



Peter J. O'Connor, Esq.
Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
David T. Rammler, 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>				<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: Credits				
	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

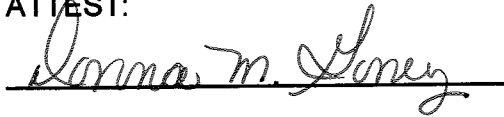
WITH A COPY TO: James L. Lott, Jr.
Riker Danzig Scherer Hyland & Perretti, LLP
One Speedwell Avenue
Morristown, New Jersey 07962
Phone: (973) 538-0800
Telecopier: (973) 451-8684
E-mail: jlott@RIKER.com

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

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

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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.

Table 1 - Housing Units by Tenure and Occupancy Status		
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

Table 2 - Housing Units by Units in Structure			
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

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.

Table 3 – Rent of Owner-Occupied Rental Units

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.

Table 4 -Value of Owner-Occupied Housing Units

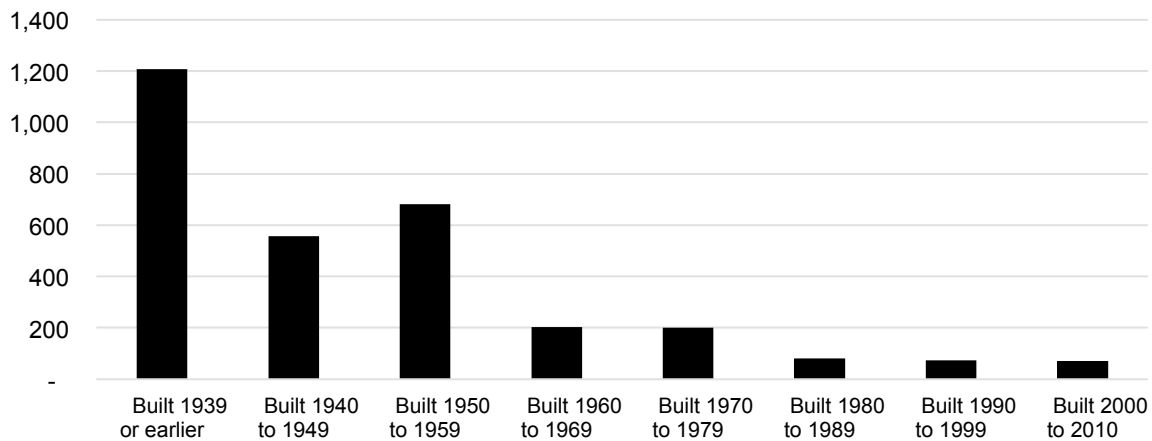
Value	2000 Census	2010 ACS	2013 ACS
Less than \$50,000	6	0	17
\$50,000 to \$99,999	0	5	0
\$100,000 to \$149,999	13	0	0
\$150,000 to \$199,999	100	9	0
\$200,000 to \$299,999	529	31	30
\$300,000 to \$499,999	1,229	248	330
\$500,000 to \$999,999	481	1,618	1,538
\$1,000,000 or more	51	394	416
Total Owner-Occupied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

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

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

Table 5 - Housing Units by Age of Structure	
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

Table 6 - Housing Unit Characteristics		
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

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

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

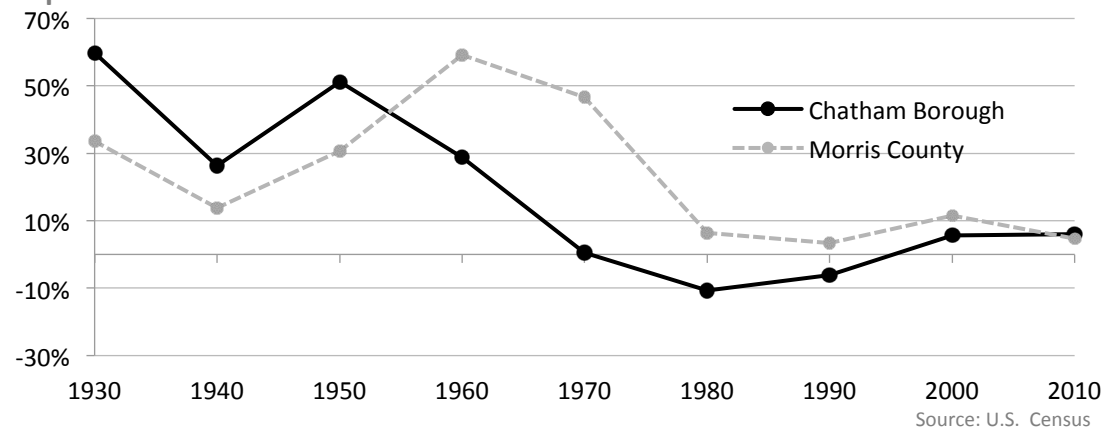


Table 9 - Population Growth

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.

Table 10 - Population Projection

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

Source: NJTPA

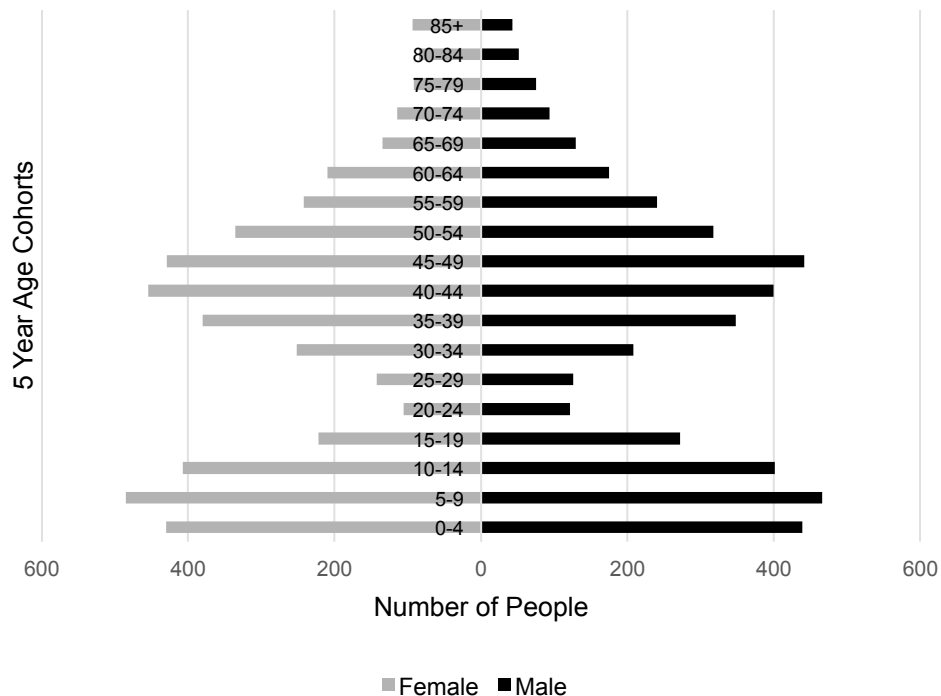
Age Distribution

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

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				
	2000		2010	
Household by Type	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						
	2000			2010		
Household Size	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

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

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.

Table 16 - Employed Civilian Population by Industry		
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.

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

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				<u>24 CREDITS</u>

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 PROSPECTIVE 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

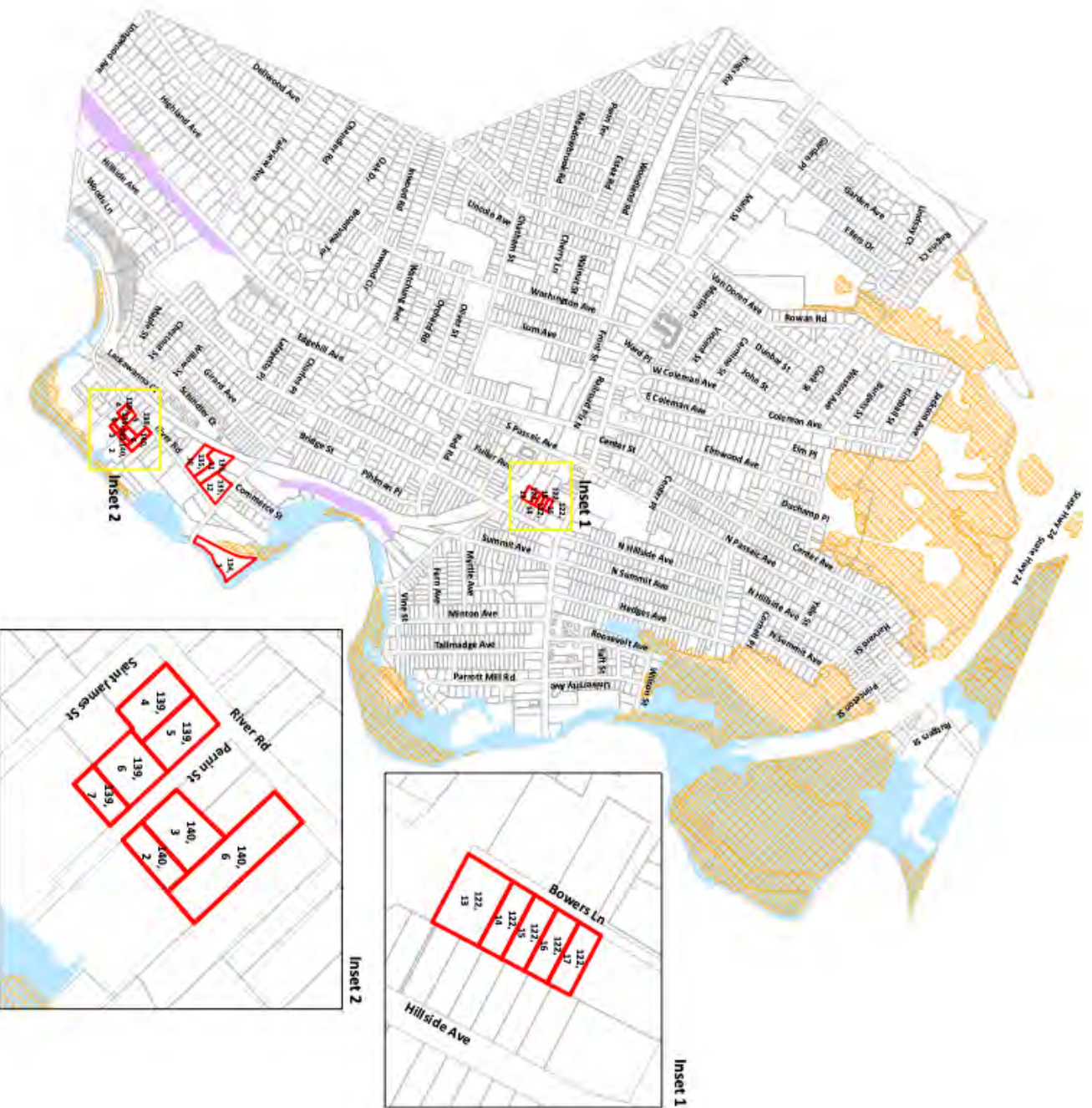
Susan G. Blakstein, AICP/PP, PhD
3 Old Mill Road
New Paltz, NY 12561
sblakstein@gmail.com

KPKYLE
PLANNING
& DESIGN



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

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



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 Burling 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
139	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

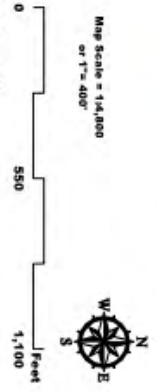
Morris County, NJ

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

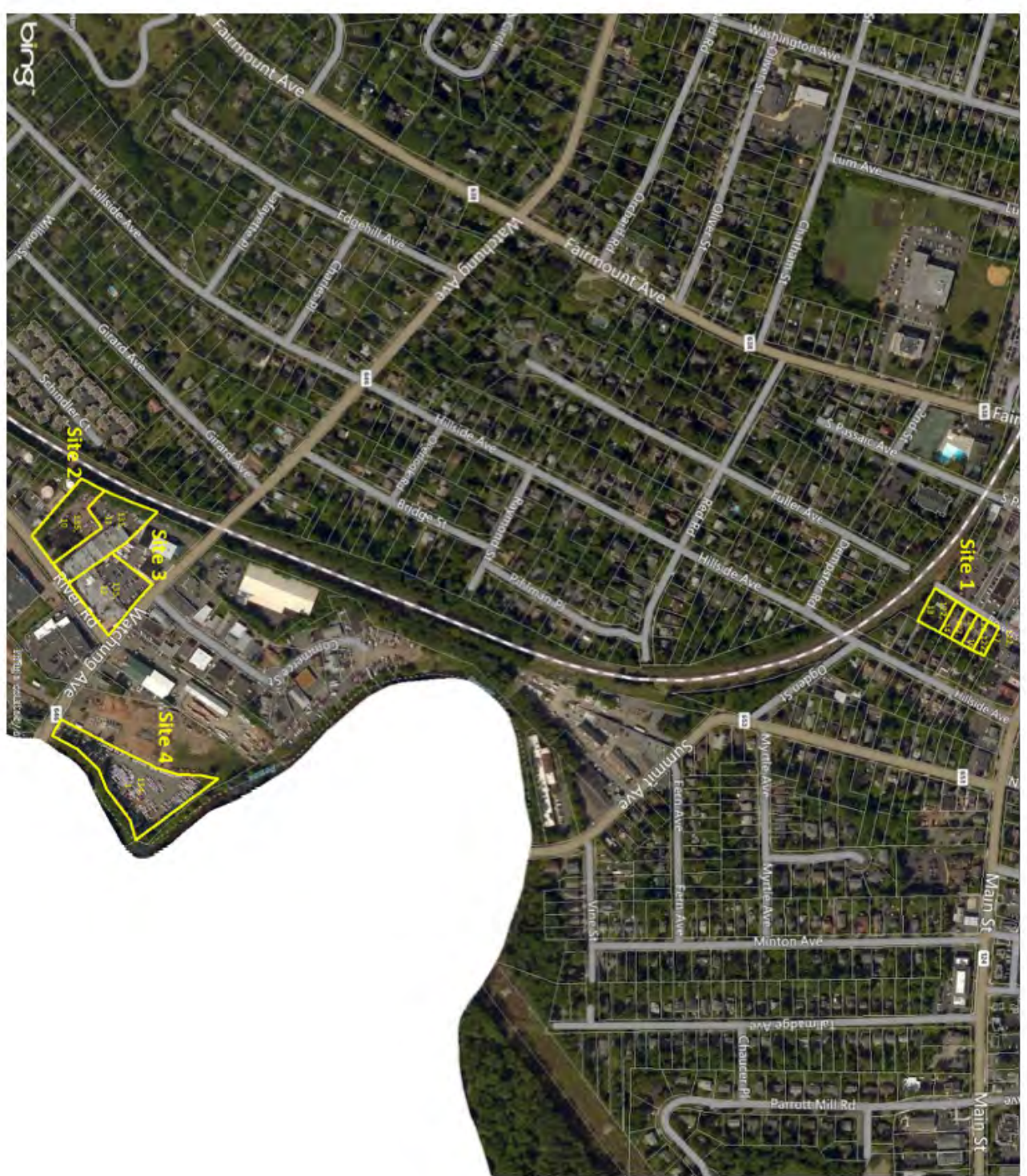


Map Prepared by:
James T. Kyle, AICP/PP
Kyle Planning and Design, LLC
PO Box 236
Hopewell, NJ 08525
jkyle@kyleplanning.com

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



Data Sources: NJDOT Office of Geographic Info. Services
Purcell 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

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

I/M/O THE BOROUGH OF CHATHAM MOUNT LAUREL COMPLIANCE	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)
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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 P. 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, Esq.

Counsel for
CHATHAM BOROUGH PLANNING BOARD

April 13, 2021
Date

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

April 20, 2021
Date

Jonathan E. Drill

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

April 13, 2021

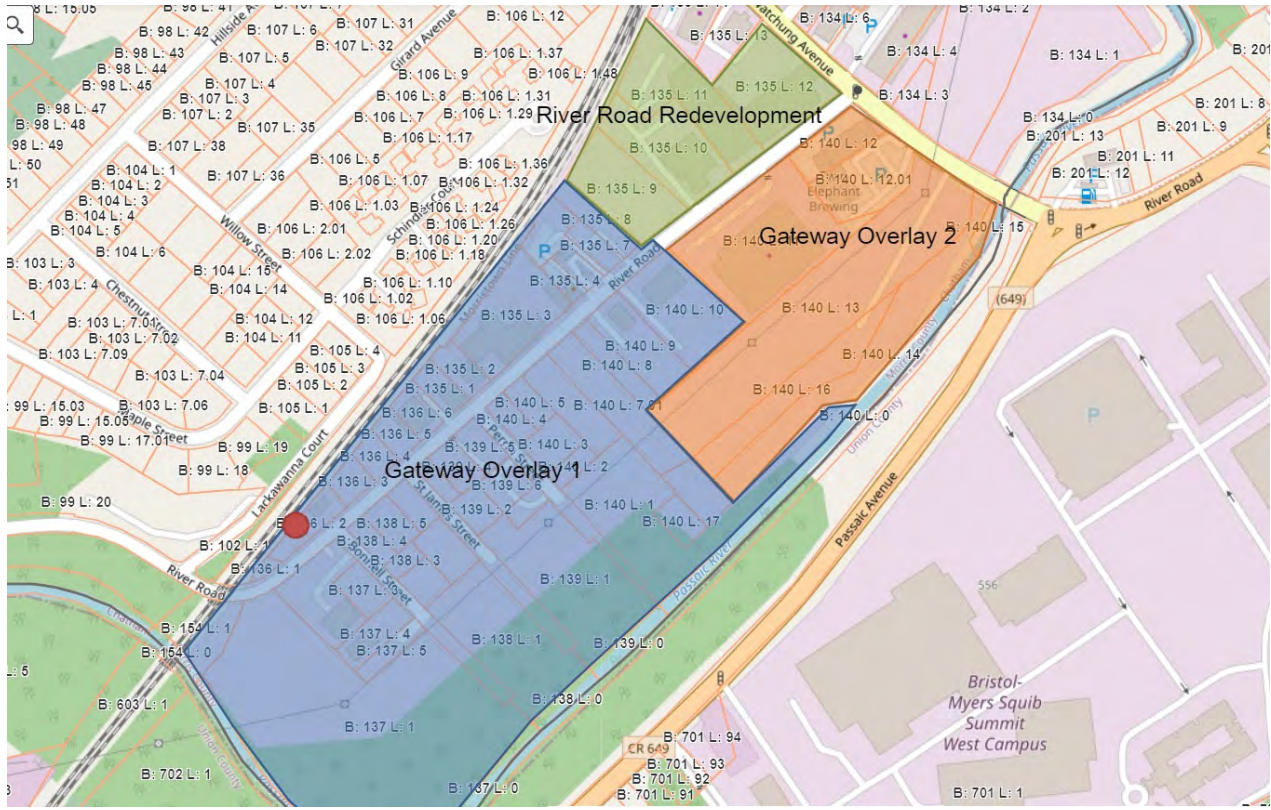
Date

John P. Inglesino, Esq.

Counsel for
CHATHAM RIVER ROAD URBAN
RENEWAL, LLC

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