit is not applicable to the Prior Round obligation. As such the Prior Round Unmet Need will increase from 53 units to 54 units.

Third Round Obligation. The Borough is addressing its Third Round RDP obligation of 71 with a mix of unit types and projects throughout the Borough.

River Road Redevelopment Plan Development (Approved) – 37 family rental units

On February 8, 2021, the Borough adopted the January 22, 2021 Amended River Road Redevelopment Plan and authorized entry into a redeveloper's agreement with Chatham River Road Urban Renewal, LLC, to permit a 245-unit inclusionary development on Block 135, Lots 9, 10, and 11 that shall include at least 37 affordable family non-age-restricted rental units (15% affordable housing set aside). On May 19, 2021, the developer of the River Road Redevelopment Area (Chatham River Road Urban Renewal, LLC) received site plan approval for a 245-unit residential development inclusive of no fewer than 37 very-low, low-, and moderate-income affordable family non-age-restricted rental units on Block 135, Lot 9, 10 & 11. The 37 affordable family rental units shall consist of no more than 7 one-bedroom units, at least 8 three-bedroom units and at least 12 two-bedroom or three-bedroom units. The income distribution will consist of 2 very-low three-bedroom units, at least 3 very-low two-bedroom units and 1 very-low one-bedroom unit. In addition, a minimum of 50% of the affordable units in each bedroom distribution shall be low-income (inclusive of the very-low-income units) and the remainder may be moderate-income units.

Bowers Lane Inclusionary Zoning (Proposed-Reestablished) – 5-7 units

The Borough will re-establish the AFD-4 Zoning District for Block 122, Lots 13-17 along Bowers Lane. The AFD-4 Zoning District will permit a density of 36 dwelling units per acre. The lot area is approximately 0.94 acres, and it is anticipated that a total of 34 units could be developed, with an affordable housing yield of 5 units based on a 15% rental inclusionary set aside or 7 units based on a 20% for sale set aside. While these lots contain a mix of apartments and offices, the substantial transit-oriented development density implemented at this location creates an incentive to future revitalization of this area, particularly as the existing structures age and require additional investment. This site is available, approvable, developable, and suitable as defined in COAH Prior Round regulations.

- ✓ Available Site: The site is under private ownership.
- ✓ Suitable Site – The site is suitable as defined in COAH’s regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in N.J.A.C. 5:93-4.
 - *The site has a clear title and is free of encumbrances that preclude development of affordable housing.* We are unaware of any legal encumbrances that would preclude its development for affordable rental housing.
 - *The site is adjacent to compatible land uses and has access to appropriate streets.* The site is bound by single-family dwellings to the east, a future 100% 15-unit affordable family rental development project to the west, an existing post office sorting facility also to the west and an existing commercial use to the north. Access to the parcel is from Bowers Lane.
 - *Adequate sewer and water capacity are available.* The site is within the Borough’s sewer service area as confirmed by the Borough Administrator and the Director of Public Works.
 - *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
 - *The site is located in a “Smart Growth Planning Area.”* The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in the Metropolitan Planning Area (PA 1). Among the intentions of the Metropolitan Planning Area are to provide for much of the state’s future redevelopment; promote growth in compact forms; and redesign areas of sprawl. It is a preferred location for affordable housing development.

The development is not within the jurisdiction of a Regional Planning Agency or CAFRA. The site is located outside of the Pinelands, Highlands and Meadowlands planning areas or CAFRA.

- *The site will comply with all applicable environmental regulations. Wetlands, floodplains and Category One streams are not present.*
- *The site will not affect any historic or architecturally important sites and districts. While the site is located within a locally designated Historic District, any demolition or new buildings will require the Borough's Historic Preservation's approval to ensure consistency with the Historic District regulations.*
- ✓ Developable Site – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. According to the Director of Public Works, the site in the Chatham Borough Authority's sewer service area and water and sewer mains exist on the surrounding streets.
- ✓ Approvable Site – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The development will be providing the required affordable housing setaside for the construction of affordable housing. The site will be developed consistent with the rules and regulations of all agencies with jurisdiction over the site.

4 Watchung Avenue Inclusionary Zoning (Existing)

This property has frontage on Watchung Avenue and is currently used as a new car storage lot for a car dealership, which is a use not permitted in the M-1/Gateway District. The site may contain some flood hazard areas associated with the Passaic River. As a result of the flood hazard areas on the site, it is estimated that approximately 2 acres of the property is developable outside of the flood hazard area. The permitted density for this zoning district is 20 units per acre which will potentially generate 6 affordable units based on a 15% rental project set aside or 8 affordable based on a 20% sale project set aside.

- ✓ Available Site: The site is under private ownership.
- ✓ Suitable Site – The site is suitable as defined in COAH's regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in N.J.A.C. 5:93-4.

- *The site has a clear title and is free of encumbrances that preclude development of affordable housing.* We are unaware of legal encumbrances that would preclude its development for affordable rental housing.
- *The site is adjacent to compatible land uses and has access to appropriate streets.* The site is bound by existing light industrial and commercial uses to the south and west and the Passaic River to the north and east. Access to the parcel is from Watchung Avenue.
- *Adequate sewer and water capacity are available.* The site is within the Borough's sewer service area as confirmed by the Borough Administrator and the Director of Public Works.
- *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
- *The site is located in a "Smart Growth Planning Area."* The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in the Metropolitan Planning Area (PA 1). Among the intentions of the Metropolitan Planning Area are to provide for much of the state's future redevelopment; promote growth in compact forms; and redesign areas of sprawl. It is a preferred location for affordable housing development.

The development is not within the jurisdiction of a Regional Planning Agency or CAFRA. The site is located outside of the Pinelands, Highlands and Meadowlands planning areas or CAFRA.

- *The site will comply with all applicable environmental regulations.* While a portion of the site is in floodplain, wetlands, and Category One streams are not present. I have estimated that approximately 2 acres is located outside of the flood hazard area and any development will comply with the applicable agency requirements.
 - *The site will not affect any historic or architecturally important sites and districts.* The site is not located in a historic district or contains an architecturally important building.
- ✓ Developable Site – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. According to the Director of Public Works, the site in the Chatham Borough Authority's sewer service area and water and sewer mains exist on the surrounding streets.

- ✓ Approvable Site – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The development will be providing the required affordable housing setaside for the construction of affordable housing. The site will be developed consistent with the rules and regulations of all agencies with jurisdiction over the site.

Schindler Court Extension of Controls (Existing)

The Borough extended the controls on eight (8) low- and-moderate income units at Chatham at Willows (Schindler Court) through 2048/2049. Resolution #15-230 was adopted on June 22, 2015 extending the affordability controls for an additional 30 years beyond the expiration dates of 2018 and 2019.

Table 1: Satisfaction of the 71 Total Unit RDP					
Program	Unit Type	Status	Units	Bonus Credits	Total Credits
Inclusionary Zoning	River Road Redevelopment Plan (Block 135, Lots 9-12) Family For Sale and Rental	37 units Approved	37	17	54
Inclusionary Zoning	17-37 Bowers Lane AFD-4 Zoning District reestablished	Proposed	5-7	0	5-7
Inclusionary Zoning	4 Watchung Avenue (Block 134, Lot 1) M-3 Gateway Zoning District	Existing	6-8	0	6-8
Extension of Controls	Schindler Court	Existing	8	0	8
Total			56-60	17	73-77

In addition to meeting the total 71-unit RDP, the Borough must also meet a rental obligation, total family unit obligation, the very low-income obligation and not exceed the maximum senior unit cap.

Minimum Rental = 18 units

.25 (RDP) = 18 units | .25 (71) = 17.75, rounded up to 18

This obligation is satisfied with 37 credits associated with the Chatham River Road Redevelopment inclusionary development.

Maximum Senior = 17 units

.25 (RDP) = 17units | .25 (71) = 17.75, rounded down to 17

The Borough does not exceed the overall maximum senior units permitted as there are no senior rental units proposed.

Minimum Family = 36 units

.50 (RDP) = 36 units | .50 (71) = 35.5 rounded up to 36

This obligation is satisfied with 37 credits associated with the Chatham River Road Redevelopment inclusionary development.

Minimum Family Rental: 9 units

.50 (rental obligation) = 9 units | .50 (18) = 9

This obligation is satisfied with 37 credits associated with the Chatham River Road Redevelopment inclusionary development

Minimum Very Low Income = 5 units

.13 (units created or approved on or after July 1, 2008) = 9 units | .13 (63) = 8.19 rounded up to 9

This obligation is satisfied with 6 credits associated with Chatham River Road Redevelopment inclusionary development (6), Bowers Lane Inclusionary Zoning (1), 4 Watchung Avenue (1) and the Bowers Lane 100% affordable housing project surplus very low unit (1).

Addressing Unmet Need

The Borough adopted several new overlay zone districts, is maintaining existing overlay zone districts and a mandatory set-aside ordinance as its strategy to address its unmet need of 320 units.

Existing Overlay Districts to be maintained

In accordance with the 2021 Settlement Agreement the Borough will maintain the following existing overlay districts:

- M-1 District zoning, which permits mixed-use development, specifically apartments on upper floors of buildings with non-residential. The M-1 District requires a 15% affordable set-aside for rental development and a 20% affordable set-aside for for-sale development.
- M-3 District zoning, which allows multifamily development as a permitted conditional use on properties with a minimum of 20,000 square feet. The M-3 District requires a 15% affordable set-aside for rental development and a 20% affordable set-aside for for-sale development. The zoning was implemented via Ordinance No. 15-09 on June 22, 2015.
- B-2 and B-4 Districts zoning, which permit residential units above the first floor in mixed-use buildings. The B-2 and B-4 Districts require a 15% affordable set-aside for rental development and a 20% affordable set-aside for for-sale development. The zoning was implemented via Ordinance No. 16-11 on October 24, 2016.
- Gateway Overlay District zoning (except where supplemented as described below) which permits multi-family residential and mixed-use development and requires a 15% affordable set-aside for rental development and a 20% affordable set-aside for for-sale development. The zoning was implemented via Ordinance No. 15-09 on June 22, 2015.

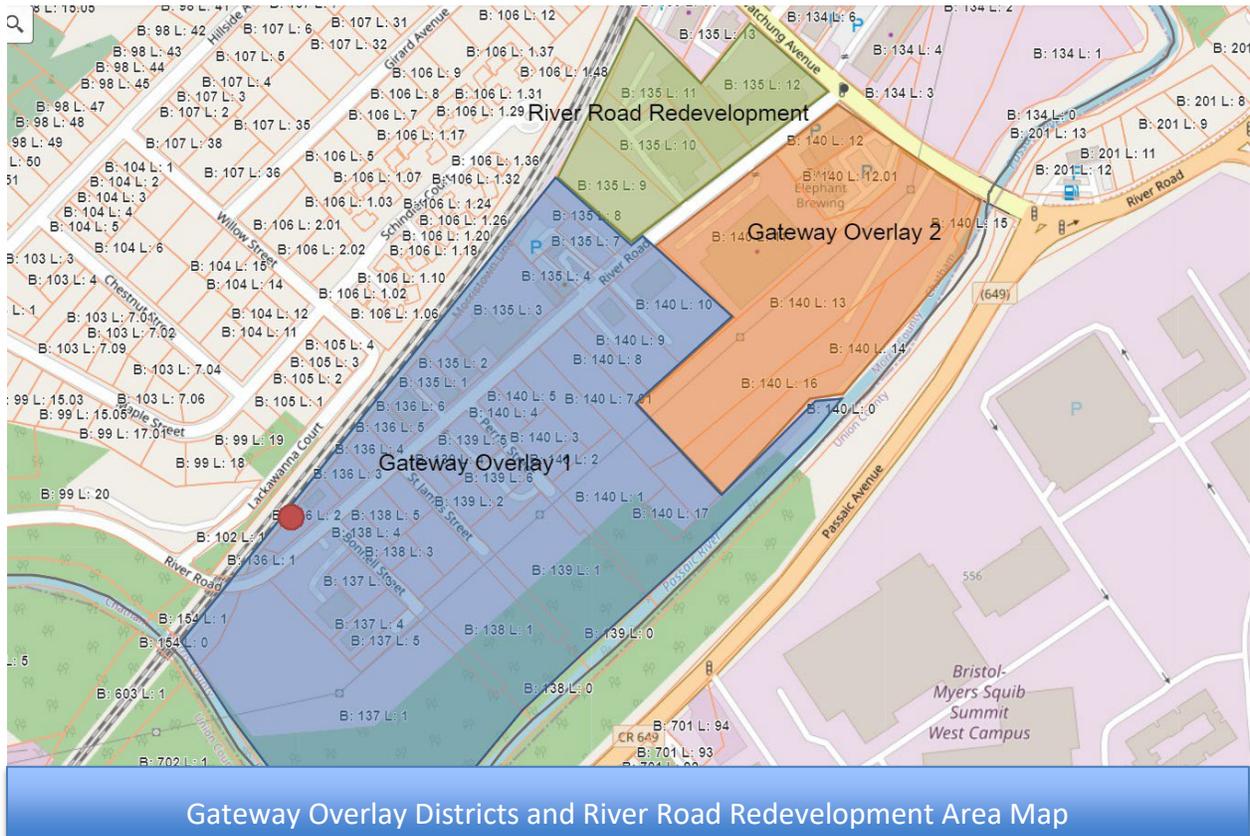
All affordable units shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to income distribution, bedroom distribution, and phasing.

Gateway 1 and Gateway 2 Overlay Zoning (Existing)

In accordance with the 2021 Settlement Agreement, the Borough adopted the following existing overlay districts:

- Gateway Overlay 1 allows, as a permitted use, multifamily non-age-restricted residential development of 35 units per acre, in up to 4-story buildings, with a 15% affordable housing set-aside for rental development and 20% affordable housing set-aside for for-sale development. The Gateway Overlay 1 zone encompasses approximately 20.2 acres of land and could yield a maximum of approximately 106 to 141 affordable units. If the Borough adopts a redevelopment/rehabilitation plan and/or enters into a redeveloper's agreement for sites in the Gateway Overlay 1 zone, it shall ensure that any such plan and agreement includes the affordable housing set-asides and creates a realistic opportunity for, at minimum, 75 affordable family non-age-restricted units via inclusionary development with a 15% affordable housing set-aside for rental development and 20% affordable housing set-aside for for-sale development.
- Gateway Overlay 2 zoning allow, as a permitted use, multifamily non-age-restricted residential development of 18 units per acre, in up to 4-story buildings, with a 15% affordable housing set-aside for rental development and 20% affordable housing set-aside for for-sale development. The Gateway Overlay 2 zone encompasses approximately 9 acres of land and could yield a maximum of approximately 24 to 32 affordable units.

All affordable units shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to income distribution, bedroom distribution, and phasing.



Bowers Lane 100% Affordable Housing Project (Block 121, PO Lot 10)

Chatham Borough will address a portion of its third round Unmet Need obligation through a 15-unit 100% affordable family rental development. COAH’s Prior Round rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93:5.5 for municipally sponsored and 100% affordable programs are addressed as follows:

- ✓ Site Control – The Borough owns the property and will donate the property to the 100% affordable housing developer. (Refer to Resolution in Appendix F)
- ✓ Suitable Site – The site is suitable as defined in COAH’s regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in N.J.A.C. 5:93-4.
 - *The site has clear title and has no encumbrances that would preclude development of affordable housing.*

- *The site is adjacent to compatible land uses and has access to appropriate streets.*
 - *Adequate sewer and water capacity are available.* The site is within the Borough's sewer service area.
 - *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
 - *The site is located in a "Smart Growth Planning Area."* The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in the Metropolitan Planning Area (PA 1). Among the intentions of the Metropolitan Planning Area are to provide for much of the state's future redevelopment; promote growth in compact forms; and redesign areas of sprawl. It is a preferred location for affordable housing development.
 - The site is located outside of the Pinelands, Highlands and Meadowlands and CAFRA planning areas.
 - *The site will comply with all applicable environmental regulations.* There are no wetlands, floodplains or Category One streams on the site.
 - There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.
- ✓ Developable Site – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. The site is located in the Borough's sewer service area and has access to the water and sewer mains.
 - ✓ Approvable Site – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. All of the sites are approvable
 - ✓ Administrative Entity – The Borough has entered into an agreement with an experienced Administrative Agent to administer the Borough's affordable housing units pursuant to COAH's regulations. For the proposed Third Round affordable units, the administrative agent or the developer of the 100% project will affirmatively market the units, income qualify applicants, place 30-year affordability control deed restrictions on the units and provide long-term administration of the units in accordance with COAH's rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1, or any successor regulation, with the exception that in lieu of

10% affordable units in rental projects being required to be at 35% of median income, 13% of affordable units in such projects shall be required to be at 30% of median income.

- ✓ Low/Moderate Income Split – At least half of all the affordable units developed on the sites will be affordable to low-income households (13% of all affordable units will be very low-income) and an odd number of affordable units will always be split in favor of the low-income unit per UHAC at N.J.A.C. 5:80-26.1 and as consistent with the Settlement Agreement with FSHC, as amended.
- ✓ Affirmative Marketing – The Borough’s Administrative Agent or the developer of the 100% project will affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Borough’s Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch and Trenton branches of the NAACP and the Supportive Housing Association.
- ✓ Controls on Affordability – The Borough’s agreement will require a minimum 30-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:80-26.1.
- ✓ Bedroom Distribution – The units will be required to be developed in accordance with UHAC requirements regarding bedroom distribution in accordance with N.J.A.C. 5:80-26.1 and as consistent with the Settlement Agreement with FSHC, as amended.
- ✓ Funding – A pro forma statement for the affordable family units is provided in Appendix ?. The Borough and the developer will execute an agreement that in exchange for a deed restriction of at least 30 years, the Borough will provide the parcels or at a substantial discount as the municipal contribution toward the construction of the affordable housing units. The developer will also look to potential funding from sources including but not limited to DCA Balanced Housing funds, NJ’s State Affordable Housing Trust Fund, Morris County HOME funds, Federal Home Loan Bank funds, and/or HMFA bond financing. The Borough will adopt a resolution of intent to bond for any shortfall in funding the Municipally Sponsored Affordable Housing Construction Program.
- ✓ Construction Schedule – The developer has developed a schedule (Refer to Appendix ?) for developing the affordable family dwellings. The schedule notes each step in the development process including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, and beginning construction. The owner/developer will be responsible for monitoring the construction and overall development activity.



Mandatory Set-aside Ordinance

The Borough adopted a mandatory set-aside ordinance that requires, where via use variance, rezoning, or redevelopment, the Borough permits residential housing with 5 units or greater at a density greater than otherwise permitted that an affordable housing set-aside will be imposed on the development. The Ordinance shall require a 15% set-aside where the affordable units are for rent and 20% set-aside where the affordable units are for sale. Fractional affordable unit requirements shall be rounded down where the fraction is .49 or less and rounded up for those .50 or greater. All affordable units shall be restricted, regulated and administered consistent with the Borough’s affordable housing regulations, the Uniform Housing Affordability Controls rules

(N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to income distribution, bedroom distribution, and phasing.

AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING

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

The Borough also established the position of the Municipal Housing Liaison and appointed a staff member to the position. The Borough relies on an affordable housing administrator to conduct the administration and affirmative marketing of its affordable housing sites. However, the Borough will permit developers who demonstrate the appropriate experience and expertise to administer their own units as both are experienced affordable housing administrators. The affirmative marketing plans are designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region, Region 2, consisting of Essex, Morris, Union and Warren counties.

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

AFFORDABLE HOUSING TRUST FUND

A development fee ordinance was adopted to create a dedicated revenue source for affordable housing.

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

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

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

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

MONITORING

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

- On the first anniversary of the entry of final judgment, and every anniversary thereafter through the end of this Agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by the Commission on Affordable Housing or any other forms endorsed by the Special Master and FSHC. In addition to the foregoing, the Borough may also post such activity on the CTM system and/ or file a copy of its report with the COAH or its successor agency at the State level.

- For the review of very low-income housing requirements required by N.J.S.A. 52: 27D- 329. 1, within 30 days of the third anniversary of the entry of final judgment, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low-income housing obligation under the terms of this settlement.

COST GENERATION

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

Appendix A



Peter J. O'Connor, Esq.
 Adam M. Gordon, Esq.
 Laura Smith-Denker, Esq.
 David T. Rammner, Esq.
 Joshua D. Bauers, Esq.
 Bassam F. Gergi, Esq.

June 14, 2021

Jonathan E. Drill, Esq.
 Stickel, Koenig, Sullivan & Drill, LLC
 571 Pompton Avenue
 Cedar Grove, New Jersey 07009

Re: In the Matter of the Borough of Chatham, Morris County,
 Docket No. MRS-L-1906-15

Dear Mr. Drill:

This letter memorializes the terms of a First Amendment (the "First Amendment") to the November 7, 2016 Settlement Agreement reached between the Borough of Chatham (the "Borough" or "Chatham"), the declaratory judgment plaintiff, and Fair Share Housing Center ("FSHC"), a Supreme Court-designated interested party in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV), and a defendant-intervenor in this matter.

This First Amendment is subject to review and approval by the Court following a duly-noticed fairness hearing and, if approved, shall supersede the November 7, 2016 Settlement Agreement, which is attached hereto as **Exhibit A** and was previously approved by the Court through a fairness hearing, as to the terms specifically amended by this First Amendment.

All terms of the November 7, 2016 Settlement Agreement not specifically amended by this First Amendment shall remain in full force and effect as previously approved by the Court.

First Amendment Terms

The Borough and FSHC hereby agree to the following terms of the First Amendment:

1. Paragraph 5 of the November 7, 2016 Settlement Agreement listed 24 affordable housing units/credits that the Borough was claiming to satisfy its 23-unit Prior Round realistic development potential ("RDP"). The affordable housing units/credits that the Borough is entitled to shall be reduced from 24 to 23 to account for the fact that a proposed developer of the Averett inclusionary site (Block 98, Lot 2) has submitted a site plan application to the Borough Planning Board to construct an 8-unit rental housing development, inclusive of one (1) affordable family non-age-restricted rental unit that shall be a 2-bedroom, low-income unit. Additionally, an in-lieu payment of \$36,000 (\$180,000 x 0.2 fractional unit) shall be made by the developer of the Averett inclusionary site into Chatham's affordable housing trust fund.
2. In light of one (1) fewer affordable unit at the Averett inclusionary site, the Borough's Prior Round unmet need shall be increased from 53 to 54 units.
3. The November 7, 2016 Settlement Agreement calculated a Third Round RDP of 36 affordable units. In light of the changed circumstance and greater than anticipated yield

of affordable housing on Block 135, Lots 9, 10, 11, and 12, the Borough's Third Round RDP is hereby increased to 71 affordable units. **Exhibit B**, attached hereto, shows the updated calculation of the Borough's Third Round RDP.

4. Due to the increase in the Borough's Third Round RDP from 36 to 71 affordable units, the Borough's Third Round unmet need is decreased from 301 affordable units to 266 affordable units.
5. The Borough's combined Third Round and Prior Round unmet need is now 320 affordable units (54+266).
6. Paragraph 6 of the November 7, 2016 Settlement Agreement shall be replaced with the following:

The Borough has implemented or will implement the following mechanisms to satisfy its Third Round RDP of 71 affordable units:

Developments/ Compliance Mechanisms	Details	Status	Affordable Units*	Bonuses
River Road Redevelopment Plan (Block 135, Lots 9, 10, 11, and 12)	Family rentals	Site Plan Application to Planning Board	37	17
17-37 Bowers Lane (Block 122, Lots 13 to 17)	Family/ Assisted Living	Zoned AFD-4	5 to 7**	
4 Watchung Avenue (Block 134, Lot 1)	Family	Zoned M-3/Gateway	6 to 8	
Extension of Expiring Controls at Schindler Court	Family for-sale	Completed (Resolution No. 15-230)	8	
	Total:		56 to 60	17
			73 to 77 credits	

*The range is due to the 15% affordable set-aside for rental units and 20% affordable set-aside for for-sale units.

**Must produce at least 7 affordable units if developed as assisted living facility. See paragraph 7.b below for explanation of redevelopment plan for this property.

7. To help satisfy its 71-unit RDP, the Borough has provided/shall provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on the following sites:
 - a. On February 8, 2021, the Borough adopted the January 22, 2021 Amended River Road Redevelopment Plan and authorized entry into a redeveloper's agreement with Chatham River Road Urban Renewal, LLC, to permit a 245-unit inclusionary development on Block 135, Lots 9, 10, and 11 that shall include at least 37 affordable family non-age-restricted rental units (15% affordable housing set-

aside). Since then, Chatham River Road Urban Renewal, LLC, has submitted a site plan application to the Borough Planning Board.

In order to resolve concerns raised by FSHC as part of the Borough's July 1, 2020 midpoint review, the Borough, Borough Planning Board, FSHC, and Chatham River Road Urban Renewal, LLC, with the consent of the Special Master, have entered into a "Consent Order Clarifying Affordable Housing Requirements of River Road Redevelopment (Block 135, Lots 9, 10, 11 & 12)" which consent order was entered by the Court on April 30, 2021. The terms of that consent order, attached hereto as **Exhibit C**, are adopted and incorporated as if restated herein.

- b. On June 22, 2015, the Borough rezoned 17-37 Bowers Lane (Block 122, Lots 13-18) to AFD-4 at a density of 36 du/a with a 15% set-aside for rental affordable housing and a 20% set-aside for for-sale affordable housing. See Ordinance No. 15-08.

13-17 Bowers Lane was subsequently designated as a portion of the Post Office Plaza Redevelopment Area on February 12, 2018. See Resolution No. 18-101. The Borough then enacted the Post Office Plaza Redevelopment Plan dated April 9, 2019 on June 10, 2019, with respect to the entire Post Office Plaza Redevelopment Area. See Ordinance No. 19-11. The Post Office Plaza Redevelopment Plan superseded the prior AFD-4 zoning and provided for a mix of uses, including multi-family residential at a maximum density of 40 units per acre, subject to the affordability set asides set forth above, as required by Borough Ordinance Section 69-4.

With a combined area of approximately .94 acres, it is anticipated that under the current zoning a total of 34 units could be developed on Block 122, Lots 13-17 (the "Bowers site") (Lot 18 is owned by Chatham and will be a right-of-way area), with an affordable yield of 5 units based on a 15% rental inclusionary component or 7 units under a for-sale development scenario with a 20% inclusionary component.

Since the Bowers site was included in the Post Office Plaza Redevelopment Plan, the Borough has entered into negotiations with Kensington Senior Living to permit an assisted living facility to be built on the Bowers site.

If the Borough and Kensington Senior Living reach an agreement on the terms of the assisted living facility, FSHC has agreed to permit the Bowers site to be taken out of the Redevelopment Plan and rezoned and developed as an assisted living facility provided that any zoning and any developer's agreement requires that at least 10% of any assisted living units/beds¹ constructed on the Bowers site are deed restricted for very-low-, low-, and moderate-income individuals for a period of at least thirty (30) years from the date of initial occupancy per the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq., and this agreement. Notwithstanding the above, the minimum number of deed restricted assisted living units/beds must be at least seven (7). Further, as part of any such agreement between the Borough and Kensington Senior Living, the Borough may require a

¹ Pursuant to COAH's Second and Third Round rules, while the unit of credit is the apartment, a two-bedroom apartment in an assisted living facility is eligible for two units of credit if it is restricted to two unrelated individuals. See N.J.A.C. 5:97-6.11(b)(1) and N.J.A.C. 5:93-5.16(e).

payment in lieu in exchange for reducing the required affordable housing set-aside in the assisted living facility from 15% to at least 10%.

FSHC recognizes that there is a statutory requirement for 10% of the beds in an assisted living facility to be set aside for Medicaid-eligible residents and agrees that so long as there is a UHAC-compliant deed restriction for the required number of affordable beds in the facility, see N.J.A.C. 5:97-6.11(c)(2) and N.J.A.C. 5:93-5.16(d), this 10% set aside for Medicaid-eligible residents can count towards the units/beds overall that must be deed restricted for very-low-, low-, and moderate-income individuals for a period of at least thirty (30) years from the date of initial occupancy per UHAC.

As noted above, the Borough has committed to ensure that the number of any affordable assisted living units/beds created on 17-37 Bowers Lane is at least seven (7).

- c. On June 22, 2015, the Borough rezoned 4 Watchung Avenue (Block 134, Lot 1) to M-3/Gateway at a density of 20 du/a with a 15% set-aside for rental affordable housing and a 20% set-aside for for-sale affordable housing. See Ordinance No. 15-09.

With a developable acreage of about 2 acres, it is anticipated that a total of 40 units could be developed, with an affordable yield of 6 units based on a 15% rental inclusionary component or 8 units under a for-sale development scenario with a 20% inclusionary component.

8. To address its combined Third Round and Prior Round unmet need of 320 affordable units, the Borough of Chatham agrees to the following:
 - a. Unless stated differently elsewhere in this First Amendment, the Borough shall maintain all unmet need mechanisms committed to and adopted as a result of the November 7, 2016 Settlement Agreement, including:
 - i. Pursuant to Chapter 69 of the Borough of Chatham Code, "Affordable Housing," the Borough shall ensure that all residential development, including the residential portion of a mixed-use project, of five units or more shall set-aside a minimum of 20% of the total number of units as affordable housing for for-sale development and 15% for rental development. Among other instances, this mandatory affordable housing set-aside requirement applies to any property in the Borough that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development. The Borough commits to ensure that the affordable housing set-aside requirement is enforced, including by both its Planning Board and Zoning Board of Adjustment.
 - ii. The Borough shall ensure that all adopted redevelopment/rehabilitation plans and amended redevelopment/rehabilitation plans that permit residential development, including the residential portion of a mixed-use project, shall set-aside a minimum of 20% of the total number of residential

units as affordable housing for for-sale development and 15% for rental development.

- iii. The Borough shall maintain the M-1 District zoning, which permits mixed-use development, specifically apartments on upper floors of buildings with non-residential. The M-1 District requires a 15% affordable set-aside for rental development and a 20% affordable set-aside for for-sale development.
 - iv. The Borough shall maintain the M-3 District zoning, which allows multi-family development as a permitted conditional use on properties with a minimum of 20,000 square feet. The M-3 District requires a 15% affordable set-aside for rental development and a 20% affordable set-aside for for-sale development. The zoning was implemented via Ordinance No. 15-09 on June 22, 2015.
 - v. The Borough shall maintain the B-2 and B-4 Districts zoning, which permit residential units above the first floor in mixed-use buildings. The B-2 and B-4 Districts require a 15% affordable set-aside for rental development and a 20% affordable set-aside for for-sale development. The zoning was implemented via Ordinance No. 16-11 on October 24, 2016.
 - vi. Except as supplemented herein, the Borough shall maintain the Gateway Overlay District zoning. The zoning permits multi-family residential and mixed-use development and requires a 15% affordable set-aside for rental development and a 20% affordable set-aside for for-sale development. The zoning was implemented via Ordinance No. 15-09 on June 22, 2015.
- b. In light of concerns raised as part of the Borough's July 1, 2020 midpoint review regarding the realistic nature of the B-2 and B-4 Districts to produce affordable housing, the Borough of Chatham has agreed to supplement its unmet need mechanisms by taking the following actions:
- i. Chatham shall adopt Gateway Overlay 1 zoning to allow, as a permitted use, multifamily non-age-restricted residential development of 35 units per acre, in up to 4-story buildings, with a 15% affordable housing set-aside for rental development and 20% affordable housing set-aside for for-sale development.

The Gateway Overlay 1 zone shall encompass approximately 20.2 acres of land and could yield a maximum of approximately 106 to 141 affordable units.

If the Borough adopts a redevelopment/rehabilitation plan and/or enters into a redeveloper's agreement for sites in the Gateway Overlay 1 zone, it shall ensure that any such plan and agreement includes the affordable housing set-asides and creates a realistic opportunity for, at minimum, 75 affordable family non-age-restricted units via inclusionary development with a 15% affordable housing set-aside for rental development and 20% affordable housing set-aside for for-sale development.

The blocks and lots to be included in the Gateway Overlay 1 zone are listed in **Exhibit D** attached.

- ii. Chatham shall adopt Gateway Overlay 2 zoning to allow, as a permitted use, multifamily non-age-restricted residential development of 18 units per acre, in up to 4-story buildings, with a 15% affordable housing set-aside for rental development and 20% affordable housing set-aside for for-sale development.

The Gateway Overlay 2 zone shall encompass approximately 9 acres of land and could yield a maximum of approximately 24 to 32 affordable units.

The blocks and lots to be included in the Gateway Overlay 2 zone are listed in **Exhibit D** attached.

- iii. By January 1, 2022, Chatham shall amend the Post Office Plaza Redevelopment Plan (Block 121, Lots 10-13 and 17, and Block 122, Lots 1-2 and 13-18) to create a realistic opportunity for, at minimum, 15 affordable family non-age-restricted rental units as part of an inclusionary development. The Borough shall use its best efforts, and act with all continuity of purpose, to designate and enter into a redeveloper's agreement for the inclusionary development by June 1, 2022. If, despite its best efforts, the Borough has not entered into a redeveloper's agreement for the inclusionary development by June 1, 2022, FSHC and the Borough can agree to extend the date by which the redeveloper's agreement can be entered into or FSHC and the Borough can agree that the Borough will provide another unmet need mechanism to FSHC's satisfaction that will address the units that would have been produced in the Post Office Plaza Redevelopment area.

The amended plan and agreement shall require at least a 15% affordable housing set-aside for rental development and 20% affordable housing set-aside for for-sale development.

Chatham has the right to change the use of Block 122, Lots 13-18 in accordance with the provisions of paragraph 7.b above to permit an assisted living facility.

If Chatham does, in fact, change the use of Block 122, Lots 13-18, the minimum number of affordable family non-age-restricted rental units that must be part of an inclusionary development in the remaining area (Block 121, Lots 10-13 and Block 122, Lots 1-2) shall decrease from 15 to 10.

9. Chatham agrees to ensure that the following terms are complied with in all residential development that produces affordable housing:
 - a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the required bedroom and income distribution, with the sole exception that thirteen percent (13%) of the affordable units within each bedroom distribution shall be

required to be for very-low-income households earning thirty percent (30%) or less of the median income.

- b. All of the affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action to extend or release the unit from such controls after at least thirty (30) years. If the Borough acts to release the unit from such controls, the affordability controls shall remain in effect until the date on which a rental unit shall become vacant due the voluntary departure of the occupant household.
 - c. In inclusionary developments, the affordable units shall be fully integrated with the market-rate units to the greatest extent feasible, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) from the market-rate units. In buildings with multiple dwelling units, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.
 - d. Construction of the affordable units shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
 - e. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified in the November 7, 2016 Settlement Agreement between Chatham and Fair Share Housing Center, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.
10. Chatham acknowledges and agrees that the affordable housing sites identified herein are available, suitable, developable, and approvable for the construction of affordable housing, including the number of units contemplated by this First Amendment.
 11. Chatham commits to support the inclusionary developments referenced herein, and commits to work cooperatively and expeditiously with the developers to ensure all necessary land use approvals and to issue all construction and building permits.
 12. An essential term of this First Amendment is that the Borough shall introduce and adopt all ordinances to implement the terms of this Amended Agreement and the zoning contemplated herein and adopt an amended Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this First Amendment by no later than one-hundred-and-twenty (120) days from the entry of a Court order approving the within First Amendment to the Settlement Agreement. The Borough also agrees to update and revise its Spending Plan and adopt it by resolution within the 120-day period.

To the degree that any other items besides those specifically enumerated herein required by the terms of the November 7, 2016 Settlement Agreement have not yet been completed

by the Borough, those items shall likewise be completed by no later than one-hundred-and-twenty (120) days from the entry of a Court order approving the within First Amendment to the Settlement Agreement.

13. In view of the additional time and resources required to be expended by FSHC to ensure the fulfillment of the November 7, 2016 Settlement Agreement's terms and to negotiate and defend this First Amendment, the Borough shall pay to FSHC as a donation for the advancement of affordable housing the amount of \$30,000 within thirty (30) days of the Court's approval of this First Amendment following a duly-noticed fairness hearing.

14. Paragraphs 13 and 14 of the November 7, 2016 Settlement Agreement require the Borough to provide an annual report on all affordable housing activity and trust fund activity.

The new date by which this annual report must be posted on the Borough's website, with a copy mailed and emailed to Fair Share Housing Center, shall be January 1.

The annual report shall state the location and the number of affordable units approved, under construction, and built, and it shall provide information on the bedroom and income distribution of the affordable units and whether a deed restriction has been imposed on them.

15. This First Amendment must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986), and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996). The Borough shall present its planner as a witness at the hearing. FSHC agrees to support this First Amendment at the fairness hearing. The hearing may be a combined fairness and final compliance hearing.

16. If an appeal is filed of the Court's approval or rejection of this First Amendment, the parties agree to defend the First Amendment on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this First Amendment if it is approved before the Law Division, unless and until an appeal of the Law Division's approval is successful, at which point the parties reserve their right to rescind any action taken in anticipation of the Law Division's approval. All parties shall have an obligation to fulfill the intent and purpose of this First Amendment.

17. Unless otherwise specified, it is intended that the provisions of this First Amendment are to be severable. The validity of any article, section, clause or provision of this First Amendment shall not affect the validity of the remaining articles, sections, clauses or provisions hereof or the Settlement Agreement.

18. This First Amendment may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Morris County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees and costs.

19. The Borough and FSHC acknowledge that each has entered into this First Amendment on its own volition without coercion or duress after consulting with its counsel, that each person to sign this First Amendment is the proper person and possesses the authority to

sign the First Amendment, that this First Amendment and the FSHC Settlement 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 in writing therein.

20. The Borough and FSHC acknowledge that this First Amendment 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 First Amendment; and (b) it has conferred due authority for execution of this First Amendment upon the persons executing it.
21. This First Amendment 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 First Amendment.
22. All other terms and conditions of the November 7, 2016 Settlement Agreement not specifically amended by this First Amendment shall remain in full force and effect and shall be incorporated as if fully set forth at length herein.
23. The First Amendment and the November 7, 2016 Settlement Agreement constitute 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.
24. The effective date of this First Amendment shall be the date upon which Fair Share Housing Center and Chatham have executed and delivered this First Amendment.

TO FSHC: Adam M. Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, New Jersey 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
Email: adamgordon@fairsharehousing.org

TO THE BOROUGH: Jonathan E. Drill, Esq.
Stickel, Koenig, Sullivan & Drill, LLC
571 Pompton Avenue
Cedar Grove, New Jersey 07009
Phone: 973-239-8800
Telecopier: 973-239-0369
Email: jdrill@sksdllaw.com

**WITH A COPY TO THE
MUNICIPAL CLERK:** Tamar Lawful, Borough Clerk
Borough of Chatham
54 Fairmont Avenue
Chatham, New Jersey 07928
Phone: 973-635-0674

Telecopier: 973-635-2417
Email: tlawful@chathamborough.org

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

Sincerely,



Adam M. Gordon, Esq.
Executive Director of Fair Share Housing Center

Witness: Bassam Gergi

Dated: June 11, 2021

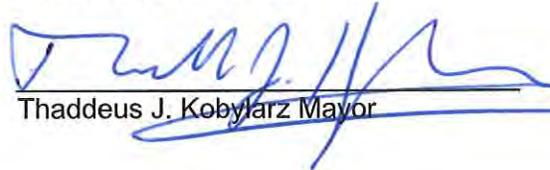
On behalf of the Borough of Chatham, with the authorization of the governing body:

Witness/ Attest:



Tamar Lawful Municipal Clerk

BOROUGH OF CHATHAM



Thaddeus J. Kobylarz Mayor

Dated: 6/14/2021

Exhibit A:
November 7, 2016 Settlement Agreement
Between Chatham Borough and FSHC

Settlement Agreement
In the Matter of the Borough of Chatham Affordable Housing Compliance
County of Morris, Docket No. MRS-L-1906-15

This **AGREEMENT** made and entered into this 7th day of November, 2016, by and between the Borough of Chatham (the "Borough"), the declaratory judgment plaintiff, and Fair Share Housing Center ("FSHC"), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, an interested party in this proceeding (collectively, the "Parties"):

WHEREAS, the Borough filed the above-captioned matter on July 6, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra.;

WHEREAS, the Borough filed its Draft 2015 Housing Element and Fair Share Plan (the "Plan") with the Court on December 4, 2015;

WHEREAS, in accordance with the report of Special Master Michael P. Bolan, AICPP, PP, dated February 29, 2016 and negotiations between FSHC and the Borough, the Borough has made revisions to its Plan;

WHEREAS, the Borough and FSHC agree to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households;

NOW THEREFORE, the Borough and FSHC hereby agree to the following terms:

1. FSHC agrees that the Borough, through the adoption of the attached Plan, Exh. A, and the implementation of that Plan and this agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. for the Prior Round (1987-1999) and Third Round (1999-2025), thus entitling the municipality to protection from builder's remedy litigation through July 1, 2025.
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.
3. FSHC and the Borough hereby agree that the Borough's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report ¹)	0 units
Prior Round Obligation (pursuant to <u>N.J.A.C. 5:93</u>)	77 units, adjusted to a 23-unit RDP with an unmet need of 53 units

¹ David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, April 16, 2015, revised July 2015.

Third Round Prospective Need (per Kinsey Report, as adjusted through this settlement agreement)	337, adjusted to a 36-unit RDP with an unmet need of 301 units
---	--

4. As indicated in the Kinsey report, the Borough has a present need of 0 units. As a result, the Borough's Plan does not include mechanisms to address rehabilitation of substandard units occupied by low-and-moderate income households. This is sufficient to satisfy the Borough's rehabilitation obligation of 0 units.
5. As noted above, the Borough has a prior round prospective need of 77 units, adjusted to a 23-unit RDP which is met through the following compliance mechanisms:

DEVELOPMENT	BLOCK/LOT	EXPIRATION ²	UNIT TYPE	RENTAL/SALE
CHATHAM @ WILLOWS:				
34 SCHINDLER CT Unit ML-1	106/1.34	7/21/2019	3 BR Moderate	For Sale
36 SCHINDLER CT Unit ML-2	106/1.36	2/16/2019	3 BR Low	For Sale
38 SCHINDLER CT Unit ML-3	106/1.38	10/19/2018	2 BR Low	For Sale
40 SCHINDLER CT Unit ML-4	106/1.40	12/14/2018	2 BR Moderate	For Sale
42 SCHINDLER CT Unit ML-5	106/1.42	10/26/2018	2 BR Low	For Sale
44 SCHINDLER CT Unit ML-6	106/1.44	3/10/2019	2 BR Moderate	For Sale
46 SCHINDLER CT Unit ML-7	106/1.46	12/2/2018	2 BR Moderate	For Sale
48 SCHINDLER CT Unit ML-8	106/1.48	11/24/2018	2 BR Low	For Sale
<i>Credits</i>				8 Units
WILLOWS CT./Zuckerman (Averett/Nilson):				
1 LACKAWANNA CT. UNIT #1	99/20.01	3/2/2031	2 BR Moderate	Rental
1 LACKAWANNA CT. UNIT #2	99/20.01	3/2/2031	2 BR Low	Rental
<i>Credits</i>				2 Rental Units plus 2 bonus credits = 4 credits
RIVER COMMONS/Gunn:				
117 SUMMIT AVE (GUNN)	129/46.07	1/31/2032	3 BR Moderate	Rental
121 SUMMIT AVE (GUNN)	129/46.08	1/31/2032	2 BR Low	Rental
<i>Credits</i>				2 Rental Units plus 2 bonus credits = 4 credits
CHESTNUT RIDGE (Rau/Chatham Land Inc.)/31 Maple Street:				
<i>Credits</i>	103/7.05	1/1/2006	4 age-restricted rentals (all 2-bedroom Low)	4 Rental Units
HOWARDSON PROPERTY				
	118/48		2 unit RCA	2 Unit RCA to Linden

UNITS & BONUS CREDITS				22 Credits
INCLUSIONARY SITE - Averett	98/2		Zoned AFD-2	2 Units
PRIOR ROUND TOTALS				24 CREDITS

6. The Borough has implemented or will implement the following mechanisms to address its Third Round prospective need of 337 units, adjusted to a 36-unit RDP:

Inclusionary Site	Location	Zoning	Affordable Units/Credits
1	17-37 Bowers Lane	AFD-4	5 to 7
2	16 River Road	M-3/Gateway	4 to 5
3	12 River Road	M-3/Gateway	8 to 10
4	4 Watchung Avenue	M-3/Gateway	6 to 8
		Total	23 to 30 Units
Extension of Controls	Schindler Court		8 Credits
Rental Bonuses	Sites 2, 3 & 4	M-3/Gateway	9 Credits
		TOTAL	40 to 47 Units/Credits

7. The Borough agrees to address its Prior Round and Third Round Unmet Need through potential future redevelopment or revitalization of existing developed sites, as described more fully in the attached Plan, Exh. A. The Borough also agrees to provide overlay zoning in the B-2 and B-4 business districts to address Unmet Need, as described more fully in the attached Plan, Exh. A.
8. The Borough agrees to require 13% of all affordable units referenced in this plan, with the exception of units that were approved and vested or constructed on or before July 1, 2008, to be very low income units, affordable to households earning 30% or less of the regional median income, with half of these very low income units being available to families.
9. The municipality will also comply with all of the following requirements:
- Minimum 50% family housing = 18 units
 - Minimum 50% low-income housing (per NJAC 5:93) = 18 units
 - Minimum 13% very low income housing (per FHA) = 5 units
 - Minimum 50% of very low income housing to be family housing = 3 units
 - Minimum rental requirement = 25% of RDP = 9 units
 - Minimum family rental requirement = 50% of rental requirement = 5 units
 - Maximum age-restricted = 25% of RDP = 9 units
 - Maximum age-restricted units qualifying for rental bonus = 50% of rental obligation = 4 units
 - Maximum rental bonus = 25% of RDP = 9 units (cap on rental bonuses with rental bonuses applying up to the rental obligation per NJAC 5:93)
9. At least 50 percent of the units in each of the Third Round Prospective Need sites shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.

10. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan pursuant to N.J.A.C. 5:80-26.15(f)(5) Fair Share Housing Center, Newark NAACP, Morris Co. NAACP, East Orange NAACP, Latino Action Network, Housing Partnership for Morris County, Community Access Unlimited, Inc., and Northwest New Jersey Community Action Program, Inc., and shall as part of its regional affirmative marketing strategies during its implementation of this plan shall provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
11. The Borough further agrees to comply with the requirements of N.J.A.C. 5:80-26, including but not limited to, the marketing, bedroom distribution and affordability standards for the affordable housing units referenced herein.
12. The parties agree that if there is legislative action, a final judgment from a court of competent jurisdiction, or administrative order from an administrative agency responsible for implementing the Fair Housing Act (a "Change in Law") which reduces the Borough's total prospective Third Round need obligation established in this Agreement by more than fifteen (15%) that the Borough may seek to amend the judgment in this matter without objection by FSHC. Notwithstanding any such reduction, the Borough shall be obligated to implement the fair share plan attached hereto, including leaving in place any site specific zone changes made or continued in connection with the plan approved pursuant to this settlement agreement and any mechanism to meet unmet need; and otherwise fulfilling fully the fair share obligations established herein. The reduction of the Borough's obligation below that established in this agreement does not provide a basis for seeking leave to amend this agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its prospective need for the Third Round, the Borough may carryover any resulting extra credits to future rounds. FSHC hereby expressly waives any right to seek an increase in any aspect of the Borough's affordable housing obligation which may result from a Change in Law and that the Court's entry of a Final Judgment of Repose in this matter may not be reopened.
13. The Borough has prepared a spending plan that is attached hereto in the appendix to Exh. A. The parties to this agreement agree that this spending plan is valid and should be approved by the court. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Borough agrees to provide annual monitoring of trust fund activity to the NJ Department of Community Affairs, Local Government Services, with a copy to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing. The monitoring shall include an accounting of any housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
14. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Borough agrees to provide annual monitoring of affordable housing activity by means of a posting of a report of such activity on the Borough website, with a copy to Fair Share Housing Center, and by posting of updated information on COAH's CTM system, using forms previously developed for this purpose by the Council on Affordable Housing (or any other forms endorsed by the Special Master and FSHC).
15. The Fair Housing Act includes two provisions regarding action 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 as of July 1, 2020 as required pursuant to N.J.S.A. 52:27D-313, the Borough will provide to the Court, with

notice to Fair Share Housing Center and other interested parties identified in this agreement, a status report as to its implementation of its Fair Share Plan and any comments as to whether any unbuilt sites continue to present a realistic opportunity and whether mechanisms to meet unmet need should be revised, with the opportunity for any interested party to submit comments and request a hearing before the court as to whether any sites no longer present a realistic opportunity and should be replaced.

- 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 this agreement, the Borough will provide to the Court, with notice to Fair Share Housing Center and other interested parties identified in this agreement, a status report as to its satisfaction of its very low income requirements, including family low income requirements referenced herein, with the opportunity for any interested party to submit comments and request a hearing before the court as to whether the municipality has complied and whether any corrective actions should be taken.
16. This settlement agreement must be approved by a court prior to going into effect through a fairness hearing process, as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees to not challenge the attached fair share plan in court during any fairness hearing in which it is reviewed. The parties agree to submit the issue of whether the court should issue an order providing substantive certification or an order providing repose to the court for a conclusive determination.
17. This settlement agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Morris County. FSHC shall be deemed to be an intervenor in this proceeding for purposes of enforcing this agreement.
18. 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.
19. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
20. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
21. 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.
22. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
23. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

24. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
25. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
26. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
27. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight 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
Telecopier: (856) 663-8182
E-mail: kevinwalsh@fairsharehousing.org

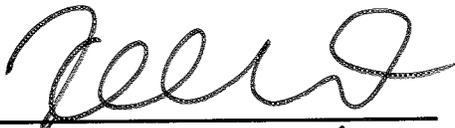
TO THE BOROUGH: Borough of Chatham
54 Fairmont Avenue
Chatham, New Jersey 07928
Attn: Steve Williams
Affordable Housing Liaison
Phone: (973) 635-0674
Telecopier: (973) 635-2417
E-mail: swilliams@chathamborough.org

WITH A COPY TO THE MUNICIPAL CLERK: Borough of Chatham
54 Fairmont Avenue
Chatham, New Jersey 07928
Attn: Robin Kline
Phone: (973) 635-0674
Telecopier: (973) 635-2417
E-mail: rkline@chathamborough.org

WITH A COPY TO: James L. Lott, Jr.
Riker Danzig Scherer Hyland & Perretti, LLP
One Speedwell Avenue
Morristown, New Jersey 07962
Phone: (973) 538-0800
Telecopier: (973) 451-8684
E-mail: jlott@RIKER.com

IN WITNESS WHEREOF, each party has caused its authorized officials to sign and seal this Agreement on its behalf this 7th day of November, 2016.

FAIR SHARE HOUSING CENTER

BY: 
10/27/2016

ATTEST:



BOROUGH OF CHATHAM

BY: 
Bruce A. Harris, Mayor

ATTEST:


Robin Kline, MAS, RMC, CMR
Borough Clerk

HOUSING ELEMENT AND FAIR SHARE PLAN

Borough of Chatham
Morris County, New Jersey

November 24, 2015; revised April 20, 2016
Susan G. Blickstein, AICP/PP, PhD

In Association with Elizabeth C. McKenzie, AICP, PP

BOROUGH OF CHATHAM, NJ

HOUSING ELEMENT AND FAIR SHARE PLAN

Prepared for:

The Borough of Chatham Planning Board

Adopted by Borough Planning Board: September 21 , 2016

Endorsed by Borough Council: September 21, 2016

Prepared by

SUSAN G. BLICKSTEIN, PP/AICP, PhD



NJ Planner's License 5134

ELIZABETH C. MCKENZIE, AICP, PP



NJ Planner's License 2294

CHATHAM BOROUGH OFFICIALS

Planning Board:

Susan Favate, Chairperson
Victoria Fife
John Bitar
Joseph Mikulewicz
Matthew Wagner
H.H. Montague
James Mitchell
William Heap
Wolfgang Robinson
Janice Piccolo
Bruce A. Harris, Mayor

Liz Holler, Recording Secretary
Vincent Loughlin, Planning Board Attorney

Borough Council:

Leonard Resto
Peter Hoffman
James J. Collander
Victoria Fife
James Lonergan
Gerald Helfrich

Borough Officials:

Bruce A. Harris, Mayor
Robert Falzarano, Borough Administrator
Stephen W. Williams, Assistant Borough Administrator

TABLE OF CONTENTS

Section 1: Introduction	5
Section 2: Housing Element	6
A. Housing Characteristics	6
B. Population Demographics	10
C. Employment Demographics	14
D. Capacity for Fair Share/Lands Most Appropriate	15
Section 3: Fair Share Plan	17
A. Fair Share Obligation	17
B. Current Round Adjustments	20
C. Current Round Credits	24
D. Additional Current Round Mechanisms	24
E. Summary of Strategies	27
F. Spending Plan	30
G. Implementation	30
Appendices	
A. Draft Affirmative Marketing Plan	
B. Draft Affordable Housing Ordinance	
C. Vacant Land Inventory/Map	
D. Existing Land Use Map	
E. Letter from Borough Engineer re: water/sewer capacity	
E. Draft Spending Plan	

SECTION 1: INTRODUCTION

All municipalities in New Jersey are charged with the constitutional obligation of providing a realistic opportunity for the construction of housing for low-income and moderate-income households. This responsibility, initially highlighted in the 1975 case of Southern Burlington County NAACP v. Township of Mt. Laurel 67 NJ 151 (1975), eventually became the basis for the July 2, 1985 Fair Housing Act.

A Housing Element is one of the mandatory components of a master plan. This Housing Element and Fair Share Plan is intended to fulfill the requirements of both the New Jersey Municipal Land Use Law and the Fair Housing Act.

Existing Master Plan and Related Documents

Supporting documents for the Borough of Chatham's Housing Element and Fair Share Plan include the following:

- 2000 Master Plan
- 2006 Master Plan Reexamination
- 2010 Open Space and Recreation Plan Update
- 2012 Environmental Resources Inventory
- 2013 Land Use Element Amendment

These documents were reviewed as part of the preparation of this Housing Element and Fair Share Plan. This Housing Element/Fair Share Plan is substantially consistent with the referenced companion documents.

Community Overview

The Borough of Chatham is a built out community of 8,962 people encompassing approximately 1,533 acres or 2.4 square miles. Chatham is bordered by the Borough of Florham Park to the north, the Borough of Madison to the west, Chatham Township to the west and south, Summit to the south and east, and Millburn on the opposite side of Route 24. The Borough has a small downtown that serves the local community as well as surrounding areas. As indicated in the 2010 Open Space and Recreation Plan, less than 1% of the Borough's land area is vacant. Vacant land today generally consists of very small, isolated, scattered parcels.

The information gathered for this report originates from the United States Census Bureau's Decennial Census and American Community Survey programs in addition to the New Jersey Department of Labor and Workforce Development and the Morris County Department of Planning. Please note that the American Community Survey (ACS) is based on 5-year estimates. Although the American Community Survey (ACS) generates population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program (Decennial Census) that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

SECTION 2: HOUSING ELEMENT

A. Housing Characteristics

According to the 2010 Census, there were 3,210 total housing units and 137 vacant units in the Borough. Housing tenure and type are detailed below. As indicated in Table 1, the Borough's number of owner-occupied and renter-occupied units remained stable during the 2000s, comprising 80% and 20% of the Borough's housing stock respectively. The trends for unit type remained generally constant between 2000 and 2013 as noted in Table 2. The 2013 estimates indicate a decrease in the number of 3 to 4 unit structures, but an increase in the number of 5 to 9 unit structures.

Tenure and Occupancy Status	2000	2010
Owner Occupied Units	2,511	2,438
Renter Occupied Units	648	635
Total Occupied Units	3,159	3,073
Vacant for Rent	13	63
Vacant for Sale	21	14
Rented or sold, not occupied	19	12
For Seasonal, Rec. or Occasional Use	10	24
Other vacant	10	24
Total Vacant Units	73	137
Total Housing Units	3,232	3,210

Source: 2000 and 2010 U.S. Census

Type of Structure	2000 US Census	2010 ACS	2013 ACS
1, detached	2,587	2,386	2,442
1, attached	46	31	16
2	124	206	137
3 or 4	228	178	127
5 to 9	46	111	137
10 to 19	59	36	48
20 or more	137	171	174
Mobile Home or trailer	5	0	0
Other	0	0	0
Total	3,232	3,232	3,081

Source: 2000 U.S. Census; 2010 ACS; 2013 ACS

BOROUGH OF CHATHAM, NJ

Value of Housing Stock

Of the Borough's 567 renter-occupied housing units in 2013 paying cash rent, approximately 6% rented for less than \$1,000. Approximately 45% of all rental units had monthly rents between \$1,000 and \$1,499. An additional 280 units rented above \$1,500 a month. The estimated 2013 median rent was \$1,496.

Gross Rent	2000 Census	2010 ACS	2013 ACS
Less than \$500	5	16	0
\$500 to \$749	19	0	17
\$750 to \$999	220	0	16
\$1,000 to \$1,499	263	346	254
\$1,500 or more	113	315	280
Occupied Units Paying Rent	620	677	567
No Rent Paid	32	9	8
Median (dollars)	\$1,082	\$1,475	\$1,496

Source: 2000 U.S. Census, 2010 ACS, 2013 ACS

Table 4 identifies the value of owner-occupied units. As shown, the Borough's median housing value increased during the 2000s from \$376,900 to \$705,800. As of 2013, less than 1% of all owner occupied units were valued under \$200,000, 15% were between \$200,000 and \$499,999, with the balance over \$500,000.

Value	2000 Census	2010 ACS	2013 ACS
Less than \$50,000	6	0	17
\$50,000 to \$99,999	0	5	0
\$100,000 to \$149,999	13	0	0
\$150,000 to \$199,999	100	9	0
\$200,000 to \$299,999	529	31	30
\$300,000 to \$499,999	1,229	248	330
\$500,000 to \$999,999	481	1,618	1,538
\$1,000,000 or more	51	394	416
Total Owner-Occupied Units	2,409	2,305	1,915
Median Value	\$ 376,900	\$ 699,100	\$ 705,800

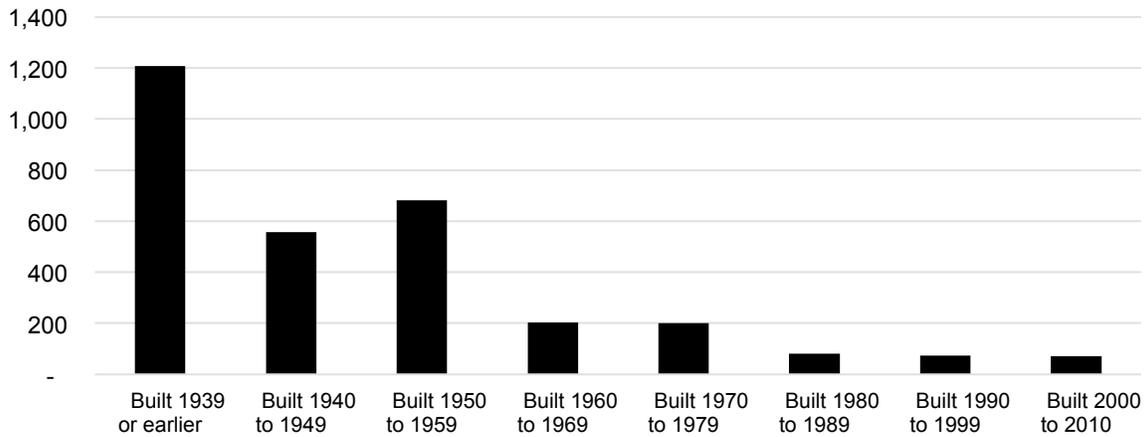
Source: 2000 U.S. Census, 2010 ACS, 2013 ACS

BOROUGH OF CHATHAM, NJ

Condition of Housing Stock

The Borough's housing inventory grew very modestly over the past two decades. As shown below, over one third of the borough's housing stock originates from the early twentieth century, predating post-war and mid-twentieth century housing construction. Based on the 2013 ACS estimates, the Borough does not have any sub-standard housing units.

Figure 1 - Housing Units by Age of Structure



Source: 2013 ACS

Type of Structure	2013 ACS
Built 1939 or earlier	1,208
Built 1940 to 1949	558
Built 1950 to 1959	683
Built 1960 to 1969	204
Built 1970 to 1979	202
Built 1980 to 1989	82
Built 1990 to 1999	73
Built 2000 to 2010	71
Total	3,081

Source: 2013 ACS

Type of Structure	2000 US Census	2013 ACS
Units with more than one person per room	10	0
Units lacking complete plumbing	18	0
Units lacking complete kitchen	12	0

Source: 2000 U.S. Census; 2013 ACS

BOROUGH OF CHATHAM, NJ

Chatham Borough's Housing Stock

During the last decade, a total net decrease of 36 housing units has resulted from demolitions and new construction, an average decrease of nearly 4 units per year. No multi-family units were added to the Borough between 2004 and 2014. North Jersey Transportation Planning Authority has projected that the number of households in the Borough will grow very modestly to 3,175 by 2040, an increase of 80 households over 25 years.

Table 7 - Ten Year Trend of Residential Certificates of Occupancy and Demolition Permits

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Housing CO's Issued	3	1	1	3	4	9	4	3	6	8	4	46
1&2 Family	3	1	1	3	4	9	4	3	6	8	4	46
Multi-Family	0	0	0	0	0	0	0	0	0	0	0	0
Mixed-Use	0	0	0	0	0	0	0	0	0	0	0	0
Housing Units Demolished	17	21	7	7	6	2	2	5	3	7	5	82
Net Increase in Housing Units	-14	-20	-6	-4	-2	7	2	-2	3	1	-1	-36

Source: Morris County Dept. of Planning and Public Works

Table 8 - Household Projections

Year	2015	2020	2025	2030	2035	2040
Chatham Borough	3,095	3,135	3,175	3,174	3,175	3,175

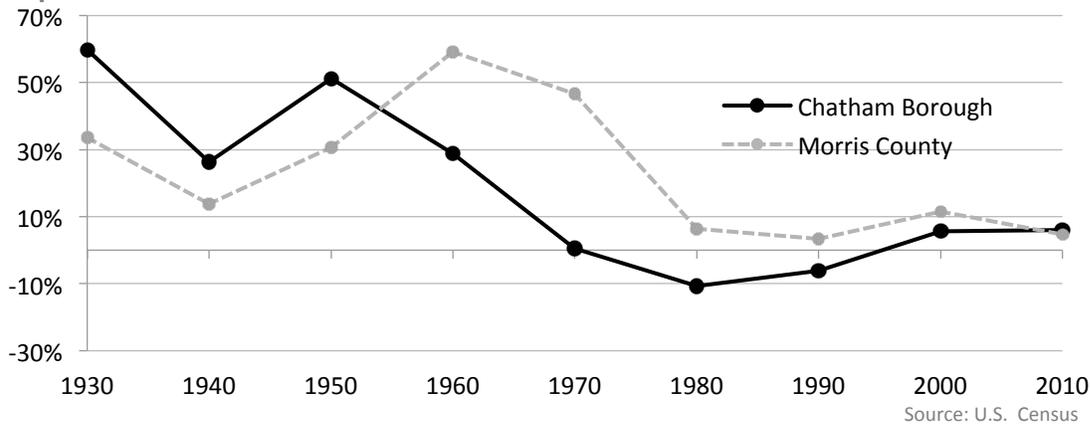
Source: NJTPA

BOROUGH OF CHATHAM, NJ

B. Population Demographics

As indicated in Table 9, the Borough’s population grew considerably during the 1950s through 1970 and declined during the 1970s and 1980s. There was modest population growth during the 1990s and 2000s. As shown in Table 10, by 2020, the NJTPA has projected that Chatham’s population will increase to 8,998 or an increase of 36 persons from the 2010 Census.

Population Trends



Year	Population	Change	
		Number	Percent
1920	2,421		
1930	3,869	1,448	60%
1940	4,888	1,019	26%
1950	7,391	2,503	51%
1960	9,517	2,126	29%
1970	9,566	49	1%
1980	8,537	-1,029	-11%
1990	8,007	-530	-6%
2000	8,460	453	6%
2010	8,962	502	6%
Change, 1920-2010		6,541	270%

U.S. Census.

Year	Population
2015	8,973
2020	8,998
2025	9,078
2030	9,081
2035	9,081
2040	9,130

Source: NJTPA

BOROUGH OF CHATHAM, NJ

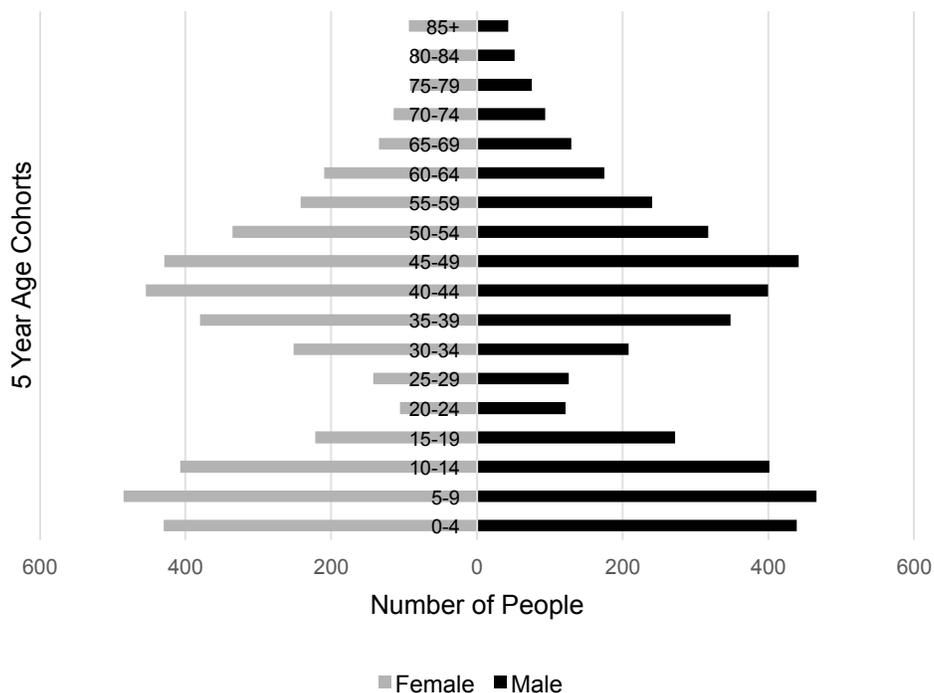
Age Distribution

The age composition of the Borough’s population is detailed in Table 11 below. As shown, since 2000, the under 5 cohort decreased slightly, the 5 to 19 cohort increased significantly, and the number of young adults between 20 and 39 decreased substantially. Additionally, residents between ages 40 to 69 have increased, while the number of residents 70 years of age and older has decreased.

Table 11 - 2010 Population by Age and Sex							
Age	Year 2000			Year 2010			Change
	Total	Male	Female	Total	Male	Female	
0-4	871	430	441	869	439	430	-2
5-19	1,623	843	780	2,253	1,139	1,114	630
20-29	598	251	347	496	247	249	-102
30-39	1,681	812	869	1,188	556	632	-493
40-49	1,381	680	701	1,724	840	884	343
50-59	884	417	467	1,135	557	578	251
60-69	611	294	317	649	304	345	38
70-84	663	264	399	511	219	292	-152
85+	148	46	102	137	43	94	-11
Total	8,460	4,037	4,423	8,962	4,344	4,618	502

Source: U.S. Census

Figure 3 - Age & Gender Composition, 2010



Source: U.S. Census

BOROUGH OF CHATHAM, NJ

Household Size and Type

As shown in Table 12, the 2010 Census shows a mix of household types within the Borough, with 78% families (two people or more related by birth, marriage, or adoption) and 22% non-family households (a householder living alone or with people to whom he/she is not related). Almost three-fourths of households were married couples in 2010 and over 40% of these families have children under the age of 18. Eight percent of households were persons living alone over 65 years of age in 2010.

Table 12 - Household Type

Household by Type	2000		2010	
	Number	% Total HH	Number	% Total HH
Total households	3,159	100%	3,073	100%
Family households (families)	2,384	76%	2,398	78%
With own children under 18 years	1,244	39%	1,478	48%
Married-couple family	2,137	68%	2,118	69%
With own children under 18 years	1,132	36%	1,328	43%
Female householder, no husband present	201	6%	215	7%
With own children under 18 years	92	3%	118	4%
Nonfamily households	775	25%	675	22%
Householder living alone	673	21%	572	19%
Householder 65 years & over	291	9%	244	8%
Households with individuals under 18 years	1,271	40%	1,495	49%
Households with individuals 65 & over	766	24%	648	21%

Source: U.S. Census

Household characteristics are detailed in Table 13. As shown below, Chatham Borough had an average household size of 2.67 persons and an average family size of 3.14 persons in 2000. Table 13 also shows a slight decline in the total number of households in the Borough between 2000 and 2010, as well as slight increases in households with 4 to 6 persons. In tandem with the increases in larger households, the average family and household sizes increased over the same period.

Table 13 - Household Size

Household Size	2000			2010		
	Owner	Renter	Total	Owner	Renter	Total
1 - Person Household	370	303	673	328	244	572
2 - Person Household	815	215	1,030	643	171	814
3 - Person Household	488	64	552	442	108	550
4 - Person Household	538	47	585	633	79	712
5 - Person Household	233	12	245	313	24	337
6 - Person Household	51	5	56	64	7	71
7 - Person Household	16	2	18	15	2	17
Total	2,511	648	3,159	2,438	635	3,073
Average Household Size	2.87	1.88	2.67	3.09	2.21	2.91
Average Family Size	3.14			3.37		

Source: U.S. Census

BOROUGH OF CHATHAM, NJ

Income Characteristics

According to the 5-year estimates for the 2009-2013 American Community Survey, the Borough's median household income in 2013 was \$146,083, an increase of approximately 43% compared to the 2000 Census. Based on the distribution of households by income according to the 2013 ACS, approximately 6% of the Borough's households earned less than \$25,000, 9% earned between \$25,000 and \$44,999, 17% earned between \$45,000 and \$99,999, and 20% earned between \$100,000 and \$149,999. The remaining households earned \$150,000 or more.

Table 14 - Number of Households by Household Income

Income Range	2000 Census # of Households	2010 ACS Estimates # of Households	2013 ACS Estimates # of Households
Less than \$10,000	69	36	49
\$10,000 - \$14,999	26	39	34
\$15,000 - \$24,999	130	55	90
\$25,000 - \$34,999	128	54	99
\$35,000 - \$44,999	317	175	155
\$45,000 - \$74,999	448	272	267
\$75,000 - \$99,999	419	343	236
\$100,000 - \$149,999	606	584	576
\$150,000 - \$199,999	417	540	384
\$200,000 or more	583	893	1016
Total households	3,143	2,991	2,906
Median household income (estimated)	\$ 101,991.00	\$ 143,281.00	\$ 146,083.00

Source: 2000 US Census, 2010 ACS, 2013 ACS

C. Employment Demographics

Table 15 presents private sector employment by industry for 2003 and 2014 according to the number of jobs with a Chatham Borough address based on covered employment statistics reported to the NJ Department of Labor and Workforce Development. As illustrated below, Chatham has lost 265 jobs since 2003. During this time, five sectors gained jobs and 8 sectors lost jobs. Notable increases among private employment sectors include Transportation/Warehousing, Health/Social Services and Accommodations/Food Service. Notable declining sectors include Manufacturing, Wholesale Trade, Finance/Insurance and Professional/Technical.

Industry	2003 Units	2003 # of Jobs	2014 Units	2014 # of Jobs	Change in # of Jobs
Construction	44	193	23	159	-34
Manufacturing	10	242	0	0	-242
Wholesale Trade	26	168	0	0	-168
Retail Trade	41	322	37	321	-1
Transportation/Warehousing	4	29	4	141	112
Information	0	0	0	0	0
Finance/Insurance	40	415	28	184	-231
Real Estate	20	77	19	77	0
Professional/Technical	70	363	48	278	-85
Management	0	0	0	0	0
Admin/Waste Remediation	20	171	15	173	2
Education	7	78	0	0	-78
Health/Social	59	356	51	407	51
Arts/Entertainment	8	49	0	0	-49
Accommodations/Food	23	175	24	232	57
Other Services	66	167	43	195	28
Private Sector Totals	457	3,460	340	3,195	-265

Source: NJ Labor & Workforce Development

BOROUGH OF CHATHAM, NJ

An analysis of the employed residents in Chatham indicates that the majority of residents work in service-oriented industries. The Finance, Insurance, Real Estate and Rental/Leasing sector employs the most Chatham residents, followed by the Educational, Health and Social Services Sector and the Professional, Scientific, Management, Administrative, and Waste Management Sector.

Industry	2000	2010
Agriculture, forestry, fishing and hunting, and mining	18	1
Construction	88	109
Manufacturing	410	245
Wholesale trade	142	67
Retail trade	224	387
Transportation and warehousing, and utilities	113	37
Information	327	187
Finance, insurance, real estate, and rental and leasing	817	992
Professional, scientific, management, administrative, and waste management services	774	839
Educational, health and social services	767	901
Arts, entertainment, recreation, accommodation and food services	164	174
Other services (except public administration)	127	187
Public administration	137	84
Total	4,108	4,210

Source: U.S. Census

D. Capacity for Fair Share/Lands Most Appropriate for Affordable Housing

The Borough has seen very modest development in the past decade with no new multi-family or mixed-use developments added to the Borough's housing supply. Due to limited vacant land availability, any future development of housing or mixed-use projects is anticipated to be in the form of redevelopment or revitalization of existing sites. The greatest potential for this to occur is along River Road and Watchung Avenue in areas zoned M-1/M-3, particularly those areas in the Gateway Overlay District. However, it should be noted that several sites in this area likely have prior environmental issues that will require remediation, as well as demolition of existing improvements. Revitalization is therefore anticipated to occur over many years and market conditions will have a strong impact on the pace and extent of this process.

As documented by Borough planning and engineering documents, the Borough is served by the Madison Chatham Joint Meeting Sewer Treatment Plant sewer services area, which generally has capacity to serve the development anticipated in the Realistic Development Potential (RDP) calculation herein, though, off-site improvements to the sanitary sewer collection system may be required of developers on a project-specific basis.

BOROUGH OF CHATHAM, NJ

The Borough is served by public water through the Borough of Chatham Water Department. As previously noted by the Borough Engineer in the 2008 Housing Plan, the system has sufficient capacity to serve the additional development anticipated in this Plan.

The primary constraint on development in Chatham is the lack of available vacant land. The vast majority of remaining vacant land is constrained by environmental resources and infrastructure, such as wetlands, floodplains associated with the Passaic River, steep slopes or overhead utility lines. Additional vacant lands are not developable due to their small size, public use and/or open space preservation. As a result, most 'vacant' properties are not developable.

SECTION 3: FAIR SHARE PLAN

This Fair Share Plan addresses the following:

- The Prior Round Obligation and status of compliance.
- The Third Round Obligation.
- Adjustments to the fair share obligation, including documentation to continue the Borough's Prior Round Vacant Land Adjustment.
- Mechanisms proposed to meet the current obligation, including documentation of zoning and other strategies to be employed by the Borough.
- Discussion of how existing/proposed zoning provides adequate capacity to accommodate affordable housing.
- Demonstration that water/sewer system capacities are adequate to address the proposed implementation strategies.
- A Draft Spending Plan outlining the Borough's projected revenues from development fees and other sources, description of administrative process for collecting and distributing fees, description of uses of trust fund fees, schedule for expenditure of trust funds and description of anticipated use(s) of any excess affordable housing trust fund balance

A. Chatham Borough's Fair Share Obligation

The determination of the Borough's Fair Share Obligation from the Prior and Current Round reflect Mount Laurel II, the Fair Housing Act, and the March 10, 2015 Supreme Court decision. This Section summarizes the Prior Round Obligation (1987-1999) obligation and the Current Round obligation based on information available as of November 1, 2015.

Prior Round Obligation

Chatham Borough was granted a vacant land adjustment during the prior round that resulted in a 23-unit Realistic Development Potential (RDP). In the last, released yet unadopted, iteration of COAH's Third Round Rules, the Borough was assigned no additional prior round affordable housing obligation.

Current Round Obligation

The three components of fair share that this Plan addresses are Present Need (previously referred to as the Rehabilitation Share), Prior Round Obligation and Prospective Need. As noted below, the Borough has no Present Need based on the most recent census data that indicates there are no units in the Borough without full kitchens and/or plumbing or that are overcrowded. Accordingly, the Borough's fair share obligation considering these components is as follows:

Present Need (Based on most current Census/ACS data): 0 Units

Prior Round Obligation: 77 Units, adjusted to 23-unit RDP

Prospective Need: 337, adjusted to a 36-unit RDP

PRESENT NEED:

As indicated in the report authored by David N. Kinsey, Ph.D. in July 2015, the Borough has a present need of 0 units based on the most recent Census. As a result, this Plan does not include mechanisms to address rehabilitation of substandard units occupied by low-and-moderate income households.

PRIOR ROUND OBLIGATION:

The Borough's Prior Round Obligation of 77 units was reduced to an RDP of 23 units based on COAH's approval of a vacant land adjustment as part of its certified First (1988) and Second Round Plans (as amended and adopted in June of 2003). Strategies to address Unmet Need for prior and current round are identified in this Plan.

There are minimum and maximum requirements for rentals and age-restricted units for communities that were granted vacant land adjustments as part of a prior round substantive certification, as noted below:

- Minimum 50% low-income units = 11 units
- Minimum rental obligation of 25% of RDP = 6 units
- Maximum age-restricted permitted of 25% of RDP (less 2 RCA units) = 5 units
- Maximum age-restricted rental bonus limit of 50% of rental obligation = 3 units.
- Maximum bonus rental credits = number of units in rental obligation = 6 credits¹.

The Borough's prior round affordable housing plans called for the rezoning of several sites for inclusionary development to address this obligation, which the Borough implemented. Through these efforts, the Borough fully complied with its prior round RDP of 23 units, as detailed in the following table. It should be noted that the inclusionary zoning in place at the Averett Site (Block 98, Lot 2), which is anticipated to generate a total of 2 affordable units at density of 10 units per developable acre, continues to be a realistic mechanism for the creation of affordable units, despite the lag time for development at this location.

UNMET NEED

Unmet need is noted as follows: Prior round unmet need of 53 units based on unadjusted need of 77 units, less prior round compliance of 24 units. For current round unmet need, the net prospective need calculated by David N. Kinsey, PhD, FAICP, PP on behalf of the Fair Share Housing Center (FSHC) of 481-units is reduced by 30%, resulting in a current round prospective need of 337 units, reduced by 36 units provided for in this plan, resulting in a current round unmet need of 301 units. Please note that this plan includes strategies for prior and current round unmet need. Please also note that in accordance with the Borough's settlement terms with FSHC, should an adjudication of prospective need for the Region or County or State, such that Chatham Borough's number of 337 units is lowered by 15% or more, the Borough retains the right to return to Court to receive the lower number.

¹ Actual number of rental bonuses received is based on types of units used to meet the rental obligation.

BOROUGH OF CHATHAM, NJ

Borough of Chatham

Prior Round Affordable Housing Units, Credits & Inclusionary Zoning

DEVELOPMENT	BLOCK/LOT	EXPIRATION ²	UNIT TYPE	RENTAL/SALE
CHATHAM @ WILLOWS:				
34 SCHINDLER CT Unit ML-1	106/1.34	7/21/2019	3 BR Moderate	For Sale
36 SCHINDLER CT Unit ML-2	106/1.36	2/16/2019	3 BR Low	For Sale
38 SCHINDLER CT Unit ML-3	106/1.38	10/19/2018	2 BR Low	For Sale
40 SCHINDLER CT Unit ML-4	106/1.40	12/14/2018	2 BR Moderate	For Sale
42 SCHINDLER CT Unit ML-5	106/1.42	10/26/2018	2 BR Low	For Sale
44 SCHINDLER CT Unit ML-6	106/1.44	3/10/2019	2 BR Moderate	For Sale
46 SCHINDLER CT Unit ML-7	106/1.46	12/2/2018	2 BR Moderate	For Sale
48 SCHINDLER CT Unit ML-8	106/1.48	11/24/2018	2 BR Low	For Sale
<i>Credits</i>				<i>8 Units</i>
WILLOWS CT./Zuckerman (Averett/Nilson):				
1 LACKAWANNA CT. UNIT #1	99/20.01	3/2/2031	2 BR Moderate	Rental
1 LACKAWANNA CT. UNIT #2	99/20.01	3/2/2031	2 BR Low	Rental
<i>Credits</i>				<i>2 Rental Units plus 2 bonus credits = 4 credits</i>
RIVER COMMONS/Gunn:				
117 SUMMIT AVE (GUNN)	129/46.07	1/31/2032	3 BR Moderate	Rental
121 SUMMIT AVE (GUNN)	129/46.08	1/31/2032	2 BR Low	Rental
<i>Credits</i>				<i>2 Rental Units plus 2 bonus credits = 4 credits</i>
CHESTNUT RIDGE (Rau/Chatham Land Inc.)/31 Maple Street:	103/7.05	1/1/2006	4 age-restricted rentals (all 2- bedroom Low)	<i>4 Rental Units</i>
<i>Credits</i>				
HOWARDSON PROPERTY	118/48		2 unit RCA	<i>2 Unit RCA to Linden</i>
UNITS & BONUS CREDITS				22 Credits
INCLUSIONARY SITE - Averett	98/2		Zoned AFD-2	2 Units
PRIOR ROUND TOTALS				24 CREDITS

² Initial Occupancy dates are 30 years prior to expiration dates for all units (please note that the controls on the 8 units at Schindler Court have been extended an additional 30 years from the dates shown above).

CURRENT ROUND PROPSECTIVE NEED:

Based upon its lack of remaining vacant land and development constraints, Chatham has calculated its Realistic Development Potential at 36 affordable housing units. Based on this RDP, we have applied the following minimum and maximum requirements:

- Minimum 50% low-income housing (per NJAC 5:93)= 18 units
- Minimum 13% very low income housing (per FHA) = 5 units
- Minimum % very low income family housing (half of very low income) = 3 units
- Minimum 50% family housing = 18 units
- Minimum rental requirement of 25% of RDP = 9 units
- Minimum family rental of 50% of rental requirement = 5 units
- Maximum age-restricted at 25% of RDP = 9 units
- Maximum age-restricted rental bonus of 50% of maximum rental obligation = 4 units
- Maximum bonus credits of 25% of RDP = 9 bonus credits
- Maximum rental bonus of 25% of RDP = 9 units (cap on rental bonuses with rental bonuses applying up to the rental obligation per NJAC 5:93)

B. Current Round Adjustments*VACANT LAND ADJUSTMENT/RDP*

As part of its prior rounds substantive certification, COAH approved a Vacant Land Adjustment for Chatham, reducing the prior round obligation to an RDP of 23 affordable units. Documentation is provided herein to substantiate the Borough's Vacant Land Adjustment and to provide an updated RDP for the current Round.

The Borough's lack of vacant land continues to be a significant constraint on development opportunities. Accordingly, in updating its RDP, the Borough has analyzed the Borough's vacant land and development potential using an approach substantially consistent with COAH's Second Round Rules, NJAC. 5:93-4.2 and -5.2. COAH's rule requires the Borough to provide a vacant land inventory that includes privately and municipally owned vacant land.

Consistent with these rules, vacant properties, both privately owned and publicly owned, were identified utilizing GIS digital data supplied by the State of NJ and Morris County, including MODIV tax parcel data. The Borough then took the following steps to identify sites to be eliminated from the Borough's inventory of vacant land as potential affordable housing site for the following reasons:

- Constrained areas (wetlands, 100-year floodplain, and slopes over 15%), as well as areas reserved for conservation, parklands and open space by public or non-profit entities, were identified using GIS datasets and open space inventory information provided by the Borough.
- Properties that are vacant for tax assessment purposes, but are in fact part of a developed property were verified through the use of aerial photography and the GIS/tax database and removed from consideration. Examples include small properties along the Borough's borders that contain homes in neighboring towns, properties that have

recently been developed and are no longer vacant, common areas associated with multi-family developments, railroad property, utilities, parking lots addressing required parking or public parking, and other essential infrastructure/public use properties.

In accordance with COAH's rules, once a site has been determined to be suitable for inclusion in the RDP, it is necessary to determine an appropriate density for the site. The density assigned to a site should be consistent with sound planning principles after considering factors such as, but not limited to, the existing infrastructure, the accessibility of the site and the character of the surrounding area. Consistent with this approach, development densities were assigned to the remaining parcels, with a minimum of six (6) units per acre for parcels under five (5) acres in size in single-family residential districts and a minimum of 8 units per acre for sites that are not zoned for residential use, are located in two-family residential districts, and/or are over five (5) acres in size. Parcels in the Borough's B or M Zones were assigned higher densities, with a minimum of 10 units per developable acre based on zoning and contextual factors. Any parcel that generated fewer than five (5) total units was eliminated from consideration, since these sites cannot generate at least one affordable housing unit using a 20% inclusionary requirement. All remaining parcels were included in the Borough's land capacity/RDP calculation with a 20% low and moderate-income housing requirement applied to the Borough's estimated build-out as shown in the RDP table on page 23.

Based on this analysis (see Appendix), the Borough has an estimated 8.7 acres of developable unconstrained land remaining, the capacity to accommodate 181 dwelling units and a RDP of 36 affordable units. The following table and maps summarize the results of the current Vacant Land analysis and computation of the Borough's RDP.

Vacant/Developable Lands and Environmental Constraints

Borough of Chatham
Morris County, NJ

March 2016

- Legend**
- Vacant/Developable Land
 - Wetlands
 - Slopes greater than 15%
 - 100 Year Floodplain
 - Slopes less than 15%
 - Slopes greater than 15% to 25%
 - Slopes greater than 25%



Map Scale = 1/13,200
or 1" = 1,100'

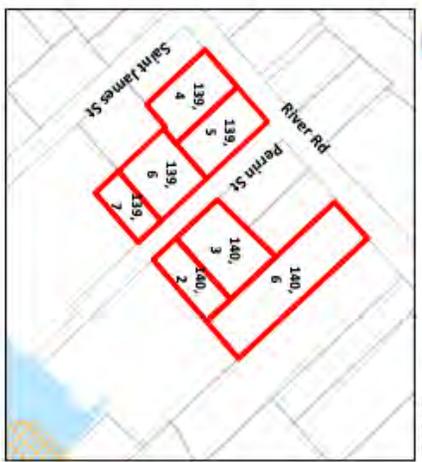
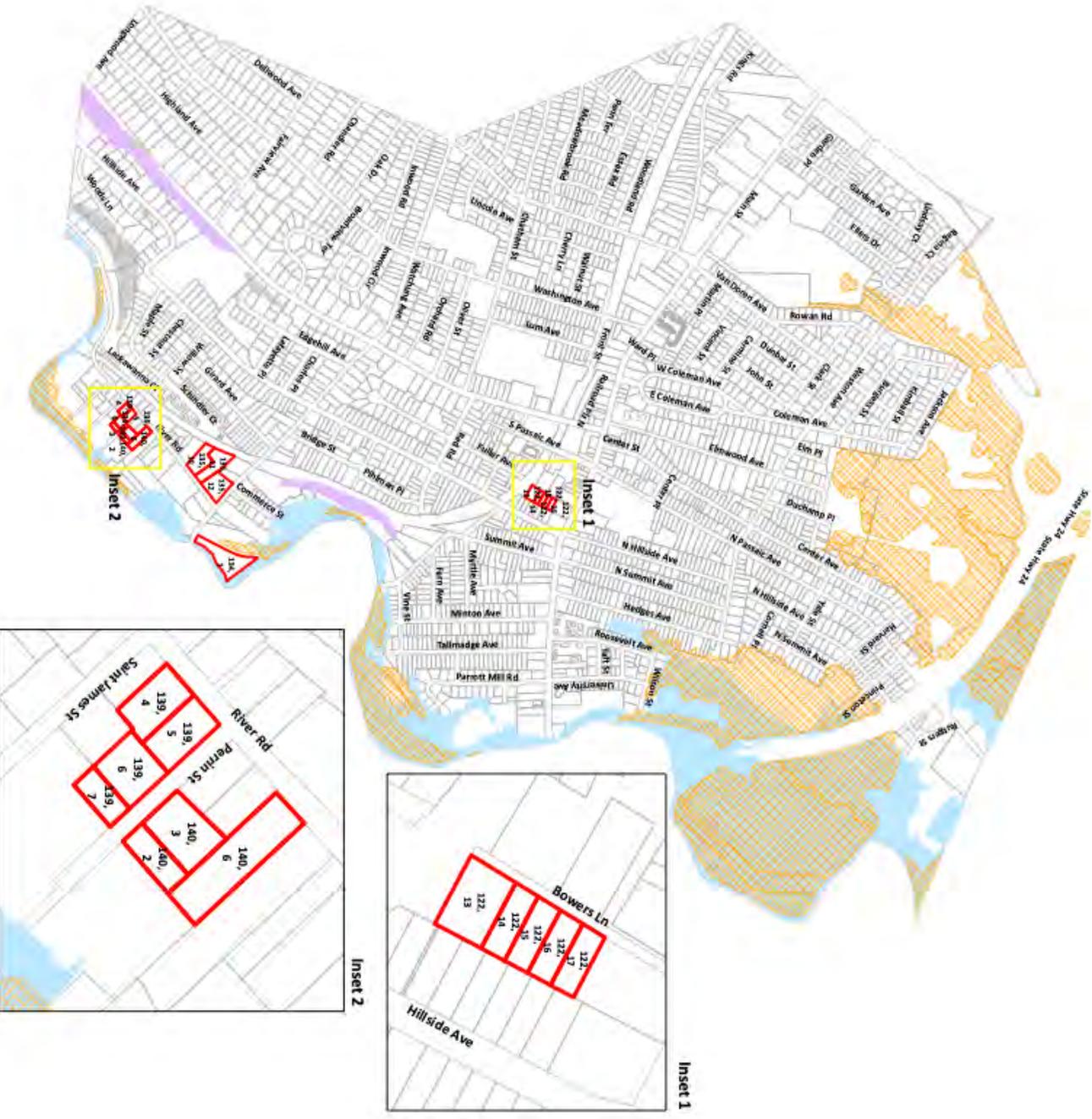
0 550 1,100 2,200 3,300 Feet

Map Prepared by:
James T. Kyle, AICP/PP
Kyle Planning and Design, LLC
PO Box 236
Hopewell, NJ 08525
jtkyle@kyleplanning.com

Suzan G. Blakstein, AICP/PP, PhD
3 Old Mill Road
New Milford, NJ 08841
sblakstein@gmail.com



Map Date: 5/14/2016
Data Sources: NJDOT Office of Geographic Info. Services
Parcel data has been created by the GIS Section of the Morris County Planning Department



BOROUGH OF CHATHAM, NJ

RDP CALCULATION - BOROUGH OF CHATHAM

Block	Lot	GISAcres	PropLoc	Zoning	Notes	Constrained Acres	Unconstrained Acres	% Developable	DU/Acre	Buildout	L/M @ 20%
134	1	2.263	4 WATCHUNG AVE	M-1	New car sales parking lot	0	2.263	100%	20	45.3	9.1
135	10	1.117	16 RIVER RD	M-3	Former Burialg Instruments	0	1.117	100%	20	22.3	4.5
139	5	0.23	51 RIVER RD	M-3	Landscape supply company (not in Gateway Overlay)	0	0.23	100%	16	3.7	0.7
139	6	0.244	8 PERRIN ST	M-3	Landscape supply company (not in Gateway Overlay)	0	0.244	100%	16	3.9	0.8
139	4	0.24	55 RIVER RD	M-3	Landscape supply company (not in Gateway Overlay)	0	0.24	100%	16	3.8	0.8
140	7	0.124	12 PERRIN ST	M-3	Landscape supply company (not in Gateway Overlay)	0	0.124	100%	16	2.0	0.4
140	2	0.158	11 PERRIN ST	M-3	Landscape supply company (not in Gateway Overlay)	0	0.158	100%	16	2.5	0.5
140	3	0.289	9 PERRIN ST	M-3	Landscape supply company (not in Gateway Overlay)	0	0.289	100%	16	4.6	0.9
140	6	0.515	43 RIVER RD	M-3	Landscape supply company (not in Gateway Overlay)	0	0.515	100%	16	8.2	1.6
135	11-12	2.55	12 RIVER RD	M-3	National Manufacturing - developed	0	2.55	100%	20	51.0	10.2
122	13-17	0.94	17-37 BOWERS LN	AFD-4	Bowers Lane	0	0.94	100%	36	33.8	6.8
							8.67			181.2	36.2

C. Current Round Credits: Extension of Controls

The Borough extended the controls on the 8 low- and-moderate income units at Chatham at Willows (Schindler Court) through 2048/2049. As a result, the Borough is entitled to 8 credits for extension of existing controls.

Total Current Round Credits = 8 units (extension of controls).

D. Additional Current Round Mechanisms

INCLUSIONARY ZONING TO ADDRESS RDP

Site 1: 17-37 Bowers Lane (Block 122, Lots 13-17):

In addition, the Borough had adopted inclusionary zoning in several other locations that are anticipated to generate affordable housing, assuming market conditions are favorable to multi-family development. The Borough has rezoned Block 122, Lots 13-17 along Bowers Lane to AFD-4 at a density of 36 units per developable acre. Lots 14 through 17 are owned by Driscoll Properties and together comprise approximately .6 acres. Lot 13 is approximately 15,000 square feet and is owned by Neil Sullivan. Lot 13 is bisected diagonally by a Borough storm sewer easement. While these lots currently contain a mix of apartments and offices, the high transit-oriented development density zoning implemented at this location is an incentive to future revitalization of this area, particularly as the existing structures age and require additional investment. With a combined area of approximately .94 acres, it is anticipated that a total of 34 units could be developed, with an affordable yield of 5 units based on a 15% rental inclusionary component (or 7 units under a for sale development scenario with a 20% inclusionary component).

Site 2: 16 River Road (Block 135, Lot 10):

This site was formerly a manufacturing use (Burling Instruments) and is located in the M-3/Gateway Overlay Districts. The site is no longer in industrial use and was rezoned as part of the Gateway planning process, which permits multi-family residential development, as well as mixed use development. All multi-family or mixed-use development in the Gateway Overlay with 5 or more units are required to provide an inclusionary component. As applied to this 1.17-acre property with frontage on River Road at an average density of 20 units per acre, a total of 4 affordable units will be generated based on a 15% affordable component for rental development (under a for sale scenario, an additional unit would be generated for a total of 5 affordable units). If developed at a higher density under the incentives offered in the Gateway District, additional affordable units may be generated.

Site 3: 12 River Road (Block 135, Lots 11 & 12):

This property, occupied by National Manufacturing, is located at the corner of Watchung Avenue and River Road in the M-3/Gateway Districts. The site contains approximately 2.6 acres with frontage on both Watchung Avenue and River Road. As previously noted, all multi-family or mixed-use development in the Gateway District with 5 or more units are required to provide an inclusionary component and the permitted scale of development ranges from 3 to 4 stories. As

applied to this 2.55-acre property at an average density of 20 units per acre, a total of 8 affordable units are generated with a 15% affordable component for rental development or 10 affordable units under a for sale scenario with a 20% inclusionary component. If developed at a higher density using zoning incentives, additional affordable units may be generated. Given the size and location of this property, the current reduction in site utilization by the current manufacturing user, and the strong rental housing market in Morris County, future mixed-use or multi-family development is a strong possibility.

Site 4: 4 Watchung Avenue (Block 134, Lot 1):

This property has frontage on Watchung Avenue and is currently in use as a new car storage lot for a car dealership. This use is not a permitted use in the M-1/Gateway Districts that encompass this site. This site may contain some flood hazard areas associated with the Passaic River and/or some required riparian buffer areas; as a result, it is estimated that +/-2 acres of the parcel are developable. As previously noted, all multi-family or mixed-use development in the Gateway Overlay with 5 or more units are required to include an inclusionary component. Applying a density of 20 units per acre, this site generates 6 affordable units as a rental project or affordable 8 units under a for sale scenario at 20% inclusionary.

The above sites together generate 23 to 30 affordable units, in addition to the 8 units where the Borough has extended affordability controls, for a total of 31 to 38 units. It is anticipated that the Gateway area along Watchung Avenue/River Road will most likely generate rental affordable units. Three of the four sites identified in this Plan are located within the Gateway area. The total number of affordable units anticipated from these inclusionary sites, the extension of expiring controls, and rental bonuses (up to 9 may be taken on affordable rental units) results in a total of 40 to 47 affordable units/credits, exceeding the Borough's RDP of 36 units. It should be noted that the Borough may consider age-restricted housing on a case by case basis, depending on progress towards the Borough's RDP, provided that no more than 25% of the RDP is met through age-restricted housing, and provided that the Borough meets the minimum family housing requirement of 50% set forth in this Plan and the Borough's settlement agreement.

Inclusionary Sites to Address RDP

Borough of Chatham
Morris County, NJ

Inclusionary Sites to Address RDP

- Site 1: 17-37 Bowers Lane (Block 122, Lots 13-17)
- Site 2: 16 River Road (Block 135, Lot 10)
- Site 3: 12 River Road (Block 135, Lots 11 & 12)
- Site 4: 4 Watchung Avenue (Block 134, Lot 1)

Legend

- Inclusionary Sites

Map Scale = 1:4,000
or 1" = 400'



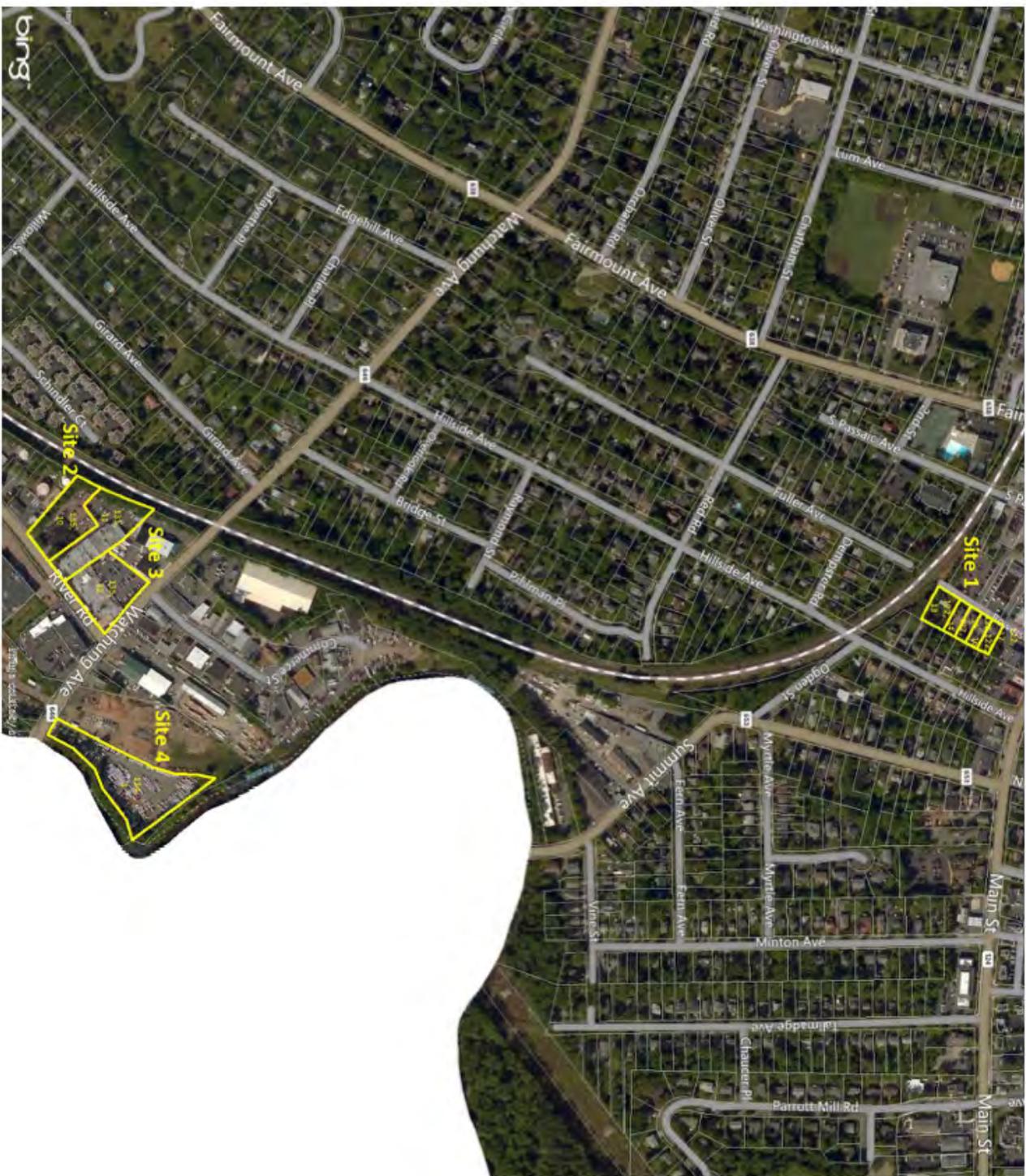
0 550 1,100 Feet

Map Prepared by:
James T. Kyle, AICP/PP
Kyle Planning and Design, LLC
PO Box 236
Hopewell, NJ 08525
jtkyle@kyleplanning.com

Suzan G. Blakstein, AICP/PP, PhD
3 Old Mill Road
New Paltz, NY 12561
sblakstein@gmail.com



Data Sources: NDOT Office of Geographic Info. Services
Parcel data has been created by the GIS Section of the Morris County Planning Department



STRATEGIES TO ADDRESS UNMET NEED

This Plan includes strategies to address prior and current-round Unmet Need, as outlined below.

Inclusionary Zoning

The Borough's Gateway Overlay District covers areas beyond those sites that address the Borough's RDP, including properties with Watchung Avenue frontage that are currently in industrial/non-residential use. While the extent of transition of this area from its present commercial and industrial use to mixed-use and/or multi-family residential is difficult to predict, the zoning of this area permits multi-family residential and mixed-use development at transit-oriented development densities (3 to 4 stories of multi-family/mixed use development are permitted with 75% impervious coverage). Examples of sites that are currently fully occupied by current uses that have future potential to address Unmet Need include the following:

43, 51 & 55 River Road/8-12 Perrin Street (Block 139, Lots 4-7 & Block 140, Lots 2, 3, 6 and 7)

This area is presently in use as Fusco's, a garden/landscape supply company. While not part of the Gateway Overlay District, this area is in the M-3 District where multi-family development is permitted as a conditional use. Similar to the Gateway development standards, the multi-family development standards in the M-3 District require an inclusionary component for all projects with 5 or more units.

29-39 River Road (Block 140, Lots 7.01, 8, 9 and 10):

This area includes three lots owned by National School Bus Service (lots 7.01, 8 and 10), including the office building associated with the bus parking use, and one lot owned by SPF Properties, LLC. The total area is 2.97 acres. As previously noted, all multi-family or mixed-use development in the Gateway Overlay District with 5 or more units are required to provide an inclusionary component.

In addition to the Gateway Overlay District and as previously noted, the Borough's M-3 District was modified to allow multi-family development as a permitted conditional use outside of the Gateway Overlay District on properties with a minimum of 20,000 square feet. The M-3 District covers properties with River Road frontage between Watchung Avenue and the NJ Transit crossing of River Road. The conditional use standards for multi-family development in the M-3 District outside of the Gateway Overlay area permit development at relatively high densities (3 to 4 story buildings are permitted, depending on design components included in a project and all projects with 5 or more units are required to provide affordable housing). Similar to the Gateway recommendation above, the Borough proposes to refine the District's inclusionary set-aside to require 15% for rental development and 20% for 'for sale' housing.

In addition to the Gateway Overlay and M-3 Districts, the Borough's M-1 District covers those properties with Watchung Avenue frontage along the north side of Watchung between the Passaic River and NJ Transit's elevated crossing of Watchung Avenue, as well as a small area along Summit Avenue. The M-1 District permits mixed-use development, specifically apartments on upper floors of buildings with non-residential units. While the M-1 District (outside of the Gateway Overlay District -- along Summit Avenue) envisions smaller-scale

development, all mixed-use projects with 5 or more units are required to provide affordable housing. The Borough proposes to refine this to require a 15% set-aside for rental projects and 20% applied to for sale housing.

B-2 and B-4 Proposed Overlay Requirements

The Borough's B-2 and B-4 Districts are mixed-use zones along Main Street. Together they encompass approximately half of the Borough's commercial frontage along Main Street/Route 124. The B-4 District is the downtown area of Chatham, while the B-2 is located west of the downtown area. Both Districts permit residential units above the first floor in mixed-use buildings. The Borough proposes to provide an overlay district for the B-2 and B-4 Districts to ensure that any development with five or more residential units provides a minimum inclusionary component of 15% for rental projects and 20% for owner-occupied (for sale) projects. In addition to the first floor commercial space, the B-4 District allows up to two stories of residential units with an effective density ranging from 12 to 25 units per typical, unconstrained acre of development. The B-2 District permits one and a half stories of residential development above commercial uses on the ground floor, with an effective residential density of 6 to 9 units per acre in addition to the ground floor commercial use.

Redevelopment/Revitalization Policy

In addition to implementing a new vision for the Borough's former industrial areas, the Borough is also committed to requiring a minimum 15% inclusionary housing component within any future redevelopment areas that include housing and that are designated in accordance with the New Jersey Local Redevelopment & Housing Law.

E. Summary of Strategies

This Plan identifies strategies to address the current round RDP. The Borough has extended the affordability controls on 8 units and has identified sites with a realistic opportunity to provide 23 to 30 units of affordable housing and an additional 9 rental bonuses on sites within the Gateway area. These sites are currently zoned to allow higher-density multi-family development with an inclusionary component, as follows:

Summary of Strategies

Inclusionary Site	Location	Zoning	Affordable Units/Credits
1	17-37 Bowers Lane	AFD-4	5 to 7
2	16 River Road	M-3/Gateway	4 to 5
3	12 River Road	M-3/Gateway	8 to 10
4	4 Watchung Avenue	M-3/Gateway	6 to 8
		Total	23 to 30 Units
Extension of Controls	Schindler Court		8 Credits
Rental Bonuses	Sites 2, 3 & 4	M-3/Gateway	9 Credits
		TOTAL	40 to 47 Units/Credits

Additionally, as previous noted, the Borough's Gateway Overlay District covers areas beyond those sites included to address the Borough's RDP, as does the Borough's M-3 District. Both of these zones permit relatively high-density multi-family and/or mixed-use development and have inclusionary housing requirements for all projects with 5 or more housing units. The M-1 District also permits mixed-use development, albeit on a smaller scale, but also with an inclusionary requirement for projects with 5 or more housing units

In addition to the strategies outlined herein to address the Borough's RDP and Unmet Need, the Borough proposes to create an affordability assistance program so that low- income units are affordable to very low-income households. The focus of this program is specifically to address the difference between the UHAC requirement of 10% of units being affordable to very low-income households (but modified to require the very low-income levels to be set at 30% or less of median household income instead of 35%) and the 13% requirement set forth in this Plan. Please see Spending Plan for more details.

F. Spending Plan

As of July 1, 2015, the Borough's Affordable Housing Trust Fund had a balance of \$231,764. Based on projections from the Borough, it is expected that about \$250,000 in additional funds will be received over the next ten years. These funds will be monitored by the Borough with a report generated on a biennial basis. The Draft Spending Plan (see Appendix) details how the funds will be used to support affordable housing programs in the Borough. No more than 20% of the Trust Fund current or future balance will be dedicated to administrative expenses associated with the Borough's affordable housing programs.

G. Implementation Schedule

The Borough plans to adopt this Plan and the supporting ordinance amendments/documents within 90 days of approval of this Plan by the court.

Exhibit B:
Realistic Development Potential Calculation
(rev. 6.14.21)

Realistic Development Potential Calculation
(rev. 6.14.21)

Block	Lot(s)	Address	GIS Acreage	% Developable	DU/Acre	Buildout (Total Units)	RDP (20% @ L/M)
134	1	4 Watchung Avenue	2.263	100%	20 du/a	45.3	9.1
135	9-12	12, 16, & 22 River Road	4.627	100%	53 du/a	245	49
139	4	55 River Road	.24	100%	16 du/a	3.8	.8
139	5	51 River Road	.23	100%	16 du/a	3.7	.7
139	6	8 Perrin Street	.244	100%	16 du/a	3.9	.8
139	7	12 Perrin Street	.124	100%	16 du/a	2	.4
140	2	11 Perrin Street	.158	100%	16 du/a	2.5	.5
140	3	9 Perrin Street	.289	100%	16 du/a	4.6	.9
140	6	43 River Road	.515	100%	16 du/a	8.2	1.6
122	13-17	17-37 Bowers Lane	.94	100%	36 du/a	33.8	6.8
Total RDP:						71	

Exhibit C:
Consent Order Clarifying Affordable Housing Requirements
of River Road Redevelopment (Block 135, Lots 9, 10, 11 & 12)

FILED

April 30, 2021

MICHAEL GAUS, J.S.C.

Jonathan E. Drill - Attorney ID: 01991-1983
STICKEL, KOENIG, SULLIVAN & DRILL, LLC
571 Pompton Avenue
Cedar Grove, New Jersey 07009
Ph: (973) 239-8800
Fx: (973) 239-0369
Email: jdrill@sksdllaw.com
Attorney for Plaintiff Borough of Chatham

<p>I/M/O THE BOROUGH OF CHATHAM MOUNT LAUREL COMPLIANCE</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY DOCKET NO.: MRS-L-1906-15 Civil Action CONSENT ORDER CLARIFYING AFFORDABLE HOUSING REQUIREMENTS OF RIVER ROAD REDEVELOPMENT (BLOCK 135, LOTS 9, 10, 11, & 12)</p>
---	--

Whereas, this matter having been opened to the Court by Bassam F. Gergi, Esq., counsel for Fair Share Housing Center ("FSHC"), with the consent and agreement of the Borough of Chatham ("Borough" or "Chatham"), through the Borough's special affordable housing counsel, Jonathan E. Drill, Esq., of Stickel, Koenig, Sullivan & Drill, LLC, and with the consent and agreement of the following: Borough of Chatham Planning Board ("Planning Board"), through Planning Board counsel Vincent K. Loughlin, Esq., of Loughlin Law Firm, Chatham River Road Urban Renewal, LLC ("Redeveloper" or "Urban Renewal"), through Redeveloper's counsel John F. Inglesino, Esq., of Inglesino, Webster, Wyciskala & Taylor, LLC, and with the review

and approval of the Court-appointed Special Master Joseph H. Burgis, P.P., A.I.C.P.; and the Borough and FSHC having entered into a court-approved Settlement Agreement ("Settlement Agreement") on November 7, 2016 which settled the Borough's Mount Laurel declaratory judgment action, Docket No. MRS-L-1906-15 (the "DJ action"); and whereas the Settlement Agreement established that the Borough must, among other terms, create a realistic opportunity for affordable housing at 12 and 16 River Road (Block 135, Lots 10, 11, & 12) as well as in any redevelopment plans in order to help meet its Mount Laurel Third Round Prospective Need Obligation; and whereas the Borough committed that any new residential development on River Road shall contain a minimum fifteen percent (15%) set-aside for affordable housing rental projects and a minimum twenty percent (20%) set-aside for for-sale affordable housing projects; and the Borough having adopted Resolution No. 18-331 on November 26, 2018 which designated Block 135, Lots 9, 10, & 11 on River Road as a non-condemnation area in need of redevelopment; and the Borough having adopted Ordinance No. 19-11 on June 10, 2019, which was the River Road Redevelopment Plan dated May 6, 2019 ("River Road Redevelopment Plan"); and whereas the Borough designated Chatham River Road Partners, LLC as the redeveloper via Resolution No. 20-184; and Chatham River Road Partners, LLC, having assigned its rights to Chatham River Road Urban Renewal, LLC; and whereas the Borough adopted Ordinance No. 21-03 and Resolution No. 21-111 on

February 8, 2021, which respectively adopted the River Road Redevelopment Plan dated January 22, 2021 and authorized a redevelopment agreement between the Borough and Chatham River Road Urban Renewal, LLC (the "Redevelopment Agreement"); and whereas FSHC and the Special Master have raised questions as to the Redevelopment Agreement (Block 135, Lots 9, 10, & 11) and sought to clarify that the affordable housing requirements established in the River Road Redevelopment Plan are consistent with the law and the Settlement Agreement and incorporated in the Redevelopment Agreement; and whereas Chatham River Road Urban Renewal, LLC, has submitted a site plan application to the Chatham Borough Planning Board for a 245-unit residential development inclusive of no fewer than thirty-seven (37) very-low-, low-, and moderate-income affordable family non-age-restricted rental units (15% set-aside) on Block 135, Lots 9, 10, & 11; and whereas the Borough, Planning Board, Chatham River Road Urban Renewal, LLC, FSHC, and the Special Master (collectively, the "parties"), in order to assist the Borough in meeting its fair share obligations, have determined to propose a consent order to clarify and establish the affordable housing requirements that shall apply to the River Road Redevelopment Plan (Block 135, Lots 9, 10, & 11) and any residential development approved thereon; and the Court determining to sign and enter the consent order for the reasons set forth above and for good cause otherwise shown;

IT IS on this 30th day of April, 2021, ORDERED as

follows:

1. At least fifteen percent (15%) of all residential units developed on Block 135, Lots 9, 10, 11, & 12 shall be set-aside as affordable non-age-restricted family rental units for very low-, low- and moderate-income households.

2. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the required bedroom and income distribution, with the sole exception that at least thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very low income households earning thirty percent (30%) or less than the median income pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA").

3. By way of example, in a 245-unit development, at least thirty-seven (37) of the units shall be affordable family non-age-restricted rental units. These 37 affordable family rental units shall consist of no more than seven (7) 1-bedroom units, at least eight (8) 3-bedroom units, at least twelve (12) 2-bedroom units, and the remaining ten (10) affordable units may be either 2-bedroom or 3-bedroom units. There shall be at least two (2) very-low-income 3-bedroom units, at least three (3) very-low-income 2-bedroom units, and one (1) very-low-income 1-bedroom unit. At least fifty (50%) of the affordable units in each

bedroom distribution shall be low-income units (inclusive of the very-low-income units), and the remainder may be moderate-income units.

4. All of the affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below 30% of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action to extend or release the affordable unit from such controls after at least thirty (30) years.

5. The affordable units shall be integrated with the market-rate units to the extent possible, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) from the market-rate units. In buildings with multiple dwelling units, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.

6. Construction of the Affordable Units shall be phased in compliance with N.J.A.C. 5:93-5.6(d).

7. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified in the Mount Laurel settlement agreement between the Borough of Chatham and Fair Share Housing Center, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website.

8. This Order shall have the effect of authorizing the modification of the Redevelopment Agreement to establish that a total of ²⁵⁹~~257~~ residential units may be developed thereunder, that fifteen percent (15%) of all residential units developed must be affordable non-age-restricted family rental units for very low-, low- and moderate-income households, and to otherwise incorporate the affordable housing requirements of this Order.

9. If, for any reason, Chatham River Road Urban Renewal, LLC, does not construct the proposed residential development and before any new further redevelopment agreement is negotiated or entered into under the River Road Redevelopment Plan, Chatham Borough agrees that it shall be required to amend the River Road Redevelopment Plan to create a realistic opportunity for at least thirty-seven (37) affordable family non-age-restricted rental units for very low-, low- and moderate-income households via an inclusionary development and that the

amended plan must otherwise incorporate the affordable housing requirements of this Order.

10. Upon entry of this Consent Order by the Superior Court of New Jersey and in light of the Borough's commitment to create a realistic opportunity for at least thirty-seven affordable units via the River Road Redevelopment Plan, FSHC agrees to dismiss with prejudice its complaint in Fair Share Housing Center v. The Borough of Chatham, et al., Docket No. MRS-L-657-21. Such dismissal with prejudice is not intended to have any preclusive effect on any actions by any of the parties in the Township's declaratory judgment action, IMO the Application of the Borough of Chatham, Docket No. MRS-L-1906-15, and shall not preclude FSHC from exercising its right to enforce any local, state, or federal laws.

11. A copy of this Order shall be served on counsel for FSHC and counsel for the Borough via eCourts and counsel for the Borough shall serve the Order via email upon counsel for the Planning Board, Urban Renewal, as well as the Special Master within seven (7) days of receipt. This Order shall be deemed served on all other counsel of record when it is uploaded to eCourts.

/s/ Michael C. Gaus

Hon. Michael C. Gaus, J.S.C.

The parties authorize and hereby consent to the entry and the form of this Order:

Bassam Gergi
Bassam F. Gergi, Esq.
Counsel for
FAIR SHARE HOUSING CENTER

April 12, 2021
Date

Vincent K. Loughlin
Vincent K. Loughlin, Esq.
Counsel for
CHATHAM BOROUGH PLANNING BOARD

April 13, 2021
Date

Jonathan E. Drill
Jonathan E. Drill, Esq.
Counsel for the
BOROUGH OF CHATHAM

April 13, 2021
Date

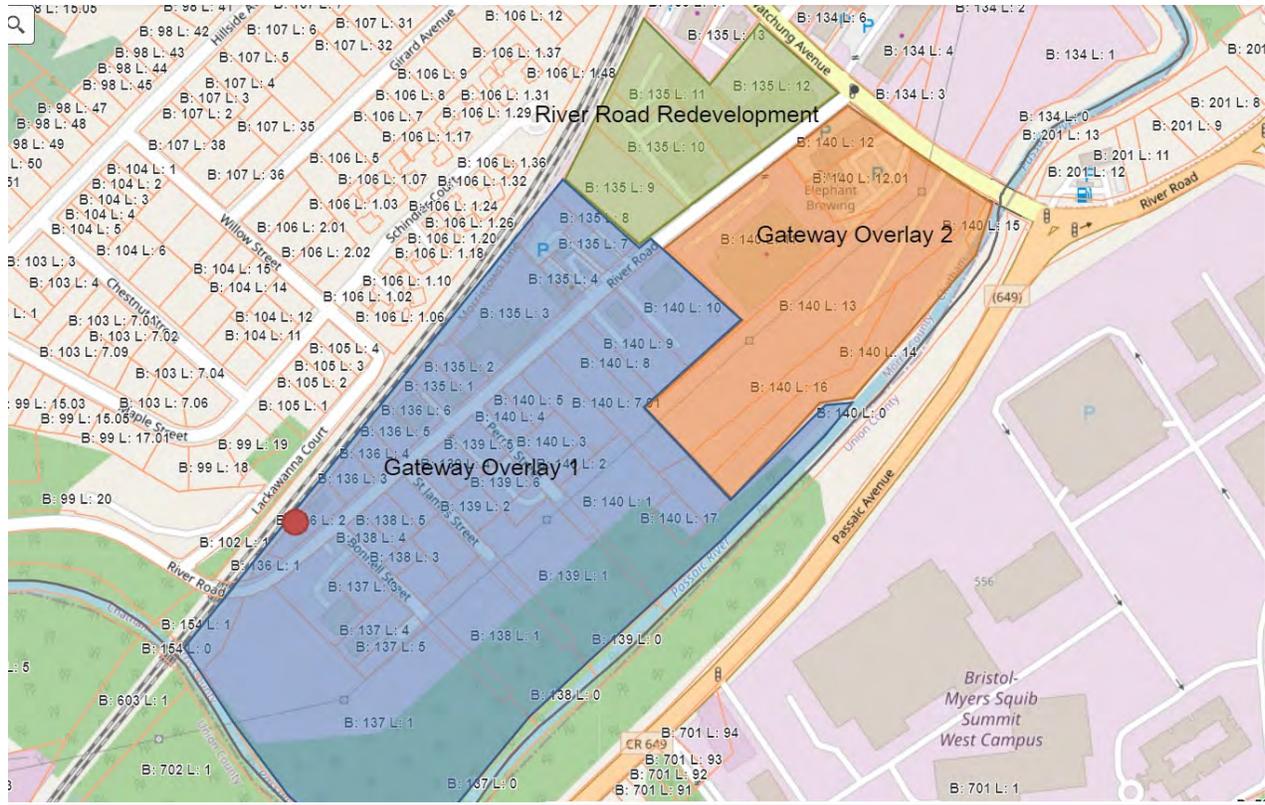
John F. Inglesino
John F. Inglesino, Esq.
Counsel for
CHATHAM RIVER ROAD URBAN
RENEWAL, LLC

April 20, 2021
Date

Joseph H. Burgis
Joseph H. Burgis, P.P., A.I.C.P.
SPECIAL MASTER

April 20, 2021
Date

Exhibit D:
Blocks and Lots in
Gateway Overlay 1 Zone &
Gateway Overlay 2 Zone



Blocks and Lots in Gateway Overlay 1 Zone

Block	Lot	Address
135	1	52 River Road
135	2	48 River Road
135	3	38 River Road
135	4	34 River Road
135	5	32 River Road
135	6	34 River Road Rear
135	7	30 River Road
135	8	28 River Road
136	1	78 River Road
136	2	70 River Road
136	3	64 River Road
136	4	62 River Road
136	5	58 River Road
136	6	54 River Road
137	1	79 River Road
137	2	73 River Road
137	3	8 Bonnell Street
137	4	10 Bonnell Street

137	5	14 Bonnell Street
138	1	21 Bonnell Street
138	2	11 Bonnell Street
138	3	7 Bonnell Street
138	4	67 River Road
138	5	65 River Road
138	6	61 River Road
138	7	10 St. James Street
139	1	21 St. James Street
139	2	7 St. James Street
139	3	57 River Road
139	4	55 River Road
139	5	51 River Road
139	6	8 Perrin Street
139	7	12 Perrin Street
140	1, 17	21 Perrin Street
140	2	11 Perrin Street
140	3	9 Perrin Street
140	4	47 River Road
140	5	45 River Road
140	6	43 River Road
140	7.01, 7.02	3349 Highway 138
140	8	3349 Highway 138
140	9	33 River Road
140	10	3349 Highway 138

Blocks and Lots in Gateway Overlay 2 Zone

Block	Lot	Address
140	11	15 River Road
140	12	17 Watchung Avenue
140	12.01	13 Watchung Avenue
140	13	7 Watchung Avenue
140	14	3 Watchung Avenue
140	15	1 Watchung Avenue
140	16	3 Watchung Avenue

Appendix B

Realistic Development Potential Calculation
(rev. 6.14.21)

Block	Lot(s)	Address	GIS Acreage	% Developable	DU/Acre	Buildout (Total Units)	RDP (20% @ L/M)
134	1	4 Watchung Avenue	2.263	100%	20 du/a	45.3	9.1
135	9-12	12, 16, & 22 River Road	4.627	100%	53 du/a	245	49
139	4	55 River Road	.24	100%	16 du/a	3.8	.8
139	5	51 River Road	.23	100%	16 du/a	3.7	.7
139	6	8 Perrin Street	.244	100%	16 du/a	3.9	.8
139	7	12 Perrin Street	.124	100%	16 du/a	2	.4
140	2	11 Perrin Street	.158	100%	16 du/a	2.5	.5
140	3	9 Perrin Street	.289	100%	16 du/a	4.6	.9
140	6	43 River Road	.515	100%	16 du/a	8.2	1.6
122	13-17	17-37 Bowers Lane	.94	100%	36 du/a	33.8	6.8
Total RDP:						71	

Appendix C

Appendix D

Appendix E

**BOROUGH OF CHATHAM PLANNING BOARD
RESOLUTION APPROVING PRELIMINARY AND FINAL
SITE PLAN WITH INCIDENTAL VARIANCE RELIEF**

CHATHAM RIVER ROAD URBAN RENEWAL, LLC

12, 16, & 22 RIVER ROAD

BLOCK 135, LOTS 9, 10, 11, & 12

RIVER ROAD REDEVELOPMENT PLAN AREA

BOROUGH OF CHATHAM, NEW JERSEY

APPLICATION #PB-21-003

HEARING: MAY 5, 2021

RESOLUTION: MAY 19, 2021

WHEREAS, an application having been filed with the Borough of Chatham Planning Board by Chatham River Road Urban Renewal, LLC as contract purchaser of Lot 9 and owner of Lots 10, 11, and 12, as applicant for preliminary and final major site plan to allow and permit the removal of all improvements on the property with a new inclusionary multi-family development involving the construction of 245 apartment units of which 37 dwellings will be Affordable to very low, low, and moderate income households. The applicant proposes to consolidate four parcels thereby creating a single 198,853 square foot property to be numbered Lot 9.01. The dwelling units will be located within one structure with varying heights ranging from three stories to four stories, with a portion of the building being constructed over parking. Additional site improvements as proposed which include an outdoor seating area, loading area, bike parking, lighting, landscaping, and a dog walk. This property with the lots consolidated is located within the River Road Redevelopment Plan Area which permits this inclusionary multi-family residential development as a principal permitted use; and

WHEREAS, the applicant having filed proof of procedural compliance with all the rules, regulations, and requirements of the Planning Board for the Borough of Chatham for the matter to be heard; and

WHEREAS, this case having come on for a hearing before the Borough of Chatham Planning Board at its regularly scheduled meeting of May 5, 2021, this meeting being conducted as a remote or virtual meeting of the Board pursuant to current governmental regulations and requirements in the State of New Jersey allowing for same, at which time a quorum of the Board was present to hear and consider this case, and an opportunity was afforded to members of the public and/or interested persons or parties to ask questions

and/or to be heard regarding this application, and a verbatim record of these proceedings was maintained; and

WHEREAS, as a result of this hearing and these proceedings before the Board, the following findings of fact and conclusions have been made by the Board:

FINDINGS

1. John P. Inglesino, Esq. of Inglesino Webster Wyciskala & Taylor, LLC, attorneys of Parsippany, New Jersey appeared to present this case for the applicant. As part of the application materials submitted the Board acknowledged receipt of preliminary and final major site plan drawings prepared by Matrix Newworld, consisting of 17 sheets, dated June 5, 2019 and revised thru February 5, 2021; stormwater management report prepared by Matrix Newworld dated June 5, 2019 and revised thru February 5, 2021; stormwater facilities operations and maintenance manual prepared by Matrix Newworld dated June 5, 2019 and revised thru February 5, 2021; environmental impact statement prepared by Matrix Newworld dated June 5, 2019 and revised thru February 5, 2021; community impact statement prepared by John McDonough Associates, LLC dated February 23, 2021; traffic impact assessment prepared by Dolan & Dean dated February 5, 2021; boundary and topographic survey prepared by Bowman Consulting dated June 13, 2018; and architectural drawings prepared by Minno-Wasko, Architects and Planners, consisting of 12 sheets dated February 5, 2021. In addition, the applicant and the Board acknowledged review memos and reports as dated March 30 and April 30, 2021 from Kendra Lelie as Planning Consultant for the Board, and April 22, 2021 from Ferriero Engineering, Inc., the Planning Board Engineers.

2. As a result of the application submitted being preceded by the property being previously determined by the Borough to be an area in need of redevelopment, with a redevelopment plan and redevelopment agreement also having been now entered into regarding the premises, and further with a submission to the court in the Borough's Affordable Housing litigation which includes the subject property with the Affordable units proposed as part of the Borough's Affordable Housing Plan and settlement of the Borough's Affordable Housing litigation, the Board attorney prior to the commencement of testimony in the hearing or the applicant's presentation stated that the only matters to be considered by the Planning Board in this hearing involved the Board's consideration and decision as to the applicant's preliminary and final site plan submission which was in

accordance with the River Road Redevelopment Plan, which now applied to this development. The application then proceeded.

3. The applicant's attorney, Mr. Inglesino, stated that the application before the Board was as a result of the River Road Redevelopment Plan and Redevelopment Agreement with the Borough and further advised, "This development will be a luxury rental project consisting of 245 apartments, 208 of which will be market rate units and 37 will be deed restriction Affordable units as a required 15% set-aside in the Borough's Affordable Housing Plan and the River Road Redevelopment Plan for the zoning of the property. There will be a single building of 199,000 square feet of three to four stories with parking provided which conforms to the Redevelopment Plan and with pool and other amenities as we are showing in the site plan. The applicant owns at the present time Lots 10, 11, and 12 and is the contract purchaser of Lot 9. The parcel consists of 4.54 acres overall, and the development has been carefully planned to conform to the redevelopment plan adopted by the Borough which has been a process taking place over the last several years." The Redevelopment Plan and the Redevelopment Agreement as referred to by Mr. Inglesino were then marked as exhibits into the record in this case.

4. The applicant's attorney advised the Board that he anticipated offering testimony from four professional witnesses being the Project Engineer, the Traffic Engineer, the Architect, and the Planning Consultant for the applicant, together with a representative of the applicant. Testimony in support of the application was then provided by Mr. Sean Savage, the Project Engineer. The engineer for the applicant first explained the existing conditions on the property which he stated were "multiple buildings, fuel tanks, etc., all of which will be removed with this development." During the engineer's testimony he referred to a page of the site plan submission made by the applicant as dated February 25, 2021. Mr. Savage then located on the site the proposed building to be constructed on the property and described the entrance to the building, the lobby area, the site improvements for outside the building, and how access in and out of the property was proposed in the site plan. Mr. Savage then advised the Board that as part of the project and this development the applicant would be "widening River Road by 3 feet". He further discussed the stormwater management and drainage improvements that would be undertaken by the applicant for the project. He also stated that the applicant would be "reducing impervious coverage now on the site by approximately 1%", and further reviewed and discussed with the Board a drawing he had prepared dated May 5, 2021

which provided more detail of the widening proposed for River Road by 3 feet. This drawing was marked as an exhibit into evidence as was what the project engineer also described as a "truck turning template" dated February 5, 2021 which Mr. Savage then discussed with the Board as far as the access proposed to the front entrance of the building to respond to questions from the Board as to whether or not the size of the circle proposed for access to the front entrance to the building as proposed would be adequate and safe for trucks making deliveries, emergency vehicles, etc. During this discussion with the project engineer he also advised the Board as to an additional area on the site which was available as a "loading zone" which would allow access to the site by larger trucks for tenant move-in and larger deliveries.

5. Following up on his presentation to the Board, Mr. Savage then went over with the Board his landscaping plan including providing street trees and then discussed with the Board the parking proposed for the development and its locations. He testified, "We are required by the Redevelopment Plan to have 441 parking spaces, and we are actually providing 474 spaces on the property. These will include 9 handicap accessible spaces and 5 electric vehicle charging spaces. All of this is in compliance with the Redevelopment Plan." In discussing the Redevelopment Plan and the site plan as now submitted, Mr. Savage further stated to the Board, "The only deficiency and/or waiver associated with our submission is what we have determined to be a variance required for lot depth. Lot depth is required to be 250 feet, and we by measurement actually have only 249.58 feet. This is an existing condition, and we are also requesting a waiver from the requirements as to the size of the site plan drawings we have submitted as part of our application for the hearing."

6. The Board Engineer, Mr. Brightly, then questioned the applicant's engineer regarding the site plan drawings submitted by the applicant and discussed with Mr. Savage his review letter and report dated April 22, 2021. The Board Engineer questioned Mr. Savage from the site plan set submitted as to whether it was correct that there was one space shown near the ramp in the garage that would have to be deleted since it might restrict or impact the turning radius and/or movement for vehicles in this area of the garage. Mr. Brightly pointed out to the Board however that, "Whether or not this parking space is retained, the applicant will still meet the Redevelopment Plan requirements and also RSIS standards." The applicant's engineer responded, "Our architect will review this."

7. Further discussion then followed with the Board Engineer, Mr. Brightly, and the applicant's engineer as to the truck turning plan and radius shown in accordance with the

exhibit marked into evidence. Mr. Brightly asked the applicant's engineer, "Would it be possible to modify your entry circle to remove some of the parking for better truck turning?" This was further discussed between the engineers, and Mr. Savage pointed out that the turning circle would function and be adequate based upon his calculations and the turning plan that confirmed same. The engineers then discussed the lighting proposed for the development which Mr. Savage responded to by reference to his lighting plan shown on page or sheet 11 of the site plan submission. After locating the lighting proposed on the site plan, Mr. Savage testified, "As you can see we are basically proposing pole-mounted lights and some bollard and smaller type lights." In response to a question from the Board, Mr. Savage also confirmed that the street trees being proposed would be placed in what the project engineer described as a "grass strip set back from the curb, with the trees located in the grassy area."

8. Mr. Jon Schwartz then provided testimony for the applicant to explain the anticipated deliveries to take place for the development and how they would be accommodated. He explained to the Board how deliveries would be received at the building and placed in the package room for the tenants who would then be notified as to a delivery to be picked up. In response to a question Mr. Schwartz also stated that at the present time the property is "now subject to remediation", so that the applicant did not expect to have any environmental issues or problems with the construction of the building and site improvements as proposed. In response to a question from Mr. Inglesino, Mr. Schwartz also advised the Board, "We have just received a letter from the County as a result of our application to them, and this will involve a change in the design of the corner of our property." Mr. Schwartz then responded to a question from the Board about the adequacy of the charging stations being proposed for the garage and the tenants' use and confirmed that based upon the experience of his organization, the number of spaces should be adequate and further stated, "The wires for the development and project will all be underground."

9. Testimony in support of the application was then provided by Mr. Gary Dean, the applicant's traffic engineer and expert. Mr. Dean testified that he would be providing "the traffic aspect of the development" and to further explain for the Board his traffic impact study done regarding the project as dated February 5, 2021. Mr. Dean stated his study was directed to the impact of the proposed development upon existing traffic conditions adjoining the property located at the intersection of River Road and Watchung Avenue. Mr.

Dean stated "This is a substantially developed area already, and certain improvements for the intersection and signals at Watchung and River Road are part of the Redevelopment Plan and is part of the study work and plans we have developed working with the Borough Engineer, the City of Summit, and Union County. In order to determine the impact of this overall development on traffic along Watchung Avenue and River Road, we have available and utilize traffic counts from 2019 and updated this information with current investigations and traffic patterns as now exist and as can be anticipated to be impacted by this project." Mr. Dean stated to the Board that the applicant's development would improve conditions and the traffic pattern along the adjoining roadways as, "By widening River Road all across the front of our development, we will be making the functioning of River Road and the adjoining intersection better." Following up on this Mr. Dean utilized a portion of the site plan drawings to outline the width of River Road as currently exists and the traffic lanes in each direction which he pointed out to the Board would be realigned and improved by the widening of River Road that the applicant would be undertaking. Overall Mr. Dean stated, "With the widening of the road, enhancement of the traffic signal, with our sidewalk and other improvements we will be undertaking to make the area around our site more pedestrian friendly, we will be making considerable improvements to the overall traffic pattern along the roadways."

10. In further discussion with the Board about improvements the applicant would be making and the existing traffic signal at the intersection of River Road and Watchung Avenue related to the testimony of Mr. Dean that conditions in the area would be improved by this development, Mr. Dean explained that the existing traffic signal at this intersection "was not being properly maintained" so that the sensors that would adjust the traffic signals based upon traffic volume on each of the roadways at the intersection could be controlled and adjusted to ease traffic flows, Mr. Dean stated that the applicant would be part of maintenance and/or repairs to these traffic signals with the County that would make them properly function. In further explaining the impact of this development on traffic conditions in the area, Mr. Dean testified, "As traffic engineers we utilize a standard formula and data to evaluate and come up with the level of service for this intersection and the adjoining roadways which is currently at Level D for certain movements. With the improvements that we are making, we will be improving to Level C," which Mr. Dean stated to the Board and directed the Board to Figure 7-8 on the last page of his traffic impact study and report which discussed this situation in more detail. Following this Mr. Dean then discussed the

ADA requirements for parking spaces at the property and the loading space or area and advised the Board that both as proposed by the applicant were in conformance with the Redevelopment Plan requirements. After this testimony the Board Engineer advised the applicant's engineer, Mr. Dean, that consideration could be given to remove the on-street loading space shown on the site plan for better traffic circulation. It was then confirmed by the applicant's attorney that this suggestion would be further evaluated and addressed by the project architect.

11. The applicant then presented Mr. Jack Raker of Minno-Wasko Architects as the Project Architect. Mr. Raker utilized a series of colorized exhibits which were marked into evidence to explain the building plan and architectural details of the development in more detail for the Board. In explaining the development overall, Mr. Raker testified, "We have a total of 245 units, 208 will be market rate and 37 Affordable. For the 208 market units we will be having 80 one-bedroom units and 128 two-bedroom units. For the 37 Affordable units 7 will be one bedroom, 22 will be two bedroom, and 8 will be three bedroom. This allocation is in accordance with the Redevelopment Plan and the Borough's Affordable Housing Plan and requirements for the project. We will also be having 474 parking spaces with 9 spaces being ADA compliant. As the Board will note most of our garage area is buried in the project." Mr. Raker then provided detailed testimony in relationship to the site plan as to the garage levels for parking including bike parking that would be accommodated on the property.

12. After explaining the site plan overall, Mr. Raker then utilized a colorized first-floor plan that was marked as an exhibit into evidence and then discussed the garage and its relationship to access to the remainder of the building and the ingress and egress to the garage. He pointed out the area in the garage with trash and recycling compactors which he stated would be "connected to the chutes above it to receive trash and recycling from the tenants." Mr. Raker then, utilizing a colorized floor plan which was marked as an exhibit into the record, discussed with the Board what he described as the "Affordable low and moderate units that would be scattered throughout the building." After explaining this for the Board in relationship to the floor plans of the building, Mr. Raker then reviewed with the Board an exhibit marked into evidence being what he described as the "roof plan for our four-story building which I ask the Board to note has the building stepping up to grade." The project architect then explained for the Board the roof plan for the building which was marked as an exhibit into evidence showing what he described as, "The heating and

cooling units for all apartments will be located on the roof of the building and will be fully screened.” Mr. Raker then reviewed with the Board by virtue of a separate exhibit what he described as a “depiction of what we will be doing with our lobby space, this exhibit and plan being from one of our other developments what we propose here.”

13. The project architect then continued his testimony with another exhibit marked into evidence being what he described as “our amenity space including a fitness area and exercise room.” In response to a question from the Board as to whether the applicant was proposing a “green roof”, Mr. Raker testified, “We are not strictly speaking providing green roofs, but as the Board can note greenery is present and proposed on all of our courtyard roofs.” This plan for the courtyard roofs was marked as an exhibit into evidence. The architect for the applicant then provided an explanation of all of the unit plans for the building in accordance with a colorized version that was marked as an exhibit into evidence. Photos of the interior of the units were also explained by the architect and marked into evidence as was an exhibit showing what Mr. Raker says was a “series of elevators to serve the building.” In response to a further question from the Board as to the height of the building overall, Mr. Raker testified, “It is three to four stories with only a portion of the building being four stories.” The project architect then reviewed a rendering of the upper lobby and the garage lobby entry area in accordance with an exhibit marked into evidence, and he then described his design efforts as confirmed in the site plan to “bring the height of the building down as much as possible.” A series of photographs showing the elevation of the building from the intersection of River Road and Watchung Road and the view of the back of the building from the adjoining property located on Schindler Court in accordance with exhibits and photographs was then reviewed at length with the Board by Mr. Raker. Additional photographs marked into evidence being a photo of the building along River Road and a view of the property into the entry circle for the front entrance and the area of the building closest to the loading area were then discussed and reviewed by the architect with the Board. The Board then questioned Mr. Raker about the height of the building overall including the difference of the height between what was depicted as a four-floor area and the section of the building which would have three stories. Mr. Raker testified, “With the fourth floor we will be at a height of 46.9 feet, and with the three-story section of the building we will be under 36 feet, and we therefore are in compliance with the River Road Redevelopment Plan.”

14. Mr. Raker then reviewed with the Board the renderings he had produced and explained the type of brick and coloring of the building that would be utilized for the various portions of the structure. In response to a question from the Board Planner as to whether or not the applicant's building would comply in all respects with a maximum of four stories considering the underground garage which was not included in this calculation, the project architect testified that, "The garage area would not constitute a separate story as this portion of the building is substantially underground." The project architect also advised the Board, "The building is fully sprinklered." In response to a question from the Board to Mr. DeNave, as the Zoning Official, as to whether he agreed that the applicant was not proposing a fifth floor or story to the building, Mr. DeNave stated it was his understanding that the explanation given by the applicant's project architect that the building was not a five-story structure was correct.

15. In reviewing overall the presentation made to the Board, a Board member questioned the applicant as to whether or not the applicant was complying with "sustainability measures recommended by the Borough's Environmental Commission?" Mr. Schwartz then testified in response, "I believe we had 70 items in a list presented to us from the Environmental Commission, and we are complying with all of them." Mr. Schwartz also advised the Board that it was provided in a "rider to the Redevelopment Agreement that we will be making an open space contribution to the Borough in the amount of \$150,000.00."

16. In follow up discussion with the Board, the Board questioned the project architect as to whether the building as designed would be built to minimize noise from the adjoining railroad. Mr. Raker testified, "We will be bringing along a sound consultant to assist with details for the building to deal with sound issues, and we will also be undertaking construction with thicker walls and other construction techniques to minimize noise." The details for the site demolition and/or any remediation work required in relationship to the construction of the development were then reviewed by the Board with the applicant. It was also confirmed for the Board by Mr. Schwartz that all parking spaces for the project would be specifically assigned to the tenants. Mr. Schwartz also confirmed for the Board in response to questions that, "The Affordable units will have similar amenities to the market units, and the landscaping proposed for the outdoor pool and areas around it will also have additional landscaping and plantings provided to minimize outdoor noise from their usage." Mr. Schwartz and the project architect also confirmed for

the Board that there would be a “kids room” provided as part of the building. It was also confirmed that the elevators for the building were designed to allow sufficient space for a gurney for emergency services. Further that the applicant had a meeting scheduled with the Borough Police, Fire, and Emergency Services Departments to confirm that they had no issues with the development as proposed and/or the applicant would comply with the suggestions made for site revisions or additional site measures that they would recommend to the applicant. A further series of site plan amendments and additions to be made to the site plan submission of the applicant were also then discussed by the Board with the applicant’s representatives. The applicant’s representatives then agreed to same.

17. The applicant’s attorney, Mr. Inglesino, then advised the Board that the applicant’s planner was prepared to further discuss the development, but the Board advised the applicant’s attorney that since the site plan was being presented consistent with the requirements of the River Road Redevelopment Plan Area and the Redevelopment Agreement that the applicant had entered into with the Borough with further modifications to the site plan and submission now agreed to by the applicant during this hearing, that the Board would not require such testimony from the applicant’s planner.

18. There were no public questions, comments, or statements offered to the Board regarding this application.

19. The applicant’s attorney requested the Board approve the application in accordance with the testimony presented and the agreement of the applicant to undertake further revisions in the site plan as requested by the Board and/or as otherwise stipulated by the applicant during this hearing, and since the development was now being proposed was fully consistent with the River Road Redevelopment Plan Area and the Redeveloper Agreement between the applicant and the Borough.

CONCLUSIONS

1. The Board concludes that the preliminary and final site plan submission of the applicant which has been presented to the Board in this hearing which fully conforms to the River Road Redevelopment Plan Area and the Redevelopment Agreement between the applicant and the Borough, based upon the Board’s further review of same represents a suitable design and details to accommodate this multi-family residential building on the property. The Board also concludes that the site plan as presented, and to be further modified pursuant to this resolution, represents good planning and design overall for the

use of the property and the new residential development proposed. Therefore it is appropriate for the Board to issue its approval of the application as requested.

2. The Board further finds and concludes that the extremely minimal and de minimis variance needed for minimum lot depth requirements of the Redevelopment Plan Area with 250 feet required, and the applicant having a lot depth of only 249.58 feet as per the testimony of the applicant's engineer in this case and from the details of the site plan, should be and can be properly allowed and issued to the applicant as requested in order for the development of this property to now proceed. The Board notes as testified to by the applicant's professionals that this is a pre-existing condition that does not affect or impact in any way the applicant's otherwise full compliance with the terms, conditions, and requirements of the River Road Area Redevelopment Plan and/or the Redevelopment Agreement between the Borough of Chatham and the applicant. As this deficiency in the property for minimum lot depth is extremely de minimis and not significant in any way to the development proposed, the Board in acknowledging this deficiency hereby expressly approves same at this time by virtue of variance relief.

3. The Board finally finds and concludes that since this preliminary and final site plan for this rental apartment building to be constructed on the property to create 245 apartment units of which 37 dwellings will be Affordable to very-low, low, and moderate income households, with such usage being specifically in accordance with the River Road Area Redevelopment Plan and the Redevelopment Agreement entered into by and between the applicant with the Borough of Chatham, and with the development providing Affordable units that are provided for and required in the Borough's Affordable Housing Plan and the settlement of same as confirmed in a consent order entered by the Borough in the Borough's Affordable Housing litigation now concluded, makes the approval of the Board for this application as submitted fully consistent with and in accordance with the goals and purposes of both the Land Development Ordinance and Master Plan for the Borough of Chatham.

NOW, THEREFORE, BE IT RESOLVED based upon all of the above, the Planning Board for the Borough of Chatham **HEREBY GRANTS AND APPROVES** the applicant's request for preliminary and final site plan with incidental variance relief and waiver of checklist requirements in accordance with the plans, testimony, and other evidence before the Board in this case. This resolution and the applicant's further use of the property are subject to the following terms, conditions, and requirements:

1. That the approval of the Board is issued subject to the applicant obtaining any and all other necessary governmental permits and approvals required for this development, with a further requirement of the applicant that if any of such other governmental entities or agencies require any changes in the site plan approved by the Board at this time that the applicant shall supply copies of any such approvals outlining such conditions, with the applicant to be further required if changes in the site plan approved by the Board are necessary pursuant to such other agency/governmental improvements the applicant shall return to this Board for amended site plan approval in accordance with the requirements of such other governmental entities or agencies, etc.; and

2. That the site plan approval of the Board issued herein is for preliminary major site plan drawings prepared by Matrix Newworld consisting of 17 sheets, dated June 5, 2019 and revised to February 5, 2021 and as to be further revised pursuant to the terms, conditions, and requirements of this resolution and the stipulations of the applicant regarding same as outlined herein. Further, the construction of the building and all improvements on the property shall be strictly in accordance with the plans, evidence, and testimony before the Board in this case to specifically include but not be limited to architectural drawings prepared by Minno-Wasko Architects & Planners consisting of 12 sheets dated February 5, 2021, and as may be further amended and supplemented as per the stipulation of the applicant during these proceedings. Further, the amenities and other details of the lobby, amenity rooms, and other construction details testified to by the project architect with reference to exhibits of "other developments" with these facilities is to become part of the architectural drawings and shall be installed in the building and constructed in accordance with these hearing exhibits. Further the building-architectural plans showing metal panels to be installed on the building shall be copperish in color as stipulated with the Board. The architectural plans shall be amended to add bike floor elevations and building lighting plans for the dog walk as stipulated during this hearing. In addition the construction of the building and related work on the property shall include and require the sustainability measures and features as stipulated by the applicant during these proceedings to include but not be limited to the applicant's open space contribution to the Borough in the amount of \$150,000.00 as required in the Schedule to the Redevelopment Agreement between the Borough and the applicant requiring same;

3. That prior to any work at the property the applicant shall submit for the reasonable review, requirements, and approval of the Board and Borough Attorneys a

Deed of Merger including metes and bounds descriptions. These descriptions shall be subject to the reasonable review, requirements and approval of the Board and Borough Engineers. Sidewalk easements shall be included in the deed along with a deed notice required maintenance of the stormwater management system in accordance with the Stormwater Facilities Operations and Maintenance Manual prepared by Matrix Newworld dated June 5, 2019 and revised thru February 5, 2021. The cost of preparation and filing shall be the applicant's together with the cost of the Board Professionals and the Borough Attorney and Borough Engineer for the review and approval of these items; and

4. That as discussed with the applicant during the hearing and as stipulated by the applicant, the site plan drawings of the applicant shall be further amended with revisions to the landscaping plan submitted by the applicant and include all further amendments required in the Board Engineer's letter of April 22, 2021 including revising the lighting plan to direct street lights away from the building, subject to the further reasonable review, requirements, and approval of the Board Professionals. Further if there is any physical change or modification of the approved site plan which is required for the applicant to meet the requirements of the Borough Police, Fire, and/or Emergency Services Departments, the applicant is to submit a request for a further amendment of the site plan to the Board regarding same; and

5. That the applicant is to provide a plan showing tree protection measures to be undertaken by the applicant during construction subject to the reasonable review, requirements, and approval of the Board Engineer; and

6. That the site plan shall be amended to remove the loading space on the street in front of the building, amend the site plan to chamfer the corner of the patio at the Watchung Avenue-River Road intersection, and provide a plan for the turning radius and crosswalk at the intersection of Watchung Avenue and River Road which shall be presented for the reasonable review, requirements, and approval of the Board Engineer; and

7. That all terms, conditions, and requirements set forth in the review letters and memos dated April 22, 2021 from Ferriero Engineering Inc., the Planning Board Engineers and dated April 30, 2021 from Kendra Lelie, PP, AICP, LLA, shall be complied with by the applicant; and

8. That the applicant shall prepare and present for the reasonable review, requirements, and approval of the Board Engineer and the Borough Engineer a staging plan for all construction work to be undertaken at the property; and

9. That all construction work at the property at all times shall be subject to the reasonable review, requirements, and approval of the Board Engineer and the Borough Engineer; and

10. That the applicant's engineer is to prepare a detailed engineering cost estimate for the development in order to establish performance guarantees and inspection escrows. The estimate and bonding requirements are subject to the further reasonable review, requirements, and approval of the Borough Engineer; and

11. That all costs, fees, charges, inspections, and escrows required by the ordinances of the Borough of Chatham shall be paid and satisfied prior to any work at the property; and

12. That prior to any work at the property for the new development approved in this resolution, the applicant shall first pursuant to Borough permits and other governmental entities' or agencies' requirements remove all existing improvements from the property and further undertake and conclude any environmental site remediation work and/or undertakings required by New Jersey DEP and/or any other governmental entity or agency; and

13. That the approval of the Board herein is issued expressly subject to the applicant's continued compliance with the Redeveloper Agreement between the applicant and the Borough of Chatham and the consent order for the Affordable Housing litigation for the Borough of Chatham which includes the applicant's property in accordance with the exhibits marked and introduced as evidence during this hearing; and

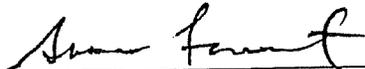
14. That prior to the issuance of Certificate of Occupancy for any unit in this development, the applicant shall present for the reasonable review, requirements, and approval of the Borough Attorney and the Affordable Housing Attorney for the Borough of Chatham deed restrictions, Affordability controls and requirements, with the further requirement for extensions and renewals of Affordability controls and the appointment of an administrative agent to administer these units at the expense of the applicant. The

applicant shall further comply with any and all other requests regarding these Affordable units now approved in the site plan approval of the Board herein, the minimum requirements of such Affordable units to be 37 as stipulated to by the applicant during this hearing; and

15. That prior to any work at the property the applicant is to obtain any and all necessary and required permits for any of the work to be undertaken on the premises to comply with this resolution or as now approved by this Board; and

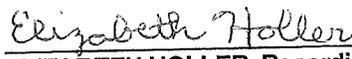
16. That prior to the signing of the site plan by the appropriate officers of the Board, the Board Professionals shall first provide written confirmation to the Secretary of the Board that the applicant has fully complied with all terms, conditions, and requirements of this resolution.

BOROUGH OF CHATHAM PLANNING BOARD

BY: 
SUSAN FAVATE, Chair

Date signed: 5-27-2021

Witnessed by:


ELIZABETH HOLLER, Recording Secretary
Borough of Chatham Planning Board

Appendix F



Incorporated 1897

Borough of Chatham

BOROUGH HALL

54 FAIRMOUNT AVENUE • CHATHAM • NEW JERSEY 07928

RESOLUTION #22-169

RESOLUTION TO ACCEPT OPTION FOR THE REDEVELOPMENT OF THE POST OFFICE PLAZA REDEVELOPMENT AREA AND AUTHORIZING THE BOROUGH'S OFFICIALS AND PROFESSIONALS TO IMPLEMENT SAME

WHEREAS, pursuant to Resolution #17-288, the Chatham Borough Council authorized the Planning Board to determine whether certain property within the Borough commonly known as the "Post Office Plaza" constituted an area in need of redevelopment pursuant to the Redevelopment and Housing Law, N.J.S.A. 40A:12-1, et seq.; and,

WHEREAS, pursuant to Resolution #18-102, and following receipt of a Redevelopment Investigation Report and the Planning Board's recommendation, the Borough Council designated the properties comprising Post Office Plaza as a non-condemnation redevelopment area, pursuant to N.J.S.A. 40A:12-5 and N.J.S.A. 40A:12-6; and,

WHEREAS, the Post Office Plaza redevelopment area comprises Block 121, Lots 10, 11, 12, 13 and 17; and Block 122, Lots 1, 2 and 13-18 on the Borough's Tax Map; and,

WHEREAS, thereafter, a redevelopment plan was prepared for Post Office Plaza and the Borough Council has been diligently reviewing potential options for the redevelopment of Post Office Plaza in accordance with the redevelopment plan; and,

WHEREAS, the Borough Council has recently held two "town hall" meetings to allow the public to learn about the potential options available for the redevelopment of Post Office Plaza and to comment on same, and has carefully considered all of the comments it has received on this topic; and,

WHEREAS, because this matter is time-sensitive and further implicates on-going litigation involving the Borough's ongoing affordable housing "Mount Laurel" compliance litigation under docket number MRS-L-1906-15, the Borough Council believes it is critical to make a decision as to which option for the Post Office Plaza redevelopment should proceed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Chatham that it selects the following option for the redevelopment of the Post Office Plaza: The construction of a 15-unit single building residential affordable housing project on Borough-owned land, Lot 10 in Block 121, in the southeast corner along Bowers Lane; and,

BE IT FURTHER RESOLVED that the Borough Council authorizes the Mayor, Borough Administrator, Borough Attorney, and its appointed legal and planning professionals to immediately prepare a redevelopment agreement with the entity responsible for constructing the 15-unit single building residential affordable housing project and to take any and all required ancillary actions to ensure that such an agreement is completed and executed by June 1, 2022; and,

BE IT FURTHER RESOLVED that the Borough Council declares that it shall proceed with the necessary steps and procedures to amend the Post Office Plaza redevelopment plan, rescind the designation of the entirety of Post Office Plaza as an area in need of redevelopment,

except as set forth herein reinstate the zoning designations for Post Office Plaza that existed prior to the adoption of the redevelopment plan and establish the necessary alternative redevelopment plan to allow for development of the 15-unit single building residential affordable housing project on Borough-owned land, Lot 10 in Block 121, in the southeast corner along Bowers Lane, and further authorizes the Mayor, Borough Administrator, Borough Attorney, and its appointed legal and planning professionals to immediately commence taking any and all required actions necessary to execute the will of the Borough Council as set forth above; and,

BE IT FURTHER RESOLVED that the Borough Council authorizes the Mayor, Borough Administrator, Borough Attorney, and its appointed legal and planning professionals to immediately prepare an amended Housing Element and Fair Share Plan and Spending Plan to incorporate the option that has been selected herein and to take any and all required ancillary actions necessary to do so; and,

BE IT FURTHER RESOLVED that a certified copy of this Resolution be provided to representatives of the redeveloper responsible for constructing the 15-unit single building residential affordable housing project, the Borough's Redevelopment Counsel, and the Borough's Affordable Housing Counsel.

Name	Motion	Second	Yes	No	Abstain	Absent
Treloar			X			
Mathiasen			X			
Dempsey			X			
Koronkiewicz			X			
Resto	X		X			
Truilo		X	X			

Adopted: May 2, 2022

Attest:

Stephen W. Williams
Acting Borough Clerk

BOROUGH OF CHATHAM

Thaddeus J. Kobylarz
Mayor

CERTIFICATION

I, Stephen W. Williams, Acting Borough Clerk for the Borough of Chatham, County of Morris, State of New Jersey, do hereby certify this is a true and correct copy of the resolution adopted by the Borough Council at its Special Meeting held on May 2, 2022.

Stephen W. Williams, Acting Borough Clerk

Appendix G