Attorney ID: 012731981
Our File No.: C22168(SAK)

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SOMERSET COUNTY
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IN THE MATTER OF THE BOROUGH OF WATCHUNG FOR A JUDGMENT OF COMPLIANCE OF ITS THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: SOMERSET COUNTY DOCKET NO.: L-902-15 (MOUNT LAUREL) *Civil Action* **NOTICE OF MOTION FOR A GRANT FOR A GRANT OF TEMPORARY IMMUNITY FROM EXCLUSIONARY ZONING LITIGATION**

COUNSEL:

PLEASE TAKE NOTICE that on Friday, August 7, 2015 at 9:00 a.m., or as soon thereafter as counsel may be heard, the undersigned, DiFrancesco, Bateman, Coley, Yospin, Kunzman, Davis, Lehrer & Flaum, P.C., attorneys for plaintiff Borough of Watchung, shall apply to the Superior Court of New Jersey, Somerset County, Somerville, New Jersey, for an Order granting the following relief:

FOR AN ORDER granting the Borough of Watchung temporary immunity from exclusionary zoning litigation.

PLEASE TAKE FURTHER NOTICE that the undersigned shall rely upon the Brief of Steven A. Kunzman, Esq. in support of said application which is being submitted to the Court pursuant to Rule 1:6-2. This office requests **oral argument** pursuant to R.1:6-2(d).

A proposed form of Order is attached.

Calendar Call: None
Conference: None
Trial Date: None
DED: None

DIFRANCESCO, BATEMAN, COLEY, YOSPIN,
KUNZMAN, DAVIS, LEHRER & FLAUM, P.C.
Attorneys for Defendant, Borough of Watchung

By:_____
Steven A. Kunzman, Esq.

Dated: July , 2015

CERTIFICATION

I hereby certify that the within Notice of Motion and supporting moving papers have been served upon the appropriate Court and counsel via regular mail.

By:_____
Steven A. Kunzman, Esq.

Dated: July , 2015

Attorney ID: 012731981
Our File No.: C22168(SAK)

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IN THE MATTER OF THE BOROUGH OF WATCHUNG FOR A JUDGMENT OF COMPLIANCE OF ITS THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: SOMERSET COUNTY DOCKET NO.: L-902-15 (MOUNT LAUREL) *Civil Action* **ORDER GRANTING TEMPORARY IMMUNITY FROM EXCLUSIONARY ZONING LITIGATION TO BOROUGH OF WATCHUNG**

THIS MATTER having come before the Superior Court of New Jersey, Law Division, upon the application of the Borough of Watchung (Steven A. Kunzman, Esq., of DiFrancesco, Bateman, Coley, Yospin, Kunzman, Davis, Lehrer & Flaum, P.C., appearing) and the Court having considered the materials supplied by the parties and other pleadings filed in this action, and good cause having been shown:

IT IS ORDERED this ____ day of _____, 2015, as follows:

The Borough of Watchung is granted immunity from exclusionary zoning litigation pending further order of the Court.

IT IS FURTHER ORDERED that a copy of this Order be served upon all interested parties within seven (7) days of its receipt by counsel for the Borough of Watchung.

_____

, J.S.C.

Opposed ____

Unopposed ____

Attorney ID: 012731981
Our File No.: C22168(SAK)

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IN THE MATTER OF THE BOROUGH OF WATCHUNG FOR A JUDGMENT OF COMPLIANCE OF ITS THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: SOMERSET COUNTY DOCKET NO.: L-902-15 (MOUNT LAUREL) *Civil Action*

BRIEF IN SUPPORT OF BOROUGH OF WATCHUNG'S MOTION FOR IMMUNITY FROM EXCLUSIONARY ZONING LITIGATION AND DETERMINING THE DATE TO COMMENCE PLAN REVIEW OF SUPPLEMENTATION

DiFRANCESCO, BATEMAN, COLEY, YOSPIN, KUNZMAN, DAVIS, LEHRER & FLAUM, P.C.
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(908) 757-7800
Attorneys for the Borough of Watchung

Steven A. Kunzman, Esq.
On the Brief

INTRODUCTION

The Borough of Watchung is considered a *participating municipality* under the recent New Jersey Supreme Court decision, In re: Adoption of N.J.A.C. 5:96 &5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("In re COAH"). The Borough contends that it is entitled to immunity in accordance with that decision. In In re COAH, the Supreme Court developed a procedure by which the courts could take on the role of the Council On Affordable Housing ("COAH") to assist the municipalities of New Jersey to develop fair share housing plans that comply with the Fair Housing Act N.J.S.A. 52:27d-301 *et. Seq.*, ("FHA") and the Mount Laurel doctrine. The Court provided that municipalities which have been involved in the COAH process may file a declaratory judgment action to place their existing housing element and fair share plan before the trial courts. The trial courts would then make a determination of the fair share housing need for that municipality. If the existing plan failed to comply, the town would be given the opportunity to supplement the plan. During this process the Supreme Court allowed the trial courts to grant the municipality immunity from exclusionary zoning litigation, including claims for a builder's remedy, while the municipality, the court, and any appointed special master, worked to develop a plan that complies. The Court provided no standards or tests to be met for immunity to be granted. Rather, the Court stated its preference for voluntary compliance by the municipalities rather than compelled rezoning under threat of exclusionary zoning litigation and the threat of a builder's remedy. The immunity to be granted was "temporary" and was subject to review by the trial courts to ensure that the municipality was cooperating and endeavoring to develop a plan that complies with the fair share housing obligation as determined by the court. To that end, it is expected that experts will be presented to the trial court on behalf of many municipalities, including Watchung, which will aid the trial court in determining the affordable

housing obligation of each municipality before the court. Even though the Court did not set forth any particular standards or requirements to be met for a town to be entitled to temporary immunity, Watchung Borough provides herein a summary of its past and current efforts to comply with the FHA. Due to the failure of COAH to develop Third Round Rules neither Watchung nor any other municipality can know what is considered to be its "fair share." It is only after the municipality's fair share is determined that Watchung's current plan can be assessed and, if necessary, supplemented. Accordingly, the five (5) month period to supplement the Borough's Plan should not commence until the trial court has made a "preliminary determination" of the Township's fair share. During this time Watchung should be provided immunity exclusionary zoning litigation, including immunity from the threat of a builder's remedy, otherwise the process of achieving compliance through sound planning would be distracted and further delayed, if not thwarted.

STATEMENT OF FACTS[1]

The Borough of Watchung ("Borough" or "Watchung") is a *participating municipality,* and has been diligent in its continuing efforts to comply with its obligation to provide the realistic opportunity for low and moderate income housing. Although these facts are not required to demonstrate the Borough's entitlement to temporary immunity, a summary of the efforts of Watchung to comply may be of value to the court. The Council on Affordable Housing ("COAH") calculated municipal affordable housing obligations beginning in 1987 in 6 year cycles, first for 1987 to 1993, and then through 1999. (Shiffman Cert., par.5)

A. First Round

The Borough received First Round Substantive Certification from COAH on September 26, 1988. The Borough had an obligation of 132 affordable units. This obligation was met through a 57 unit Regional Contribution Agreement with the Town of Philipsburg, 60 units in Kings Crossing (changed to 40 rental units plus rental credits as part of renamed Crystal Ridge, now called Avalon at Watchung),and nine rehabilitation units. (Shiffman Cert., par.6)

B. Second Round

The Borough participated in the COAH process as part of the Second Round and submitted a Second Round HEFSP, dated August 1994, along with its petition for Second Round Substantive Certification on July 10, 1995. The Borough amended its Second Round HEFSP and forwarded it to COAH on April 4, 1998. The Borough received Second Round Substantive Certification from COAH on July 1, 1998. The Second Round Substantive Certification was extended by COAH to June 8, 2005, which was subsequently extended by COAH to December 31, 2008 for all municipalities. (Shiffman Cert., par.7)

[1] The facts set forth are based upon the certification of the Borough's planner, Marcia Shiffman, PP, AICP, LLA which is submitted with the motion.

The Borough's Second Round Substantive Certification required a 169 unit new construction obligation. The Borough had prepared a Vacant Land Adjustment ("VLA") which established its Realistic Development Potential ("RDP") at 169 units. This reduced the Borough's obligation by 37 units from the original COAH calculated fair share obligation of 206 units. These 37 units became Unmet Need. (Shiffman Cert., par.8)

The Borough's new construction obligation under the Second Round Substantive Certification was met with the exception of 19 units. The Third Round HEFSP accommodated these 19 units as part of a planned 100% affordable family rental development on municipal property. (Shiffman Cert., par.9)

C. Third Round

On November 29, 2005, the Borough adopted a Third Round HEFSP to address the then Third Round rules. The Borough petitioned COAH with its Third Round HEFSP on December 16, 2005. On December 28, 2005, COAH determined that the Borough's Third Round HEFSP was complete. On January 3, 2006, the Borough published notice for its HEFSP submittal. No objections were received. (Shiffman Cert., par.10)

After the Appellate Division voided portions of the original (2004) Third Round rules, COAH recalculated each municipality's prior round obligation, remaining rehabilitation component and anticipated residential and non-residential growth through the year 2018, resulting in new affordable housing obligations for each municipality. (Shiffman Cert., par.11)

The Borough prepared and adopted a second Third Round HEFSP on December 8, 2008 to address these revised rules. (Shiffman Cert., par.12) On December 30, 2008, the Borough's 2008 Third Round HEFSP was submitted to COAH with a Petition for Substantive Certification. On February 9, 2009, the Petition was deemed complete by COAH. After publication of the

Borough's Third Round HEFSP certification on February 13, 2009, there were two objectors to the Third Round HEFSP: The Fair Share Housing Center and a Watchung resident. (Shiffman Cert., par.13)

D. Third Round Mediation

On November 23, 2009, COAH issued a Premeditation Report, and the Borough supplied additional information, as was requested to COAH. Two mediation sessions were then held on December 8, 2009 and January 7, 2010. As a result of the mediation sessions and to address questions raised by the Fair Share Housing Center, the Borough authorized the preparation of an Affordable Housing Overlay Study. This Study was submitted to COAH on April 28, 2010. On May 18, 2010, the Fair Share Housing Center accepted the results of the Affordable Housing Overlay Study. On June 28, 2010, the Borough Attorney requested a letter from COAH officially terminating the mediation. (Shiffman Cert., par.14-15)

On July 20, 2010, after mediation, the Borough adopted a third Third Round HEFSP which included a proposed Affordable Housing Overlay Zone to address the Unmet Need. The 2010 Third Round HEFSP was filed as a repetition with COAH on September 26, 2011. On January 26, 2012, Watchung published notice of the repetition; on April 5, 2012, Local Planning Services (substitute for COAH during effective period of Reorganization Plan No. 001-2011) acknowledged the Borough's repetition and stated that at the end of the 45-day no objections were received. Attached as Exhibit B to the Certification of Marcia Schiffman is a true copy of the 2010 Third Round HEFSP. (Shiffman Cert., par.17-18)

E. Municipal Site

On June 13, 2012, the Borough received responses to a "Request for Proposals to Construct 20 Affordable Housing Family Rental Units on East Drive." The RFP included a

representation that the Borough would "reimburse the successful Respondent for site work up to $435,000.00 from the Borough's Affordable Housing Trust Fund. Additionally, funds [were to] be available from the Borough's Affordable Housing Trust Fund for affordability assistance to tenants as defined in the applicable NJCOAH regulations, and the Borough's Spending Plan." On June 13, 2012, the Borough received two (2) responses to the RFP from Homeless Solutions and RPM Development Group. On June 28, 2012, the Borough rejected the responses to the RFP because the responses were nonconforming and authorized reissuance of a revised RFP. (Shiffman Cert., par.19-21)

On July 24, 2012, the Executive Director of COAH sent the Borough a letter questioning whether the Borough had timely committed the expenditure of the Affordable Housing Trust Funds received by the Borough. On August 10, 2012, the Borough responded to COAH. COAH did not respond to the Borough's letter. (Shiffman Cert., par.22-23)

The RFP was not reissued because, in part, the uncertainty created by COAH regarding the expenditure of Affordable Housing Trust Funds and COAH's failure to approve the Borough's Spending Plan as discussed below. (Shiffman Cert., par.24)

F. Spending Plan

1. The Borough's Spending Plan was submitted to COAH and revised consistent with COAH comments; the latest revision being May 31, 2012. On multiple occasions, the Borough requested that COAH take action to approve the Borough's Spending Plan. COAH did not take action. Attached as Exhibit C to the Schiffman Certification is a true copy of the 2012 Spending Plan. (Shiffman Cert., par.25-26)

G. Conclusion

The Borough's 2010 Third Round HEFSP, as submitted to COAH for certification, fully met the prior round obligation of 169 units, with 150 units constructed or approved credits, and the remaining 19 units as part of a planned 100% affordable family rental development on municipal property. The Borough addressed its two unit rehabilitation obligation with an on-going Housing Rehabilitation Program. One rehabilitated home has been completed, with a second to be completed. (Shiffman Cert., par.27-28)

Based on the Borough's development of a First and Second Round HEFSP certified by COAH, development of three (3) versions of a Third Round HEFSP, as well as the Borough's participation in activities that produced new or rehabilitated affordable housing units, the Borough should be afforded immunity from exclusionary zoning litigation, including builder remedy lawsuits, as provided by the Supreme Court to allow development of a revised and updated Third Round HEFSP, once the Borough's fair share obligation is established.

LEGAL ARGUMENT

POINT I.

AS A PARTICIPATING MUNICIPALITY, WATCHUNG IS ENTITLED TO PRELIMINARY IMMUNITY FROM EXCLUSIONARY ZONING LITIGATION.

A. Overview: Municipalities that file for declaratory judgment are entitled to temporary immunity.

In In Re COAH the Supreme Court concluded that COAH had not fulfilled its duty to create acceptable Third Round Rules and directed that all fair share housing matters are to be addressed by designated trial judges. Because many municipalities had already submitted fair share compliance plans based upon COAH's Third Round Rules, which were subsequently rejected by the Appellate Courts, the Supreme Court set forth a framework for municipalities to voluntarily comply with their fair share housing obligations. 221 N.J. at 29-34. The Supreme Court provided that through the filing of declaratory judgment action a municipality can submit its current plan for review by the trial court. Id. At 25. The Supreme Court also provided that municipalities which avail themselves of this opportunity would be entitled to temporary immunity. Id. at 25-29. Temporary immunity provides the municipality and the trial court time to deal with the matters at hand: the development of a plan that will provide the realistic opportunity for the development of the municipality's regional fair share of low and moderate income housing.

B. Procedure: The trial court must make a determination of fair share.

The first step in the process is for the municipality to file a declaratory judgment action by which it places its current fair share housing plan before the trial court. This submission is to be on notice to certain designated parties as well as other interested parties. Id. at 25. In order to evaluate the plans, the trial courts will need to take the next step: making a preliminarily

determination of the fair share housing needs of the municipality, Id. at 28-29, which by necessity requires that the trial court make a determination of the fair share needs of the state, then break that down to the regions, and then the municipalities. Id. At 30 ("...previous round methodologies...should be used to establish prospective statewide and regional affordable housing need.") It is only after the fair share determination has been made that the trial court and the municipality can assess whether the existing plan complies, or whether it needs to be supplemented. During this time it is sensible and practical to provide temporary immunity to the municipality. This approach is rational: it allows the municipality and trial court the opportunity to achieve the desired result, but without the distraction of exclusionary zoning litigation. This is consistent with the Supreme Court's long expressed preference for voluntary compliance by municipalities as opposed to a municipality being compelled to rezone under the builder's remedy. See, South Burlington County N.A.A.C.P v. Tp. Of Mount Laurel, 92 N.J. 158, 214 (1983) ("Mount Laurel II") ("...we intend to encourage voluntary compliance with the constitutional obligation...") and, In Re COAH 221 N.J. at 34, 51 (recognizing that in the FHA the legislature stated a preference for voluntary compliance over "compelled rezoning.") This is also consistent with the legislature's unequivocal "preference for the resolution of existing and future disputes involving exclusionary zoning" by means *other* than the use of the builder's remedy. N.J.S.A 52:27D-303. Accordingly, in In Re COAH, the Supreme Court endeavored to develop a procedure that "reflect[s] as closely as possible the FHA's process and provide[s] a means for a municipality to transition from COAH's jurisdiction to judicial actions to demonstrate that its housing plan satisfies Mount Laurel obligations." 221 N.J. at 6. Further, the Supreme Court was emphatic that it was not intending to punish municipalities for "COAH's failure to maintain the viability of the administrative remedy." Id. at 23. In other words, the

Supreme Court understood that the limbo in which the parties have found themselves since 2007, when the Appellate Division first struck down portions of the Third Round Rules, was not caused by the municipalities, but by COAH. Had acceptable Third Round Rules been adopted, the municipalities, the FSHC, the builders, and other interested parties would have had a way to move forward to have plans developed, revised or supplemented to meet the requirements of the rules within an administrative process. The Court recognized that municipalities should not be put at a disadvantage due to circumstances beyond their control; the failure of COAH to adopt Third Round Rules.

Because of the failure of COAH to develop acceptable rules for the Third Round, there was no administrative, regulatory or objective guidance for a municipality to determine its "fair share" so that it can develop complying fair share housing plan. Accordingly, the second step (after the filing of the declaratory judgment action) is for the trial court to make a determination of the present and prospective need of a municipality. Id. at 28-29 By necessity this requires that the trial court make a determination of the statewide need, the regional need and the fair share obligation of each municipality that has placed its plan before the trial court.[2] Id.at 30 ("...based on the court's determination of present and prospective regional need..."). Depending on the conclusions drawn by the trail judge, the municipality's plan may be acceptable "..as is, or as supplemented-..." Id. at 26. All these determinations are to be done under the jurisdiction and oversight of the designated trial judge.

[2] Many municipalities will be presenting an analysis that is being prepared by Dr. Burchell. It is believed there may be other experts that will provide their analysis of this issue. It is also evident, that the decision on this issue by any court will impact all of the municipalities in the county, as well as the region and the state.

C. Immunity is tied to the time for court review and supplementing of plans.

In order to be able address these issues in an orderly manner consistent with the intent and purpose of the FHA, the Supreme Court *authorized* the trial court to "provide a municipality whose plan is under review immunity from challenges *during the court's review proceedings, even if supplementation of the plan is required during the proceedings.*" 221 N.J. at 24. (Emphasis added). The Supreme Court stated that temporary immunity can be provided to municipalities that have received *Substantive Certification* under the invalidated Third Round Rules, Id. at 26, and also for municipalities that are *participating municipalities,* Id. at 29. The Supreme Court even stated that immunity may be provided to a municipality does not file a declaratory judgment action but waits to be sued. Id.

The Supreme Court specifically stated that the trial "court should be generously inclined to grant applications for immunity from subsequently filed exclusionary zoning actions" for municipalities that received *Substantive Certification* under the invalidated Third Round Rules. Id. at 26. *Participating* municipalities are also entitled to "initial immunity" treatment similar to that which was provided to the *participating* municipalities under the FHA, N.J.S.A. 52:27D-316, such as when the cases were transferred to COAH from the courts. 221 N.J. at 27. See also, N.J.S.A. 52:27D-309 and 316. The Supreme Court specifically directed that *participating* municipalities should be given five months to submit their supplemental housing element and affordable housing plan during which time the trial court is permitted to provide "initial immunity." 221 N.J. at 27. The Supreme Court provided no standard for the grant of "initial immunity" for Substantive Certification municipalities and participating municipalities other than to provide them time to allow submission of a supplemental plan that adequately responds to the fair determination made by the trial court.

The Supreme Court only outlined an analysis to be followed by the trial court when considering a request for immunity by municipalities that *do not* file a declaratory judgment action but wait to be sued. The Supreme Court allowed those municipalities to request immunity "covering any period of time during the court's review." Id. The trial court is to determine if immunity is to be provided to these municipalities based on an assessment of the extent of the municipality's obligation, the steps that have been taken to comply with that obligation; including whether a housing element has been adopted, "activity that has occurred in the municipality affecting need" and progress that the municipality has made in satisfying past obligations. Id.

It is evident that the Supreme Court intends to allow the process to proceed uncluttered by exclusionary zoning suits; most certainly in cases where a municipality files for declaratory judgment during the applicable period as was done in this case. The Supreme Court intended to have the proceeding mirror the process for compliance determinations under COAH to the extent possible. Therefore, it stands to reason that immunity should be provided except in the most exceptional circumstances. Further, municipalities should be provided sufficient time to supplement their plans, if necessary, after the trial court makes a determination of the applicable fair share numbers.

It is important to place all these issues in the context of the Supreme Court's direction that the trial courts that are handling these matters should be flexible, referring to J.W. Field Company, Inc. v. Municipality of Franklin, et al. 204 N.J. 445 (App. Div. 1985) ("J.W. Fields"). 221 N.J. at 26. In that decision the Supreme Court stated that "the good or bad faith of a municipality in attempting to comply is no longer relevant," when evaluating the proper fair share; rather, the municipality's "efforts are to be measured against the standard of whether its

ordinances *in fact* provide a realistic opportunity for construction of its regional fair share obligation." 204 N.J. Super at 452-3, *citing,* South Burlington Cty. NAACP v. Mount Laure Tp. 92 N.J. 158,220-221(1983) (Mount Laurel II). The Supreme Court in J.W. Fields then stated that *immunity* from a builder's remedy action would be appropriate "if the municipality will stipulate noncompliance and obtain the court's approval of a proposed fair share number." 204 N.J. Super. at 257.

There can be little question that no municipality can be certain at this time whether its current plan creates a realistic opportunity for the development of its fair share because the threshold issue - the fair share of the municipality - has yet to be determined. Even municipalities that received *Substantive Certification* in the Third Round under the rejected growth share methodology must have their plans evaluated based upon the trial court's fair share determination and given the opportunity to supplement if necessary. 221 N.J. at 26. All this can only be accomplished after a municipality's fair share number has been determined by the court. Id. at 30. The fact that a municipality is presenting its plan to the trial court with the understanding that the plan may need to be supplemented to achieve compliance demonstrates the municipality's recognition that its plan may not be compliant.[3] Indeed, there is no way for a municipality to know until there is a determination of its Third Round obligation. Further, given the complexities of prioritizing the development of property by one particular builder over that of another, as well as the potential conflict between the builder's remedy and the public interest in sound planning, see, J.W. Fields, 204 N.J. Super. at 459-467, there is no reason to complicate the process by having the trial court have these matters proceed in the adversarial manner of an

[3] This is not an admission or stipulation of non-compliance because that simply cannot be determined until the trial court makes a fair share determination. Nevertheless, by initiating this action, Watchung placed its plan before the trial court for evaluation.

exclusionary zoning suit before there is a determination of a municipality's fair share, and the municipality is given the opportunity to supplement or adjust its plan to comply.

D. Five month period for participating towns to supplement plan commences on ruling on fair share.

One issue that remains is when the five month period for a participating municipality to supplement its plan commences. Consistent with the Courts' intention and directive to follow the FHA and the intent of the legislature as close as possible, the time for the evaluation and supplementation of a town's HEFSP must commence once the court makes a determination of a municipality's fair share obligation. Under the FHA a town is provided immunity for five months to prepare and file a HEFSP **after COAH adopts "criteria and guidelines."** N.J.S.A. 52:27d-309 and 316. The Court, however, also recognized that once immunity is provided, it should not continue indefinitely, and should be periodically reviewed. The Court also did not intend to create rigid application of the time frames; it provided that additional time may be warranted to allow a reasonable time for the municipality to achieve compliance. 221 N.J. 26-27 Accordingly, the Court did not tie the five month period for *initial immunity* for *participating municipalities* to the deadline for filing the declaratory judgment action. This would simply have created an obligation for municipalities to develop, adopt and take all the necessary governmental actions necessary to implement a Plan to achieve some number of affordable housing units, then to further supplement that Plan after the trail court makes a determination of fair share; all in the course of five months. Since the Supreme Court directed the trial court to make the "preliminary determination" of fair share, it follows that this is the threshold decision is necessary to enable the municipalities to supplement the Plan, if necessary, in an appropriate and efficient manner. This is all consistent with the Supreme Court's directive that the trial courts "should employ similar flexibility in controlling and prioritizing litigation" as was done in pre-

FHA litigation. Id.at 26. Under COAH, municipalities were provided a fair share number, then a plan was developed to meet the number. It is respectfully submitted that this process not only makes sense, it is consistent with the FHA.

It is evident that the Supreme Court has favored the granting of temporary immunity to towns that have filed a declaratory judgment action. It is understood that certain parties that have been placed on notice and some may be given the opportunity to participate in the proceedings in some manner; however, the goal is to create a path to voluntary compliance by the municipality, not compliance under threat of compulsory rezoning. The Court unquestionably favors sound planning in the interest of the public at large as opposed to spending public funds on litigation or providing preference to a particular builder.

Watchung has been engaged in the Mount Laurel process since the 1980s, and has demonstrated an intent and effort to comply with its regional fair share obligations. It has received *Substantive Certification* on the first two rounds; it has submitted a petition for *Substantive Certification* in the Third Round, and has a plan that follows the guidelines that were in place at the time of the petition. The Borough is prepared to address the issues in this matter and will be prepared to develop a supplemental HEFSP if necessary to achieve compliance. Watchung's willingness to participate and cooperate demonstrates a strong basis for the court to grant it temporary immunity as provided for in In Re COAH, pending the trial court's determination of Watchung's fair share obligation and the opportunity for Watchung to supplement its plan, if necessary.

CONCLUSION

For the foregoing reasons, the Borough of Watchung respectfully requests that the Court enter an order providing temporary immunity from builder's remedy suits or other claims challenging Watchung's HEFSP.

DiFRANCESCO, BATEMAN, COLEY, YOSPIN,
KUNZMAN, DAVIS, LEHRER & FLAUM, P.C.
Attorneys for the Borough of Watchung

By: _____
STEVEN A. KUNZMAN

Dated: July 10, 2015

Attorney ID: 012731981
Our File No.: C22168(SAK)

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JUL 15 2015
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SOMERSET COUNTY
REVIEWED

In the Matter of the Borough of Watchung for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: SOMERSET COUNTY Docket No.: L-901-15 (Mount Laurel) Civil Action **CERTIFICATION OF MARCIA SHIFFMAN IN SUPPORT OF THE BOROUGH OF WATCHUNG'S MOTION FOR TEMPORARY IMMUNITY**

I, Marcia Shiffman, hereby certify as follows:

1. I am a Professional Planner licensed by the State of New Jersey, and I am a member of the American Institute of Certified Planners.

2. A true copy of my Curriculum Vitae is attached as Exhibit A.

3. I prepared Third Round Housing Element and Fair Share Plans ("HEFSP") for a number of municipalities, including assisting the Borough of Watchung ("Borough") in the preparation of its Third Round HEFSP.

4. I make this Certification in support of the Borough's

motion for temporary immunity.

5. The Council on Affordable Housing ("COAH") calculated municipal affordable housing obligations beginning in 1987 in 6 year cycles, first for 1987 to 1993, and then through 1999.

A. First Round

6. The Borough received First Round Substantive Certification from COAH on September 26, 1988. The Borough had an obligation of 132 affordable units. This obligation was met through a 57 unit Regional Contribution Agreement with the Town of Phillipsburg, 60 units in Kings Crossing (changed to 40 rental units plus rental credits as part of renamed Crystal Ridge, now called Avalon at Watchung), nine rehabilitation units and 6 rental bonus credits.

B. Second Round

7. The Borough participated in the COAH process as part of the Second Round and submitted a Second Round HEFSP, dated August 1994, along with its petition for Second Round Substantive Certification on July 10, 1995. The Borough amended its Second Round HEFSP and forwarded it to COAH on April 4, 1998. The Borough received Second Round Substantive Certification from COAH on July 1, 1998. The Second Round Substantive Certification was extended by COAH to June 8, 2005, which was subsequently extended by COAH to December 31, 2008 for all municipalities.

8. The Borough's Second Round Substantive Certification required a 169 unit new construction obligation. The Borough had prepared a Vacant Land Adjustment ("VLA") which established its Realistic Development Potential ("RDP") at 169 units. This reduced the Borough's obligation by 37 units from the original COAH calculated fair share obligation of 206 units. These 37 units became Unmet Need.

9. The Borough's new construction obligation under the Second Round Substantive Certification was met with the exception of 19 units. The Third Round HEFSP accommodated these 19 units as part of a planned 100% affordable family rental development on municipal property.

C. Third Round

10. On November 29, 2005, the Borough adopted a Third Round HEFSP to address the then Third Round rules. The Borough petitioned COAH with its Third Round HEFSP on December 16, 2005. On December 28, 2005, COAH determined that the Borough's Third Round HEFSP was complete. On January 3, 2006, the Borough published notice for its HEFSP submittal. No objections were received.

11. After the Appellate Division voided portions of the original (2004) Third Round rules, COAH recalculated each municipality's prior round obligation, remaining rehabilitation component and anticipated residential and non-residential growth

through the year 2018, resulting in new affordable housing obligations for each municipality.

12. The Borough prepared and adopted a second Third Round HEFSP on December 2, 2008 to address these revised rules.

13. On December 30, 2008, the Borough's 2008 Third Round HEFSP was submitted to COAH with a Petition for Substantive Certification. On February 9, 2009, the Petition was deemed complete by COAH. After publication of the Borough's Third Round HEFSP Petition for Substantive Certification on February 13, 2009, there were two objectors to the Third Round HEFSP: The Fair Share Housing Center and a Watchung resident.

D. Third Round Mediation

14. On November 23, 2009, COAH issued a Premeditation Report, and the Borough supplied additional information, as was requested to COAH. Two mediation sessions were then held on December 8, 2009 and January 7, 2010.

15. As a result of the mediation sessions and to address questions raised by the Fair Share Housing Center, the Borough authorized the preparation of an Affordable Housing Overlay Study. This Study was submitted to COAH on April 28, 2010.

16. On May 18, 2010, the Fair Share Housing Center accepted the results of the Affordable Housing Overlay Study. On June 28, 2010, the Borough Attorney requested a letter from COAH officially terminating the mediation.

17. On July 20, 2010, after mediation, the Borough adopted an amended Third Round HEFSP which included a proposed Affordable Housing Overlay Zone to address the Unmet Need. The 2010 Third Round HEFSP was filed as a re-petition with COAH on September 26, 2011. On January 26, 2012, Watchung published notice of the re-petition; on April 5, 2012, Local Planning Services (substitute for COAH during effective period of Reorganization Plan No. 001-2011) acknowledged the Borough's re-petition and stated that at the end of the 45-day no objections were received.

18. Attached as Exhibit B is a true copy of the 2010 Third Round HEFSP.

E. Municipal Site

19. On June 13, 2012, the Borough received responses to a "Request for Proposals to Construct 20 Affordable Housing Family Rental Units on East Drive." The RFP included a representation that the Borough would "reimburse the successful Respondent for site work up to $435,000.00 from the Borough's Affordable Housing Trust Fund. Additionally, funds [were to] be available from the Borough's Affordable Housing Trust Fund for affordability assistance to tenants as defined in the applicable NJCOAH regulations, and the Borough's Spending Plan."

20. On June 13, 2012, the Borough received two (2) responses to the RFP from Homeless Solutions and RPM Development

Group.

21. On June 28, 2012, the Borough rejected the responses to the RFP because the responses were nonconforming and authorized reissuance of a revised RFP.

22. On July 24, 2012, the Executive Director of COAH sent the Borough a letter questioning whether the Borough had timely committed the expenditure of the Affordable Housing Trust Funds received by the Borough.

23. On August 10, 2012, the Borough responded to COAH. COAH did not respond to the Borough's letter.

24. The RFP was not reissued because, in part, the uncertainty created by COAH regarding the expenditure of Affordable Housing Trust Funds and COAH's failure to approve the Borough's Spending Plan as discussed below.

F. Spending Plan

25. The Borough's Spending Plan was submitted to COAH and revised consistent with COAH comments; the latest revision being May 20, 2013. On multiple occasions, the Borough requested that COAH take action to approve the Borough's Spending Plan. COAH did not take action.

26. Attached as Exhibit C is a true copy of the 2013 Spending Plan.

G. Conclusion

27. The Borough's 2010 Third Round HEFSP, as submitted to

COAH for certification, fully met the prior round obligation of 169 units, with 150 units constructed or approved credits, and the remaining 19 units as part of a planned 100% affordable family rental development on municipal property.

28. The Borough addressed its two unit rehabilitation obligation with an on-going Housing Rehabilitation Program. One rehabilitated home has been completed, with a second to be completed.

29. I hereby certify that the foregoing statements are true to the best of my knowledge and belief. I understand that if any of the foregoing statements are found to be willfully false, I am subject to punishment.

Marcia R. Shiffman

Marcia Shiffman, PP/AICP, LLA

Dated: July 1, 2015

List of Exhibits

A - Resume of Marcia Shiffman, PP. AICP, LLA

B - 2010 Third Round Housing Element and Fair Share Plan

C - 2013 Spending Plan

Exhibit A

MARCIA R. SHIFFMAN, PP, AICP, LLA

Department Manager/Planning-Public Sector

EDUCATION

- Master of Landscape Architecture, University of Michigan, 1976
- M.A. Graphics, Wayne State University, 1970
- K-12 Teacher Certification, Marygrove College, 1970
- B.F.A. Fine Arts, Wayne State University, 1969

PROFESSIONAL REGISTRATIONS

- Professional Planner (PP) New Jersey
- American Institute of Certified Planners (AICP)
- Licensed Landscape Architect (LLA) New Jersey

PROFESSIONAL AFFILIATIONS

- American Planning Association, New Jersey & Pennsylvania Chapters

PROFESSIONAL CERTIFICATIONS

- NJDOT Bicycle and Pedestrian Planning and Facilities Design Course
- NJDOT Certified Employee Transportation Coordinator Trainer and Approved ETR Plan Certifier
- 2007 Form-Based Codes 201 Course

EXPERIENCE

Ms. Shiffman brings a unique perspective to her work in urban planning, landscape architecture and transportation involving a diverse range of projects at the municipal, county and state levels. Her responsibilities have included the preparation of municipal master plans, land use regulations, housing plans, regional strategic plans, transportation plans, streetscape improvement projects and design guidelines. She has been engaged in work efforts in New Jersey, Delaware, Pennsylvania and New York State and has the proven ability to work effectively with regulatory agencies and the public, bringing projects to a successful and timely conclusion.

Ms. Shiffman has been licensed as a Professional Planner in New Jersey since 1981 and is a member of the American Institute of Certified Planners (AICP). She is also a Licensed Landscape Architect in New Jersey since 1985. She has served as a municipal planner (for Bridgewater and South Brunswick Townships in New Jersey) and as a planning consultant for over 20 New Jersey municipalities including those in urban, suburban and rural areas. As Project Manager for three innovative regional county strategic plans in New Jersey, Ms. Shiffman has successfully engaged municipalities, stakeholders, state and county agencies in determining their vision and creating a planning implementation agenda for future regional action.

With over 10 years' experience in transportation planning, Ms. Shiffman has experience in travel demand management, land use and transportation projects, multimodal corridor studies, long range transportation plans and NEPA Environmental Impact Statements for major highway improvement projects. She has proven skills in project management and community engagement as reflected through these successful projects. Her landscape architecture and design background has led to her successful work on streetscape improvement projects in New Jersey and Delaware, preparation of form based codes and the recent completion of a streetscape guidelines manual for Nicosia, Cyprus among other efforts.

PROJECTS

Municipal Planning

Master Plans

Prepared comprehensive master plans, master plan updates/amendments and reexamination reports for Englishtown, Milltown and Mt. Arlington Boroughs and Berkley, Bernards, Cranford, Dennis, Hazlet, Middle and Upper Townships. Recent master plans included detailed future build-out projections, capacity studies for water and sewer services to balance land development capacity and infrastructure. These reports included extensive GIS

maps and graphics. Prepared center-focused master plans based upon detailed natural resource inventories of critical coastal areas in New Jersey to focus growth appropriately. Project Manager for master plans for the cities of Tal Afar, Dujail and Dehloiyah in the Republic of Iraq.

Ordinances
Prepared regulatory ordinances to address master plan recommendations including comprehensive land development ordinances and regulations dealing with specific land use issues such as signage, parking, planned developments, assisted living facilities, landscaping, buffers, environmental checklists, architecture and design standards and zoning amendments. Prepared Form Based Code Design Guidelines for Upper Township, NJ and Dennis Township, NJ which included extensive graphics and design standards for their planned town centers and villages.

Affordable Housing
Over 25 years of experience in the preparation of municipal housing elements and fair share plans in response to the provisions of the NJ Fair Housing Act. Author of housing elements and fair share plans for the Boroughs of Fair Lawn, Mount Arlington, Englishtown and Watchung and the Townships of Bridgewater, Cranford, Franklin, Hazlet, Middle and Upper. Assistant to the Planning Master in Bethlehem, Woodcliff Lakes and Wycoff and provided support and testimony on housing litigation matters before trial courts. Knowledgeable of the Council on Affordable Housing procedures and requirements for substantive certification. Drafted affordable housing ordinances for Bridgewater, Cranford, Englishtown, Hazlet, Franklin, Middle, Mount Arlington, Upper and Watchung.

Redevelopment Plans
Oversaw the planning and implementation of the Bridgewater Commons, a successful regional mall and multiuse development which was the first 'blighted' redevelopment project in New Jersey. Served as project manager for the successful City of Rahway New Jersey Downtown Plan which has resulted in positive economic development growth in this transit center. Prepared the Bridgewater NJ 6th Avenue Redevelopment Plan, Area in Need of Redevelopment Plans for Beesley's Point in Upper Township, NJ and First Avenue Redevelopment Area in Roselle, NJ and coordinated on the Ford Avenue Redevelopment Plan in Milltown, NJ.

NJ State Plan Endorsement Petitions /Center Designations
Prepared plan endorsement petitions for Dennis, Middle and Upper Townships and Sea Isle City through NJ Smart Growth Grants. In 2007, Upper Township received the first awarded plan endorsement from the NJ State Planning Commission. Served as Consulting Planner for Essex County through the 2005 State Plan Cross Acceptance activities involving 22 municipalities and assisted Burlington County in their cross acceptance work.

Development Feasibility Studies/ Condemnation Cases

Prepared condemnation/development feasibility studies and court testimony for a number of New Jersey Department of Transportation right-of-way condemnation cases. Prepared successful case on the Lackawanna Cut-off Railroad right-of-way acquisition litigation and that of Sterling Forest, NJ. Prepared rezoning studies for numerous properties in New Jersey such as Merck & Co., Inc., Rahway, NJ, Morristown Hospital, Sea Isle City NJ Downtown Zone and others.

Environmental Studies

Prepared Environmental Impact Statements for over fifteen Michigan State Housing Development Authority projects serving elderly, mixed residential and group home developments. Project manager for Natural Resource Inventories for Blairstown, Dennis, Middle and Upper Townships, and Sea Isle City, NJ.

Regional Strategic Plans

Project Manager for three regional New Jersey smart growth studies, which involved extensive public outreach activities. The plans focused on building on the region's strengths. Through multiple workshops and meetings, a list of regional and local needs and alternatives were identified and implementation action agendas and strategic

plans were adopted. These regional studies included the Western/Southern Cumberland County Strategic Plan which included a detailed assessment of economic and environmental conditions, the Western Monmouth Plan which focused on transportation conditions for seven municipalities along and near the SR9 corridor and the Coastal Monmouth Plan which included 30 municipalities along the 27 mile Atlantic coastline of Monmouth County, NJ.

Project Manager for the Cape May County Wastewater Management Plan which includes extensive outreach and coordination efforts with the 16 municipalities, county, utilities, and NJDEP, preparation of municipal demographic projections and development buildout studies together with refined GIS maps to identify sewer service areas. A detailed nitrate dilution analysis was performed for septic service areas.

Successfully completed the Cape May County Transfer of Development Rights Strategic Plan which provided a detailed assessment of land use and environmental conditions within the unique barrier island and mainland municipalities in Cape May County considering regional and inter-municipal alternatives to protect and preserve the remaining environmentally sensitive coastal lands while allowing for balanced growth where appropriate.

Transportation Planning

Over 10 years' experience in NJDOT and PENNDOT transportation project development process and transportation planning practices. Project manager for socioeconomic, community, land use, secondary and cumulative impacts, and visual resources assessment sections for major transportation environmental studies such as the PA Route 220 EIS, Blair & Altoona Counties, PA, the Route 15 EIS, Tioga County, PA and Steuben County, NY, and US Route 22 Planning and Needs Study, Lehigh Valley MPO, Allentown, PA.

Project Manager for numerous multimodal corridor studies including needs assessments, planning level development of alternatives, travel demand management projects, transportation research and long range transportation plans. Highlights of this experience includes the Route 22 Corridor Improvement Plan in Warren County, NJ, the Route 27 Renaissance 2000 Transportation Plan in New Brunswick, NJ, Route 206 Access and System Management Study in Hillsborough, NJ, the Wilmington Delaware Corridors Study and the Route 73 Land Use and Transportation Study in Voorhees Township, NJ among others.

Prepared Long Range Transportation Plans for the Lackawanna and Luzerne County, PA. Metropolitan Planning Organization (MPO) and the State College PA. MPO. Authored the PennDOT Needs Assessment Handbook and gave workshops throughout Pennsylvania. Developed Community Impact Assessment Video for PennDOT. Project manager for Union County, NJ Commuter Choices - Route 22/ I-78 Corridor Study, a travel demand management study which included survey of employers, research in best business practices, and transit study for pilot shuttle program to serve corridor.

RELATED PROFESSIONAL WORK

- NJ Planning Officials Municipal Board Certification Program Trainer
- Highland Park Zoning Board of Adjustment, Member 1982-1995, Chairman 84-88, 93-95
- Main Street Highland Park Design Committee, 2004- Present
- Member, Economic Redevelopment and Revitalization Committee, Highland Park, NJ Member 1988-91, Chair, 1990-91
- Guest Lecturer, Edward Bloustein School, Rutgers University and NJ Federation of Planning Officials

AWARDS

- 2011 New Jersey Planning Officials' Achievement in Planning Award for Township of Middle Master Plan
- 2010 New Jersey Planning Officials' Achievement in Planning Award for Hazlet 2030 Vision Plan
- 2010 Monmouth County Planning Board Planning Award for Hazlet 2030 Vision Plan

BOROUGH OF WATCHUNG

SOMERSET COUNTY, NEW JERSEY

HOUSING ELEMENT & FAIR SHARE PLAN

DECEMBER 2008

AMENDED JULY 2010

Adopted by the
Borough of Watchung Planning Board on:
JULY 20, 2010

Prepared by:

MASER CONSULTING P.A.

Marcia R. Shiffman, PP, AICP, LLA
NJ Professional Planner's License #02428

The original of this document has been signed and sealed in accordance with New Jersey Law.

Exhibit B

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INTRODUCTION

According to the Fair Housing Act of 1985 and Mount Laurel I (Burlington County N.A.A.C.P. v. Borough of Mount Laurel, 67 N.J. 151 (1975)) and Mount Laurel II (South Burlington County N.A.A.C.P. v. Mount Laurel, 92, N.J. 158 (1983)) decisions, a Housing Plan Element must be designed to address the municipal fair share for low and moderate income housing as determined by the New Jersey Council on Affordable Housing ("COAH"), which is charged with determining need and creating the standards by which the Act is implemented.

This is the Borough of Watchung's second Housing Element and Fair Share Plan ("HEFSP") under COAH's revised Third Round methodology for the period 2004 to 2018. In December 2005, Watchung adopted a HEFSP and petitioned COAH for substantive certification. COAH has substantially redesigned the process that provides affordable housing opportunities in New Jersey municipalities. During the First and Second Rounds ("Prior Round"), using a predetermined formula, COAH allocated a specific number of units for which a municipality had to provide a realistic opportunity. The allocated number was based on housing and employment conditions in the municipality, any remaining Prior Round unit obligation that was not constructed, or otherwise committed for and deficient housing units occupied by low and moderate income housing units, known as the rehabilitation share.

The Third Round methodology, with the final version adopted by COAH on September 22, 2008, requires that a municipality's fair share consist of three elements:

1. Rehabilitation share;
2. Any remaining Prior Round obligation that was not provided for;
3. Growth Share
   - For every four market-rate residential units that receive a certificate of occupancy, one new affordable housing unit must be created.
   - For every sixteen jobs based upon receipt of certificates of occupancy arising from construction of new or expansion of existing non-residential structures, one affordable unit must be created using COAH formulae relating built non-residential space to number of employees.

MUNICIPAL SUMMARY

The Borough of Watchung contains about 6 square miles or 3,840 acres located in the northeastern corner of Somerset County, where it adjoins Union County. Within Somerset County, Watchung is bordered by Warren Township to the west and North Plainfield Borough and Green Brook Borough to the south. Watchung is also bordered by Union County, including Berkeley Heights Township to the north and Scotch Plains Township and the City of Plainfield to the east. The Borough is also bordered to the north and south by the Watchung Mountains. Mountain Boulevard and Valley Road traverse the entire Borough from southwest to northeast corner. Interstate 78 crosses through the northern corner and U.S. Route 22 through the southeast corner of the Borough.

Watchung is a developed suburban municipality with little vacant land remaining for new development. This is consistent with the 2001 State Development and Redevelopment Plan designation of nearly the entire Borough as PA2 Suburban Planning Area. A limited area of the Borough along U.S. Route 22 is designated PA1 Metropolitan Planning Area, which contains the Watchung Square regional shopping center and other more intensive non-residential uses. Environmental constraints affect selective areas in the Borough. Areas containing steep slopes of 15 percent or greater are located along the Watchung Mountains at the north and south of the Borough. Wetlands are primarily located in the floodplains along the Stony Brook and Green Brook stream corridors.

The Borough of Watchung first received substantive certification from COAH on September 26, 1988 to address a 132 unit obligation under the First Round. The 1988 certified plan included inclusionary zoning for 60 affordable units, a 9 unit rehabilitation program, 6 rental bonus credits and a 57 unit regional contribution agreement ("RCA") with the Town of Phillipsburg (Warren County). Watchung then received Second Round substantive certification on July 1, 1998 for its HEFSP, which was subsequently amended on May 3, 2000. As part of the Second Round petition, COAH approved a reduction of Watchung's Prior Round obligation for 169 affordable units resulting from a Vacant Land Adjustment. Watchung was also granted an extension of its Second Round certified plan through June 8, 2005, which was subsequently extended by COAH to December 31, 2008 for all municipalities. Watchung also filed a petition for Third Round certification on December 16, 2005 but its HEFSP was not certified by COAH. Watchung adopted a revised HEFSP on December 2, 2008 and petitioned COAH for Third Round substantive certification under COAH's revised rules (N.J.A.C. 5:96 & 5:97) on December 30, 2008. The Borough of Watchung is now amending its HEFSP to provide an Affordable Housing Overlay Zone to address the Borough's 37-unit unmet need and other potential growth share opportunities; and also to incorporate revisions to the calculations of the growth share projection, as a result of COAH review of the Plan.

For the Third Round, COAH has determined that Watchung has a rehabilitation obligation of 12 units, a 206 unit Prior Round obligation and a Third Round growth share obligation of 73 units, based upon COAH estimated housing growth of 131 housing units and employment growth of 749 jobs. This is a combined total of 291 units.

With the previously approved 1998 Vacant Land Adjustment, the Prior Round obligation is reduced to 169 units. As permitted by COAH's revised rules (N.J.A.C. 5:97-5.6), Watchung is also requesting an adjustment of household and employment growth projections, which would reduce the Third Round obligation to 42 affordable units. Additionally, an exterior conditions survey was performed by the Borough Construction Official, which would reduce the rehabilitation share to 2 units. In total, these adjustments would produce a total obligation of 213 affordable units to be addressed in the Third Round.

GOAL

It is the overall goal of Watchung's HEFSP to provide the planning context in which access to low- and moderate-income housing can be provided in accordance with the requirements of the Fair Housing Act and the laws of the State of New Jersey.

CONTENT of HOUSING ELEMENT

The Municipal Land Use Law ("MLUL") requires that "the housing element be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing." The Fair Housing Act (N.J.S.A. 52:27D-310) requires a Housing Element to contain at least the following items:

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

In addition to the requirements of the Fair Housing Act set forth above, COAH regulations (N.J.A.C. 5:97-2.3(a)) require the HEFSP to include the following:

1. Household projection in Appendix F(2) of COAH's Third Round Rules
2. Employment projection in Appendix F(2) of COAH's Third Round Rules
3. Prior Round obligation in Appendix C of COAH's Third Round Rules
4. Rehabilitation share in Appendix B of COAH's Third Round Rules
5. Projected growth share in accordance with N.J.A.C. 5:97-2.4
6. Copy of most recently adopted municipal zoning ordinance
7. Copy of most up to date tax maps

HOUSING ELEMENT

I. HOUSING CHARACTERISTICS

TOTAL HOUSING STOCK

The Borough's housing stock includes single-family detached units, single-family attached units, multi-family dwelling units and mobile homes for a total of 2,155 housing units. Consistent with the suburban nature of the community, the majority of the housing stock consists of owner-occupied single-family detached housing. Including the 47 single-family attached dwelling units, single-family dwelling units account for 1,797 units or 83.4 percent of the Borough's total housing stock. Only 349 units or 16.1 percent of the Borough's housing stock are multi-family units containing two or more units, the majority of which are within Kings Crossing (Crystal Ridge Club), an inclusionary housing development located along Route 22. Additionally, there are 9 mobile homes in the Borough, accounting for 0.4 percent of the total housing stock. As of the 2000 U.S. Census, there were 2,098 occupied housing units in Watchung; 57 units were classified as vacant. Of the 2,098 occupied housing units in the Borough, 1,701 units, or 81.1 percent were owner occupied and 397 units, or 18.9 percent were rentals.

HOUSING TYPE BY UNITS IN STRUCTURE		
Unit Type	**Number**	**Percent of Total**
1, Detached	1,750	81.2%
1, Attached	47	2.2%
2	21	1.0%
3 or 4	31	1.4%
5 to 9	82	3.8%
10 to 19	117	5.4%
20 or more	98	4.5%
Mobile Home	9	0.4%
Other	0	0.0%
Total	2,155	
Vacant Units (non-seasonal)	57	
Median Rooms Per Unit	7.3	

Sources: US Census Bureau DP-4 Profile of Selected Housing Characteristics: 2000; DP-1 Profile of General Demographic Characteristics: 2000

PURCHASE AND RENTAL VALUE OF HOUSING STOCK

Of the 1,701 owner-occupied units, the 2000 U.S. Census surveyed 1,635 owner-occupied dwelling units for additional information, including housing values. Of those 1,635 units, only 0.7 percent, or 11 dwellings, fell into the $99,000 or less bracket, which qualifies as affordable housing. The median value of owner-occupied housing in Watchung Borough was $429,400.

VALUE OF OWNER OCCUPIED UNITS		
Value	**Number of Units**	**Percent of Total**
Less than $50,000	0	0.0%
$50,000 to $99,999	11	0.7%
$100,000 to $149,999	0	0.0%
$150,000 to $199,999	60	3.7%
$200,000 to $299,999	292	17.9%
$300,000 to $499,999	674	41.2%
$500,000 to $999,999	458	28.0%
$1,000,000 or more	140	8.6%
Total Units	**1,635**	
Median (in dollars)	$429,400	

Source: US Census Bureau DP-4. Profile of Selected Housing Characteristics: 2000

According to the 2000 U.S. Census, there were 398 rental units in Watchung Borough. The 2000 median gross rent for Watchung Borough was $854.

COST OF RENTALS		
Cost	Number of Units	Percent of Total
Less than $200	0	0.0%
$200 to $299	0	0.0%
$300 to $499	11	2.8%
$500 to $749	21	5.3%
$750 to $999	283	71.1%
$1,000 to $1,499	74	18.6%
$1,500 or more	9	2.3%
No cash rent	0	0.0%
Total Units	**398**	
Median (in dollars)	$854	

Source: DP-4. Profile of Selected Housing Characteristics: 2000

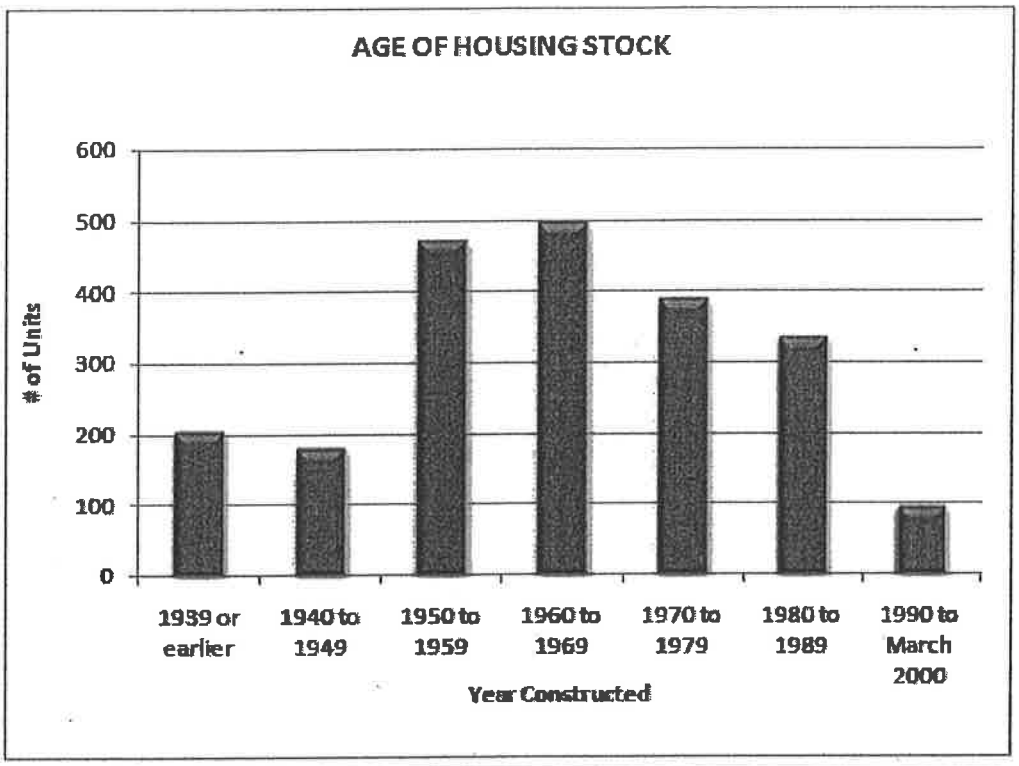
CONDITION OF HOUSING STOCK

The Census does not classify housing units as standard or substandard, but it can provide an estimate of substandard housing units that are occupied by low and moderate income households. COAH uses the Census to determine which units are overcrowded, with more than one person living per room, and dilapidated – lacking complete plumbing and/or kitchen facilities. COAH computes a municipality's rehabilitation share by adding together the number of overcrowded and dilapidated units and then multiplying that sum by the municipality's regional low/moderate-income deterioration share. Subtracted from this result is any rehabilitation share credit.

Year Structure Built

COAH's new methodology for calculating a municipality's rehabilitation obligation has made one significant change from the methods presented in the original Third Round Rules. Housing units built in 1949 or earlier are now flagged instead of units built in 1939 or earlier. Research has demonstrated that units built 50 or more years ago are much more likely to be in substandard condition. Included in the rehabilitation calculation are overcrowded units and dilapidated housing. Overcrowded units are defined by the U.S. Department of Housing and Urban Development as those with more than one person living per room. Finally, COAH includes dilapidated housing – lacking complete plumbing and/or kitchen facilities as reported by the 2000 U.S. Census.

Approximately 17.6 percent (or 379 units) of Watchung's housing stock was constructed before 1950. COAH has cited an obligation of 12 rehabilitation units for the Borough, reflecting the relatively good condition of these older homes. The decade between 1960 and 1969 produced the Borough's largest amount of housing units (494 units).



AGE OF HOUSING STOCK		
Year Built	**Total Units**	**Percent**
1939 or earlier	202	9.4%
1940 to 1949	177	8.2%
1950 to 1959	468	21.7%
1960 to 1969	494	22.9%
1970 to 1979	387	18.0%
1980 to 1989	334	15.5%
1990 to March 2000	93	4.3%
Total Units	**2,155**	

Source: US Census Bureau H-34. Year Structure Built: 2000

Persons Per Room

More than 1.00 persons per room is an index of overcrowding. The majority of the occupied housing units in Watchung Borough have 1.00 occupants per room or less, with only 1.6 percent having more.

Occupants Per Room		
Occupants	**Number of Units**	**Percent of Total**
1.00 or less	2,064	98.4%
1.01 to 1.50	24	1.1%
1.51 or more	10	0.5%
Total Units	**2,098**	

Source: US Census Bureau DP-4. Profile of Selected Housing Characteristics: 2000

Plumbing Facilities

Inadequate plumbing facilities are indicated by either a lack of exclusive use of plumbing or incomplete plumbing facilities. The 2000 U.S. Census indicates that only 8 units or 0.4 percent of the total housing stock within Watchung Borough lacks complete plumbing facilities.

Kitchen Facilities

Inadequate kitchen facilities are indicated by shared use of a kitchen or the lack of a sink with piped water, a stove or a refrigerator. The 2000 U.S. Census indicates that 0 units within Watchung Borough lacks complete kitchen facilities.

Heating Fuel

Fuel sources such as coal, coke, wood or no fuel for heating are classified as inadequate heating. A total of 12 units or 0.6 percent of the Borough's total occupied housing units may have inadequate heating, since they are cited as using wood as the primary fuel source for heat.

CONDITION OF HOUSING STOCK		
Fuel Type	**Number of Units**	**Percent of Total**
Lack of complete plumbing	8	0.4%
Lack of complete kitchen	0	0.0%
Lack of telephone service	0	0.0%
Lack of adequate heat	0	0.0%
Utility gas	1,477	70.4%
Bottled, tank, or LP gas	16	0.8%
Electricity	165	7.9%
Fuel oil, kerosene, etc.	428	20.4%
Coal or coke	0	0.0%
Wood	12	0.6%
Solar energy	0	0.0%
Other fuel	0	0.0%
No fuel used	0	0.0%
Total Units	**2,098**	

Source: US Census Bureau DP-4. Profile of Selected Housing Characteristics: 2000

Most of the Census indicators available at the municipal level indicate a sound housing stock. Approximately 98.4 percent of the units are occupied by 1 person per room or less. The vast majority of the housing stock has complete plumbing facilities (99.6 percent), telephone service (100.0 percent) and complete kitchen facilities (100.0 percent) and most of the units are heated with standard heating fuels (98.1 percent).

II. POPULATION DEMOGRAPHICS

POPULATION

Based upon the 2000 U.S. Census data, Watchung Borough had a net population increase of 323 persons or 6 percent over the last 20 years. Between 1980 and 1990, there was actually a 3.4 percent decline in population with a 9.8 percent increase again in 2000. This wavering population is indicative that the Borough is nearing or has already reached full buildout. During the last ten years, the Kings Crossing (Crystal Ridge Club) development was completed, which added rental apartments, including affordable family units in the Borough.

POPULATION GROWTH			
Year	Population	Change	Percent
1980	5,290	---	---
1990	5,110	-180	-3.4%
2000	5,613	503	9.8%

Source: US Census Bureau DP-1. Profile of General Demographic Characteristics: 2000, 1990, & 1980

With limited growth between 1990 and 2000, Watchung Borough's population grew at a much slower rate than Somerset County and but higher than the State on the whole. Watchung Borough saw a population increase of 9.8 percent based upon the U.S. Census data for 1990 and 2000. Somerset County had a increase of 23.8 percent and the State had an increase of 8.9 percent in total population during the same time period.

POPULATION GROWTH					
	Population		Change in Pop.	Percent Change	Annual Growth Rate
	1990	2000			
Watchung Borough	5,110	5,613	503	9.8%	50
Somerset County	240,279	297,490	57,211	23.8%	5,721
New Jersey	7,730,188	8,414,350	684,162	8.9%	68,416

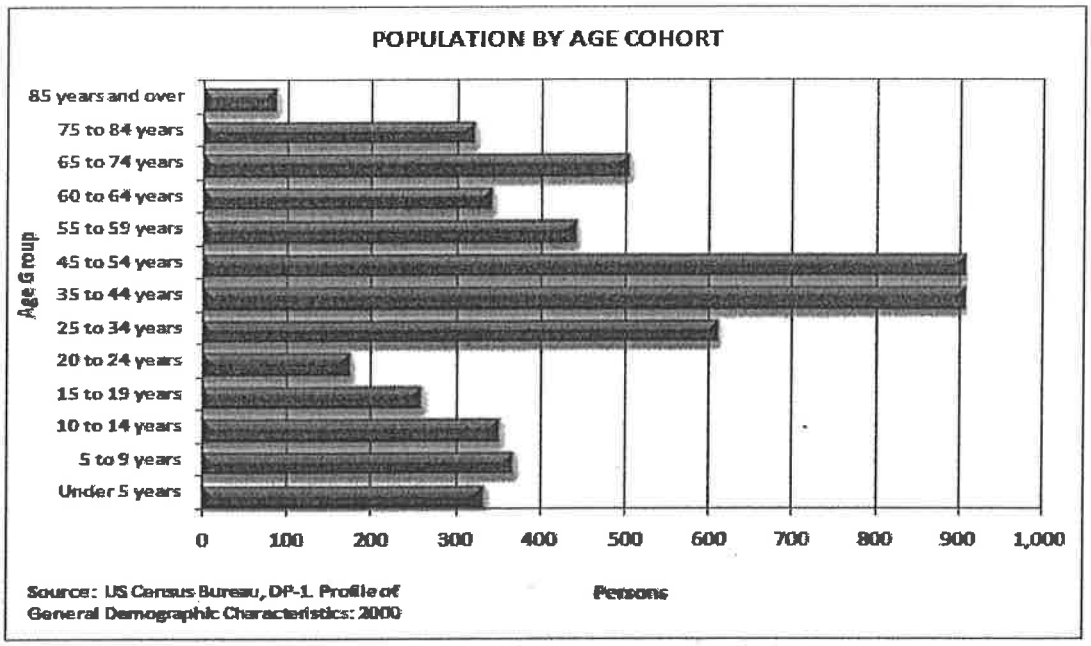
Source: US Census Bureau DP-1. Profile of General Demographic Characteristics: 2000 & 1990

By 2030, the North Jersey Transportation Planning Authority (NJTPA) projects that Watchung's population will increase to 6,350, a net gain of 740 persons or an average gain of 25 persons annually. Since the NJTPA projections are based on 1990 and 2000 U.S. Census figures for population by age, sex and race, and fertility and mortality rates, and does not account for actual local conditions such as land availability, the projections are much higher than the Borough anticipates.

PERMANENT POPULATION PROJECTION			
Year	Population	Change	Percent
2000	5,610	---	---
2005	5,820	210	3.7%
2010	5,880	60	1.0%
2015	5,940	60	1.0%
2020	6,100	160	2.7%
2025	6,260	160	2.6%
2030	6,350	90	1.4%

Source: NJTPA Population Forecast by County and Municipality 2000 - 2030

According to the U.S. Census, the median age in Watchung Borough in 2000 was 43.0. About 16.2 percent or 914 residents were age 65 or older.

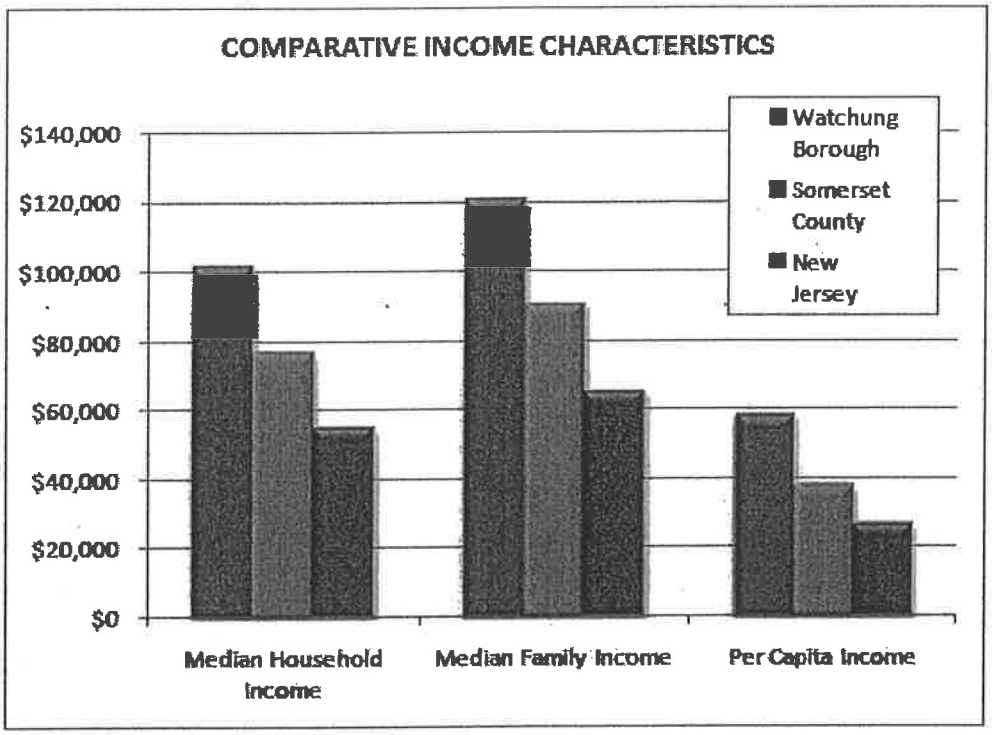


POPULATION BY AGE COHORT		
Age	**Total**	**Percent**
Under 5 years	334	6.0%
5 to 9 years	369	6.6%
10 to 14 years	352	6.3%
15 to 19 years	259	4.6%
20 to 24 years	175	3.1%
25 to 34 years	611	10.9%
35 to 44 years	907	16.2%
45 to 54 years	908	16.2%
55 to 59 years	442	7.9%
60 to 64 years	342	6.1%
65 to 74 years	505	9.0%
75 to 84 years	322	5.7%
85 years and over	87	1.5%
Total Population	**5,613**	

Source: US Census Bureau DP-1. Profile of General Demographic Characteristics: 2000

INCOME AND POVERTY STATUS

The 2000 U.S. Census indicates that the median household income in 1999 for Watchung ($101,944) was higher than Somerset County ($76,933) and significantly higher than that of the State ($55,146). The per capita income is higher in Watchung ($58,653) than Somerset County ($37,970) and significantly higher than that of the State ($27,006). On a percentage basis, less persons and families in Watchung (2.2 percent/0.5 percent) fall within poverty status than Somerset County and the State.



INCOME CHARACTERISTICS			
Income Type	**Watchung Borough**	**Somerset County**	**New Jersey**
Median Household Income	$101,944	$76,933	$55,146
Median Family Income	$120,764	$90,605	$65,370
Per Capita Income	$58,653	$37,970	$27,006
Poverty Status (Percent of People)	2.2%	3.8%	8.5%
Poverty Status (Percent of Families)	0.5%	2.3%	6.3%

Source: US Census Bureau DP-3. Profile of Selected Economic Characteristics: 2000

The 2000 U.S. Census indicates that 20.3 percent of Watchung's households had an income of $200,000 or more in 1999 which is 16 percent higher than the State. About 50.1 percent of Watchung's households had an income of $100,000 or more, while the County had 36.0 percent and the State had 21.4 percent of their households within the same bracket.

HOUSEHOLD INCOME						
	Watchung Borough		Somerset County		New Jersey	
	Total	Percent	Total	Percent	Total	Percent
Less than $10,000	37	1.8%	3,145	2.9%	213,939	7.0%
$10,000 to $14,999	64	3.0%	3,009	2.8%	143,783	4.7%
$15,000 to $24,999	47	2.2%	6,238	5.7%	288,606	9.4%
$25,000 to $34,999	114	5.4%	7,056	6.5%	305,449	10.0%
$35,000 to $49,999	152	7.2%	12,585	11.5%	437,373	14.3%
$50,000 to $74,999	382	18.2%	21,109	19.4%	608,244	19.8%
$75,000 to $99,999	232	11.0%	16,763	15.4%	413,928	13.5%
$100,000 to $149,999	409	19.5%	19,926	18.3%	391,123	12.8%
$150,000 to $199,999	237	11.3%	9,259	8.5%	130,492	4.3%
$200,000 or more	426	20.3%	9,980	9.2%	132,837	4.3%
Households	2,100		109,070		3,065,774	
Median Household (in persons)	2.94		2.75		2.68	

Source: US Census Bureau DP-3. Profile of Selected Economic Characteristics: 2000

HOUSEHOLD SIZE

The average household size in Watchung, according to the 2000 U.S. Census, was 2.62 persons. By comparison the average household size of Somerset County and New Jersey was 2.69 and 2.68 persons, respectively.

AGE DISTRIBUTION OF POPULATION

In 2000, 23.4 percent of Watchung's population was 19 years of age and younger, while 16.3 percent of the population or 914 persons were 65 years or older. This represents a 31 percent increase in the senior population from 1990, when there were 693 persons 65 years or older. Similarly, Somerset County also experienced a 28 percent increase in people over 65 years, while the State increased by 8 percent against 1990 figures.

AGE DISTRIBUTION						
Age Group	Watchung Borough		Somerset County		New Jersey	
	Total	Percent	Total	Percent	Total	Percent
Under 5 years	334	6.0%	22,207	7.5%	563,785	6.7%
5 to 9 years	369	6.6%	22,783	7.7%	604,529	7.2%
10 to 14 years	352	6.3%	20,554	6.9%	590,577	7.0%
15 to 19 years	259	4.6%	15,415	5.2%	525,216	6.2%
20 to 24 years	175	3.1%	12,547	4.2%	480,079	5.7%
25 to 34 years	611	10.9%	42,367	14.2%	1,189,040	14.1%
35 to 44 years	907	16.2%	58,297	19.6%	1,435,106	17.1%
45 to 54 years	908	16.2%	43,861	14.7%	1,158,898	13.8%
55 to 59 years	442	7.9%	15,170	5.1%	423,338	5.0%
60 to 64 years	342	6.1%	10,908	3.7%	330,646	3.9%
65 to 74 years	505	9.0%	17,770	6.0%	574,669	6.8%
75 to 84 years	322	5.7%	11,482	3.9%	402,468	4.8%
85 years and over	87	1.5%	4,129	1.4%	135,999	1.6%
Total	**5,613**		**297,490**		**8,414,350**	
Median Age	43		37		37	

Source: US Census Bureau DP-1. Profile of General Demographic Characteristics: 2000

III. EMPLOYMENT DEMOGRAPHICS

ECONOMIC DEVELOPMENT

Watchung Borough is primarily residential but also contain intensive commercial uses along the Route 22 corridor in the southern portion of the Borough, including the regional-oriented retail uses of Watchung Square and limited non-residential uses along Mountain Avenue. With limited vacant land available, future development will primarily take place in the form of private redevelopment or revitalization.

According to New Jersey Department of Labor and Workforce Development (NJDLWD) data from 2003, approximately 291 businesses make their home in Watchung. Of these businesses, the two largest categories are in retail (22 percent) and professional and technical services (18 percent).

EMPLOYMENT PROJECTIONS

According to the NJTPA, as of 2000, there were 8,400 jobs in Watchung Borough. By 2030, the NJTPA estimates 11,090 total jobs in Watchung, a net increase of 2,690 jobs or an average of 90 new jobs annually. However, since these projections do not account for actual local conditions such as lack of vacant land or infrastructure limitations, the Borough anticipates far fewer jobs than the NJTPA projects.

EMPLOYMENT PROJECTION			
Year	**Jobs**	**Change**	**Percent**
2000	8,400	---	---
2005	8,670	270	3.2%
2010	8,720	50	0.6%
2015	9,550	830	9.5%
2020	10,260	710	7.4%
2025	10,740	480	4.7%
2030	11,090	350	3.3%

Source: NJTPA Employment Forecast by County and Municipality 2000 - 2030

WORKERS BY INDUSTRY

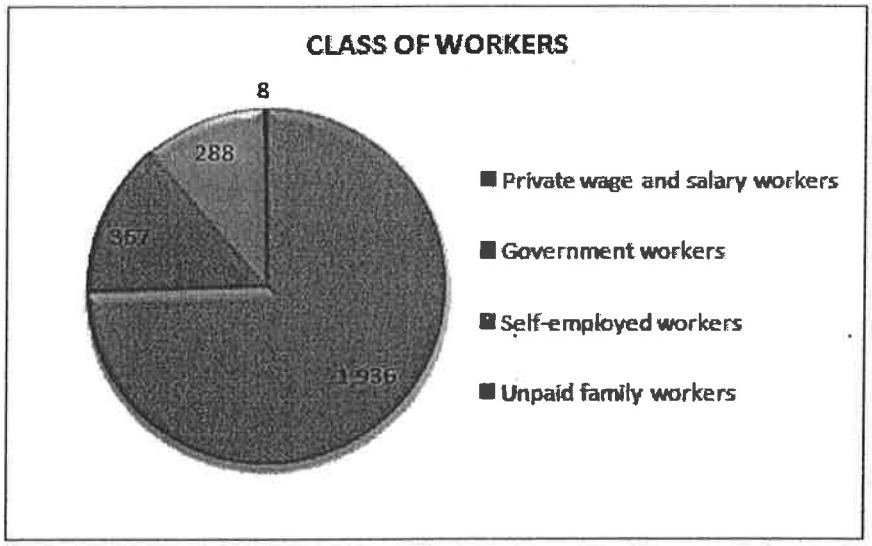
According to the NJDLWD, in 2003 Watchung contained 291 business establishments in the private sector. Professional and technical service industries held 22 percent of the private sector establishments. However, the retail industry employed half of the employees in 2003. At $93,069, the finance and insurance industry had the highest average annual wages.

EMPLOYMENT BY INDUSTRY SECTOR AND NUMBER OF EMPLOYEES (2003)					
Industry	Establishments		Employees		Wages
	Total	Percent	Total	Percent	
Construction	23	8%	65	2%	$34,946
Manufacturing	4	1%	55	1%	$52,327
Wholesale trade	15	5%	24	1%	$73,587
Retail trade	53	18%	1,944	50%	$20,725
Transportation and warehousing	4	1%	28	1%	$44,536
Finance and insurance	24	8%	153	4%	$93,069
Real estate and rental and leasing	8	3%	28	1%	$66,209
Professional and technical services	64	22%	406	11%	$61,272
Educational services	3	1%	35	1%	$46,340
Health care and social assistance	35	12%	422	11%	$55,349
Accommodation and food services	24	8%	438	11%	$15,087
Other services, except public administration	25	9%	78	2%	$30,265
Unclassified entities	9	3%	7	0%	$32,240
PRIVATE SECTOR TOTAL	291	99%	3,683	95%	$31,486
LOCAL GOVERNMENT TOTAL	3	1%	178	5%	$47,065

Source: NJ Department of Labor and Workforce Development, Employment and Wages, 2003 Annual Report

WORKER CLASS

The 2000 U.S. Census reports on work activity of residents age 16 years and older. Of those 16 years and older, 1,529 out of 2,134 males and 1,170 out of 2,367 females were in the labor force in 2000. Most Watchung residents worked in the private sector.



CLASS OF WORKER		
Class of Worker	**Number**	**Percent**
Private wage and salary workers	1,936	74.5%
Government workers	367	14.1%
Self-employed workers	288	11.1%
Unpaid family workers	8	0.3%
Total employed residents	2,599	57.7%
Total unemployed residents	100	2.2%
Total residents in labor force	2,699	60.0%

Source: US Census Bureau DP-3. Profile of Selected Economic Characteristics: 2000

An analysis of the employed Watchung residents (over age 16) by economic sector indicates that most of Watchung's workers were involved in educational, health and social services, followed by manufacturing. This is the same trend within the Somerset County except that Watchung has higher percentages of its class employed civilian population in these occupations.

EMPLOYED CIVILIAN POPULATION BY INDUSTRY (16 YEARS OF AGE OR OLDER)				
Occupation	Watchung Borough		Somerset County	
	Total	Percent	Total	Percent
Agriculture, forestry, fishing, hunting, and mining	0	0.0%	552	0.4%
Construction	243	9.3%	7,707	5.0%
Manufacturing	372	14.3%	24,133	15.7%
Wholesale trade	87	3.3%	6,221	4.0%
Retail trade	153	5.9%	14,710	9.5%
Transportation and warehousing, and utilities	91	3.5%	5,836	3.8%
Information	96	3.7%	11,835	7.7%
Finance, insurance, real estate, rental and leasing	288	11.1%	16,725	10.9%
Professional, scientific, management, administrative, and waste management services	351	13.5%	23,019	14.9%
Educational, health and social services	682	26.2%	26,365	17.1%
Arts, entertainment, recreation,	108	4.2%	7,196	4.7%
Other services (except public administration)	58	2.2%	5,493	3.6%
Public administration	70	2.7%	4,240	2.8%
Total	**2,599**		**154,032**	

Source: US Census Bureau DP-3. Profile of Selected Economic Characteristics: 2000

PLACE OF WORK

The 2000 U.S. Census provides statistics on place of work in relation to the state, county and municipality of residence. Of the 2,599 employed persons residing in Watchung Borough in 2000, 413 persons or 16.2 percent were employed in town, leaving 2,129 Watchung residents that worked outside of the municipality. About 15.7 percent of Watchung's employed residents worked in other Somerset County municipalities.

Despite its proximity to Interstate 78, a prominent access road to New York City, only 6.8 percent of the working population commuted to work in another state. Conversely, given its adjacency to urban centers in other counties, it is no surprise that over two-thirds of the population commute to work outside of Somerset County.

PLACE OF WORK						
Place of Work	Watchung Borough		Somerset County		New Jersey	
	Total	Percent	Total	Percent	Total	Percent
Worked within municipality of residence	413	16.2%	25,431	16.8%	761,684	19.6%
Worked outside of municipality but within county of residence	400	15.7%	40,910	27.0%	1,364,495	35.2%
Worked outside county of residence but within the state	1,556	61.2%	75,168	49.7%	1,270,606	32.8%
Worked in state of residence	2,369	93.2%	141,509	93.5%	3,396,785	87.6%
Worked outside state of residence	173	6.8%	9,775	6.5%	479,648	12.4%
Total Employed	2,542		151,284		3,876,433	

Source: US Census Bureau P26. PLACE OF WORK FOR WORKERS 16 YEARS AND OVER–STATE AND COUNTY LEVEL and P29. PLACE OF WORK FOR WORKERS 16 YEARS AND OVER–MINOR CIVIL DIVISION LEVEL

TRAVEL TIME TO WORK

The mean commute time among Watchung residents is 29 minutes, with only 8.8 percent of the population having a travel time of less than 10 minutes. This is only slightly lower than the County and State mean commute time of 30 minutes. A higher percentage of Watchung residents work at home (8.5 percent) as compared to the County (3.6 percent) and the State (2.7 percent)

COMMUTE TIME						
Commute Time (in minutes)	Watchung Borough		Somerset County		New Jersey	
	Total	Percent	Total	Percent	Total	Percent
Less than 5	17	0.7%	3,292	2.2%	99,241	2.6%
5 to 9	206	8.1%	11,329	7.5%	347,598	9.0%
10 to 14	265	10.4%	17,614	11.6%	482,988	12.5%
15 to 19	317	12.5%	20,123	13.3%	510,571	13.2%
20 to 24	303	11.9%	20,049	13.3%	497,467	12.8%
25 to 29	183	7.2%	9,908	6.5%	210,226	5.4%
30 to 34	387	15.2%	19,365	12.8%	492,539	12.7%
35 to 39	101	4.0%	5,426	3.6%	109,571	2.8%
40 to 44	163	6.4%	6,873	4.5%	156,148	4.0%
45 to 59	127	5.0%	14,475	9.6%	352,609	9.1%
60 to 89	182	7.2%	10,310	6.8%	335,777	8.7%
90 or more	76	3.0%	7,082	4.7%	175,142	4.5%
Did not work at home:	2,327	91.5%	145,846	96.4%	3,769,877	97.3%
Worked at home	215	8.5%	5,438	3.6%	106,556	2.7%
Total:	2,542		151,284		3,876,433	
Mean travel time	29		30		30	

Source: US Census Bureau P31. TRAVEL TIME TO WORK FOR WORKERS 16 YEARS AND OVER

IV. PROJECTED GROWTH SHARE

MEASURING THE ACTUAL GROWTH SHARE OBLIGATION

"Growth Share" is the affordable housing obligation generated in Watchung by both residential and non-residential development between January 1, 2004 and December 31, 2018. Watchung's actual growth share obligation is composed of two components: residential and non-residential growth. The actual residential growth share obligation is the total number of market-rate residential certificates of occupancy issued within the Borough between January 1, 2004 and December 31, 2018. For every four market-rate residential units issued a certificate of occupancy from January 1, 2004 to December 31, 2018, one

additional unit affordable to low and moderate income households must be provided in a manner approved by COAH. Also for every sixteen new jobs added to the municipality from January 1, 2004 to December 31, 2018, one unit affordable to low and moderate income households must be provided. Appendix D of the Third Round Rules provides the ratios for non-residential square footage generating one affordable unit and jobs per 1,000 square feet for each use group. The following chart summarizes the non-residential growth share calculation ratios:

NON-RESIDENTIAL GROWTH SHARE CHART			
Use Group	Description	Square Feet Generating One Affordable Unit	Jobs Per 1,000 Square Feet
B Office	Includes corporate offices, banks, outpatient clinics, motor vehicle showrooms, and offices in higher education institutions	5,714	2.8
M Mercantile	Buildings that display and sell products, includes retail stores, shops, gas stations	9,412	1.7
F Factory Industrial	Factories where products are made, processed, or assembled	13,333	1.2
S Storage	Includes warehouses, lumberyards	16,000	1
H Hazardous	High hazard manufacturing, processing, generation and storage uses	10,000	1.6
A1 Assembly	Includes theaters, concert halls, tv studios	10,000	1.6
A2 Assembly	Includes casinos, night clubs, restaurants	5,000	3.2
A3 Assembly	Includes libraries, lecture halls, arcades, galleries, funeral parlors, gymnasiums, museums, excluding houses of worship	10,000	1.6
A4 Assembly	Includes arenas, skating rinks and pools	4,706	3.4
A5 Assembly	Includes amusement park structures and stadiums	6,154	2.6
E Education	Schools K-12	Exclude	Exclude
Various	Includes institution of higher learning	Exclude	Exclude
I Institutional	Includes assisted living facilities, hospitals, nursing homes, jails and day care facilities	6,154	2.6
R1 Hotel	Includes hotel, motel, dormitories and continuing care retirement communities	9,412	1.7
U Utility	Includes miscellaneous uses such as fences, tanks, barns, agricultural buildings, sheds, greenhouses, etc.	Exclude	Exclude

HOUSING PROJECTIONS

COAH requires each municipality to project the municipality's housing stock growth through the end of 2018, based on the household growth projections provided in N.J.A.C. 5:97 Appendix F. The Borough of Watchung's household growth is projected at a net growth of 131 households during the Third Round period, based on 2,477 estimated households in 2004 and 2,608 allocated households at the end of 2018, as provided in Appendix F. If constructed as projected, these 131 housing units would generate a Third Round obligation of 26.2 affordable housing units.

EMPLOYMENT PROJECTIONS

COAH also requires each municipality to determine the non-residential component of its growth share obligation based on the employment growth projections provided in N.J.A.C. 5:97 Appendix F. The Borough of Watchung's employment growth is projected at a net gain of 749 jobs during the Third Round period, based on 5,855 estimated jobs in 2004 and 6,604 allocated jobs at the end of 2018, as provided in Appendix F. If non-residential space is constructed as projected, these 749 jobs would generate a Third Round obligation of 46.8 affordable housing units.

Although COAH projects 131 new housing units and 749 new jobs in Watchung during the Third Round with a Growth Share obligation ("GSO") of 73 affordable units, the Borough may request an adjustment of its household and employment growth projections based on an analysis of vacant land capacity, pursuant to N.J.A.C. 5:97-5.6, provided that the result is at least 10 percent less than COAH's projections. As detailed in the Adjustments section of the Fair Share Plan and 'Worksheet C' in the Appendix, the Borough's adjusted GSO is 42 affordable units. This is based on COs issued from 2004 to 2008, approved development that has not yet been issued a CO as of 2009, and potential new development on remaining vacant properties.

V. CAPACITY FOR FAIR SHARE

A determination of Watchung's present and probable fair share for affordable housing, along with the capacity to accommodate those units, is required by COAH. Based on COAH's allocated household and employment growth, Watchung is projected to generate an obligation of 73 affordable housing units between 2004 and 2018. However, based on an analysis of Watchung's vacant land, Watchung must plan for 42 total units, which is 42 percent less than the COAH projected obligation of 73 units. With limited vacant land for new construction, it is expected that construction will be through private commercial redevelopment or residential tear-downs.

ZONING ANALYSIS

Although the Borough has seen a moderate amount of development in recent years, the Borough anticipates that development will be limited in the future because of limited remaining vacant land availability and the status of the marketplace. As a built-out community, Watchung's zoning is primarily a

derivative of existing development patterns. Any future development that occurs is expected to be in the form of redevelopment or revitalization of existing development.

ANTICIPATED LAND USE PATTERNS

The pattern of development is not expected to change in Watchung. The Borough is almost completely built-out and the development pattern is set. Private redevelopment and revitalization may occur but will not affect the overall suburban residential character of the Borough.

AVAILABILITY OF PUBLIC WATER AND SEWER INFRASTRUCTURE

As documented by the Borough Engineer, approximately 80 percent of the Borough is currently serviced by public sewer, which is treated by the Middlesex County Utilities Authority. The remainder of the Borough is on septic systems. It is anticipated that the Borough will be fully sewered within the next 8 to 10 years. The Borough is also within the New Jersey American Water Company franchise area, which provides water to the Borough.

CONSTRAINTS ON DEVELOPMENT

The primary constraint on development in Watchung is the lack of vacant land. The majority of the remaining vacant lands are encumbered with environmental features, such as wetlands or steep slopes, rendering them unbuildable.

State Development and Redevelopment Plan

According to COAH regulations (N.J.A.C. 5:97-3.13.b.1), "Sites that are located in Planning Areas 1 or 2 or located within a designated center or located in an existing sewer service area are the preferred location for municipalities to address their fair share obligation." The Borough is within the PA2 Suburban Planning Area, however, a small portion of the Borough along Route 22 is designated as PA1 Metropolitan. The sites addressing the Borough's housing obligation are located within PA1 or PA2 and therefore meet these requirements.

CONTENTS of FAIR SHARE PLAN

The following information is required by COAH as part of the Fair Share Plan (N.J.A.C. 5:97-3.2):

1. Description of existing credits intended to satisfy the obligation;
2. Description of any adjustments to any portion of the fair share obligation, which shall include all information and documentation required;
3. Description of mechanisms that will be used to meet the new total obligation;
4. Draft an implementation schedule that sets forth a detailed timetable for units to be provided:
    - Documentation for mechanisms to address the Prior Round obligation, rehabilitation share and growth share obligation up to the first plan review shall be submitted at the time of petition
    - Documentation for zoning for inclusionary development, accessory apartment program, or market to affordable program shall be submitted at the time of petition and implemented within 45 days of certification;
5. If seeking vacant land adjustment or household and employment growth projection adjustment shall submit all the information required, unless Municipality demonstrates that the mechanisms do not rely upon the availability of vacant land or municipality reserves scarce resources;
6. Include draft and/or adopted ordinances necessary for implementation;
7. Demonstrate that existing zoning or planned changes provide adequate capacity to accommodate affordable housing;
8. Demonstrate existing planned water/waste water treatment capacity is sufficient to accommodate all proposed mechanisms; and
9. Draft a spending plan if the municipality maintains or intends to establish an affordable housing trust fund, which includes:
    - Projection of revenues anticipated from development fees
    - Projection of revenues from other sources
    - Description of administrative mechanism that will be used to collect and distribute revenues
    - Description of use of all affordable housing trust funds
    - Schedule for expenditure of all housing trust funds
    - Schedule for creation or rehabilitation of housing units
    - If supporting or sponsoring public sector or non-profit construction of housing, a pro-forma statement of the anticipated costs and revenues associated with the development
    - Plan to spend trust fund balance as of date of its Third Round petition within four years of the council's approval of spending plan
    - Method through which the municipality will address any expected or unexpected shortfall if revenues aren't sufficient
    - Description of anticipated use of excess affordable housing trust funds.

In adopting its housing element, a municipality may provide for its fair share of low and moderate income housing by means of any technique or combination of techniques which provide a realistic opportunity for the provision of the fair share. The Borough proposes to utilize the following techniques to address its fair share obligation:

1. Reactivation of the Watchung Borough housing rehabilitation program;
2. Housing credits for existing affordable units:
    - Life Skills Resource Center (Group Home)
3. Housing Credits for inclusionary housing developments already constructed as part of Prior Round obligation:
    - Kings Crossing (Crystal Ridge Club) apartments
    - Villa Dominico age-restricted complex
4. Accessory apartments program
5. Municipal sponsored 100 percent affordable family housing
6. Affordable Housing Overlay Zone to address 37-unit unmet need

The Watchung Borough Fair Share Plan describes these strategies.

FAIR SHARE PLAN

I. FAIR SHARE OBLIGATION

REGIONAL INCOME LIMITS

Dwelling units are affordable to low and moderate-income households if the maximum sales price or rental cost is within their ability to pay such costs, based on a specific formula. COAH provides income limits based upon the median gross household income of the COAH housing region in which the household is located. A moderate-income household is one with a gross household income equal to or more than 50 percent, but less than 80 percent, of the median gross regional household income. A low-income household is one with a gross household income equal to 50 percent or less of the median gross regional household income. Watchung Borough is located in COAH Region 3.

Using the 2008 weighted regional income limits adopted by COAH, a four-person Region median household income is estimated at $96,700. A moderate-income four-person household could earn a maximum of $77,360 (80 percent of regional median) and a four person low-income household could earn a maximum of $48,350 (50 percent of regional median). Income levels for one to five person households as of 2008 are given below.

2008 REGIONAL INCOME LIMITS FOR REGION 3 MUNICIPALITIES					
	1 person	2 person	3 person	4 person	5 person
Median	$67,690	$77,360	$87,030	$96,700	$104,436
Moderate	$54,152	$61,888	$69,624	$77,360	$83,549
Low	$33,845	$38,680	$43,515	$48,350	$52,218

Source: COAH, 2008 Regional Incomes Limits www.state.nj.us/dca/coah/incomelimits.pdf

COAH REQUIREMENTS

COAH has specific requirements on unit size distribution, affordable unit sales price and rental costs, and bedroom mix, among other regulations, which are provided in N.J.A.C. 5:80-26.1 et.seq. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution must be low income and the remainder moderate income. For affordable developments that are not age-restricted, not more than 20 percent of the units may be efficiency or one-bedroom units, at least 30 percent shall be two-bedroom units, and at least 20 percent shall be three-bedroom units. Age-restricted affordable units can provide a modified bedroom distribution. A minimum of 13 percent of the units must be available to very low income families.

The monthly cost of owner occupied units, which includes mortgage (principal and interest), taxes, insurance and homeowner's or condominium association fees, may not exceed 28 percent of gross monthly household income. In addition, moderate-income sales units must be available for at least three different prices and low-income sales units available for at least two different prices for each bedroom type.

Under COAH regulations, rents may not exceed 30 percent of the eligible monthly income of the appropriate household size. There must be rents established for each bedroom type having both low and moderate income units provided that 13 percent must be affordable to families earning no more than 35 percent of median income and the average rents must not exceed 52 percent of the median household income of the region.

WATCHUNG'S THIRD ROUND OBLIGATION

Watchung's Fair Share Plan describes the projects, strategies and funding sources with which the Borough proposes to address its affordable housing obligation, as it has been set by COAH. The Borough's Third Round HEFSP addresses a growth share obligation of 42 units. The three components that must be addressed by this plan are:

- Rehabilitation Share:

  12 units
- Prior Round Obligation (Cumulative 1987-1999):

  206 units; adjusted to 169 RDP
- Prior Round Unmet Need:

  37 units
- Third Round (2004-2018):

  73 units; adjusted to 42 units

REHABILITATION SHARE

COAH has determined the Borough share for rehabilitation units is 12. This number is calculated by COAH utilizing 2000 U.S. Census reported characteristics, including over-crowded units, older housing units built before 1939, and units with incomplete plumbing facilities and incomplete kitchen facilities.

PRIOR ROUND OBLIGATION

The Borough has a Prior Round obligation of 169 units to address in its Third Round Plan. The Prior Round includes the period between 1987 and 1999. Additionally, there are minimum and maximum requirements regarding the development of rentals and age-restricted units for the Prior Round obligation (PRO), which are listed below:

- Rehabilitation Units

  Covers period from 2000 and later, minimum hard costs of $10,000, which includes major systems
- Minimum Rental Requirement

  25 percent (Realistic Development Potential) = .25 (169) = 43
- Maximum Age-Restricted Housing Units Under Prior Round With RCAs And Vacant Land Adjustment

  25 percent (RDP - total RCAs) = 0.25 (169 - 57) = 28

25 percent (Unmet Need - RCA) = Excluded since Certified Prior Round Plan

- Maximum Age-Restricted Rental Requirement

  50 percent (Max. Age-Restricted Units) = 0.5(28) = 14

- Maximum Bonus credits

  43 credits

UNMET NEED

Unmet need is the difference between the prior round affordable housing obligation and the realistic development potential (RDP) as determined pursuant to N.J.A.C. 5:97-5.2. As part of its Second Round substantive certification, COAH approved a Vacant Land Adjustment, reducing the Prior Round obligation from 206 affordable units to a realistic development potential of 169 affordable units. This generates an unmet need of 37 affordable units for Watchung Borough. The Borough must implement one or more of the following mechanisms, consistent with N.J.A.C. 5:97-5.3(b), in an effort to address the unmet need:

- Zoning amendments that permit apartments or accessory apartments;
- A market to affordable program;
- Overlay zoning requiring inclusionary development;
- A redevelopment area that includes affordable housing;
- The adoption of a development fee ordinance and a plan for the use of development fees; and/or
- Age-restricted affordable housing units.

GROWTH SHARE OBLIGATION

Based upon lack of remaining vacant land, Watchung has determined that its growth share obligation is less than the COAH estimate of 73 housing units. COAH Worksheet C is located in the Appendix which documents the projected growth adjustment reduction. COAH's Rules require that 50 percent of the growth share obligation (GSO) for Watchung be family housing units and non-age-restricted units. Additionally, there are other restrictions, which are listed below:

- Minimum Family Unit Requirement

  50 percent (GSO) = 0.5(42) = 21

- Minimum Rental Requirement

  25 percent (GSO) = 0.25(42) = 11

- *Maximum Age-Restricted* Requirement

  25 percent (GSO) = 0.25(42) = 10

- Maximum Age-Restricted Rental Requirement

  12.5 percent (GSO) = 0.125(42) = 5

- Maximum Bonus Credits

  25 percent (GSO) after meeting minimum rental threshold requirements = 0.25(42) = 10

  - 1 for 1 credit for family rental housing

- 1 for 1 for permanent supportive housing
- 1 for 1 for very low income (VLI) units above minimum 13 percent threshold
- 0.25 for each bedroom in group housing (supportive and special needs housing that is not considered permanent supportive housing)
- 0.33 for each unit in transit oriented development or redevelopment area with limitations

II. ADJUSTMENTS

VACANT LAND ADJUSTMENT

As part of its Second Round substantive certification, COAH approved a Vacant Land Adjustment, reducing the Prior Round obligation to 169 affordable units. COAH's revised rules state that a vacant land that was granted shall continue to be valid provided the municipality has implemented all of the terms of substantive certification or judgment of compliance. If the municipality has failed to implement the terms of the substantive certification or judgment of compliance, COAH may reevaluate the vacant land adjustment. Watchung has implemented the majority of the terms of the Second Round substantive certification, except that the Ness property along Mountain Boulevard, zoned for age-restricted housing, has recently been purchased for open space and recreation and is no longer an option as an affordable housing site. This site was slated to accommodate 18 age-restricted affordable units towards the Prior Round obligation. In 2005, the Borough proposed in its Third Round Plan a privately-owned site, however, this site is has been developed and is no longer available. In lieu of this site, the Borough is seeking to construct 100 percent affordable housing on another Borough-owned property located on East Drive. The Borough is continuing to implement its accessory apartment program as required through its Prior Round substantive certification.

ADJUSTED REHABILITATION SHARE

COAH has established a 12-unit rehabilitation obligation for Watchung. As permitted by N.J.A.C. 5:97-6.2(a), the Borough Construction Official has conducted an exterior conditions survey to locate properties suitable for rehabilitation, which resulted in 2 units that are suitable for rehabilitation. The Borough requests that COAH review the results of the data collected to reduce the rehabilitation share for Watchung.

ADJUSTED GROWTH PROJECTIONS

As permitted at N.J.A.C. 5:97-5.6, the Borough of Watchung has conducted a vacant land analysis in support of an adjustment of household and employment growth projections. COAH permits a downward adjustment of the projected growth share based on available remaining vacant land within the municipality, provided that the results of the adjusted projections are at least than 10 percent less than COAH's projected obligation of 73 units.

According to the procedures set forth by COAH's revised rules, actual residential and non-residential growth from Certificates of Occupancy from 2004 to 2008 were determined to be 42 housing units (not including the 27 excluded units of Villa Dominico) and 144,273 square feet of non-residential space

(resulting in 249 jobs). This actual development that occurred has generated an obligation of 23.9 units. In addition, the 35 housing units that have been approved but not yet constructed and the 16 jobs associated with the approved but not constructed car wash would generate and obligation of 8 affordable units. Watchung must plan for a minimum growth share obligation of 31.9 affordable housing units generated by this actual and approved development.

An analysis of vacant and developable sites, not including sites that were previously included in the Vacant Land Inventory as contributing to the realistic development potential (RDP), yielded 8.66 acres of developable (not constrained) land, which at a presumptive density of 6 units per acre in PA2 would produce a total of 52 projected units with an obligation of 10.4 affordable units. When added back to the minimum obligation resulting from actual and approved development, the total Third Round obligation is 42.3 units. Because the resulting affordable units represent a 40 percent reduction in the 73-unit projected obligation from COAH, the Third Round growth share obligation is permitted to be reduced. Watchung will plan for 42 affordable housing units. Additional documentation on the Vacant Land Inventory required, including "COAH Workbook C", is located in the Appendix.

Calculation of Adjustment of Household and Employment Growth Projections					
	Residential		Non-Residential		Total
	Units	Obligation	Jobs	Obligation	Obligation
Actual Cos Issued (2004 - present)	42.0	8.4	248.0	15.5	23.9
+ Approved Development not yet constructed	35.0	7.0	16.0	1.0	8.0
= Minimum Growth Share Projection	77.0	15.4	264.0	16.5	31.9
+ Potential Development from Vacant Land	52.0	10.4	0.0	0.0	10.4
= Adjusted Growth Share Projection	129.0	25.8	264.0	16.5	42.3

III. EXISTING CREDITS

REHABILITATION CREDITS

COAH has established a 12 unit rehabilitation obligation for Watchung. The Borough plans to reinstate its Housing Rehabilitation Program that was implemented as part of the Borough's First and Second Round plans to meet their obligation. The Borough Construction Official has conducted an exterior conditions survey to locate properties suitable for rehabilitation, which resulted in 2 units that are suitable for rehabilitation. This documentation will be provided to COAH for review.

SUPPORTIVE AND SPECIAL NEEDS HOUSING CREDITS (GROUP HOMES)

One group home is currently in operation in Watchung Borough - the Life Skills Resource Center, located on Johnston Drive. The Life Skills Resource Center is a group home for the developmentally disabled and provides 3 bedrooms occupied by low-income residents, which qualifies for 3 credits for Watchung.

AGE-RESTRICTED DEVELOPMENT

The Villa Dominico age-restricted development, located on Stirling Road, is approved for 42 age-restricted housing units, including 8 affordable. The project is partially constructed, with 15 units yet to receive Certificates of Occupancy. The affordable units have been constructed and sold to eligible low and moderate income households.

INCLUSIONARY DEVELOPMENT

The Kings Crossing (Crystal Ridge Club) apartment complex, located off Route 22 and East Drive, is included in the certified Second Round Housing Plan for Watchung. The site was originally planned to produce 40 for-sale and 20 rental family units, however, in 2000, COAH granted an amendment that changed the yield on this site to 40 family rental units with 40 rental bonus credits.

REGIONAL CONTRIBUTION AGREEMENT

As part of the Prior Round, Watchung entered into a regional contribution agreement ("RCA") with the Town of Phillipsburg, Warren County to transfer 57 units. In exchange for rehabilitating or constructing these 57 affordable units, Phillipsburg received $22,000 per unit for a total of $1,254,000 from the Borough of Watchung.

Existing Credits Summary		
Johnston Drive Group Homes	+	3 credits
Group Homes (Rental bonus)	+	3 bonus credits
Villa Dominico Age-Restricted Units	+	8 credits
RCA to Phillipsburg	+	57 units
Kings Crossing (Crystal Ridge Club) Inclusionary Development	+	40 credits
Inclusionary Development (Rental bonus)	+	39 bonus credits
Total Existing Credits	=	150 (including 42 bonus credits)

IV. PROPOSED MECHANISMS TO ADDRESS THIRD ROUND OBLIGATION

100 PERCENT AFFORDABLE HOUSING DEVELOPMENT

The Borough has identified a property, known as Block 57.01, Lot 6.01, along East Drive, which it plans to rezone for inclusionary development to produce 100 percent affordable family rental multi-family units. The property is an irregularly shaped 6.86-acre parcel currently owned by the Borough of Watchung. The site is located at the cul-de-sac at the end of East Drive and contains approximately 1.88 acres of steep slopes. The site is located entirely in the PA2 Suburban Planning Area. The Borough anticipates that up to 46 units may be developed on this property. At least 13 percent of these units will be marketed to very low income households. It is expected that this project will begin implementation in 2011 with construction completed in the first half of 2013 and all units receiving Certificates of Occupancy by the end of 2013. The Borough plans to utilize 19 credits from this development to fulfill the remaining Prior Round Obligation

with the remaining credits towards the Third Round growth share obligation. (See Appendix for Site Location map and Draft Zoning Ordinance.)

ACCESSORY APARTMENT PROGRAM

The Watchung Borough Accessory Apartment Program has been implemented and is planned to meet 5 units of Watchung's projected growth share obligation. The Borough adopted an Accessory Apartment Ordinance in 1998 with an amendment adopted in 2006 to expand the number of eligible properties. The Borough has sufficient funds in its Housing Trust Fund to subsidize these 5 units, which are expected to begin in 2009. Units will be rented to low income households. Additional funding will be provided through the affordability assistance program to make units available for very low income households. The Borough will utilize development fees collected to fund the program.

AFFORDABLE HOUSING OVERLAY ZONE

The Borough of Watchung plans to adopt an Affordable Housing Overlay Zone, accordance with N.J.A.C. 5:97-5.3(b)3, in order to provide an opportunity for this 37-unit unmet need to be fulfilled. The proposed Affordable Housing Overlay Zone would encompass the 5-acre Liccardi Ford Tract (Block 64.02, Lot 3) and a 13.7-acre portion of the Mount Saint Mary's Academy Tract (Block 64.02, Lot 5) along the northerly side of US Route 22. The Affordable Housing Overlay Zone would encompass a total of 18.7 acres of land.

The purpose of the Affordable Housing Overlay Zone is to create a realistic opportunity for the creation of low and moderate-income housing as land becomes available for development or redevelopment. The underlying H-D Highway Development and R-R Rural Single-Family Residential zoning within the Affordable Housing Overlay Zone will remain in effect. Affordable Housing Development will be permitted as a conditional use in the form of garden apartment dwelling units for sale or for rent.

In order to present a financial incentive for inclusionary zoning, in accordance with N.J.A.C. 5:97-6.4, the permitted residential density would be increased above the minimum presumptive density prescribed by COAH (8 units per acre in Planning Area 1 and 6 units per acre in Planning Area 2). A maximum residential density of 14 units per acre will be permitted to incentivize affordable housing instead of the existing commercial uses. COAH permits a maximum presumptive affordable housing set-aside of 25 percent in PA1 or PA2.

An additional rental bonus is needed to incentivize rental units and the set-aside would be reduced to 20 percent, in accordance with N.J.A.C. 5:97-6.4(b)6. A maximum residential density of 18 units per acre will be permitted for rental units.

The 5-acre Liccardi Ford property (Block 64.02, Lot 3) is located along the north side of Route 22, between Mount Saint Mary's Academy and BJ's wholesale store. The property contains 0.5 acres of wetlands and wetlands buffers along the rear and right side property lines, leaving 4.5 acres of unconstrained land, based on NJDEP secondary source data. This site could potentially be redeveloped with 70 for-sale residential

units, of which 17 would be affordable. If the site is developed with rental units, a total of 90 units could be developed, of which 18 would be affordable.

Mount Saint Mary's Academy (MSMA) (Block 64.02, Lot 5) is a 57.5 acre tract located along the north side of Route 22. The property is developed with several school buildings towards the rear of the property. The front is partially developed with a baseball field and tennis courts. A driveway runs through the center of the property, from Route 22 to the school buildings at the rear of the site, bisecting the property. The property contains 18.5 acres of wetlands and buffers along the left and right side property lines, leaving 39 acres of unconstrained land. The southwest portion of the MSMA property could be subdivided by a line parallel to and approximately 900 feet from Route 22. Measured west of the existing driveway, the area would contain a total of 13.7 acres, of which 5.5 acres are shown to be constrained by wetlands and wetland buffers, leaving 8.2 acres of developable land. This area could potentially be developed with 192 for-sale residential units, of which 48 would be affordable. If the site is developed with rental units, a total of 247 units could be developed, of which 50 would be affordable.

If both tracts were to develop or redevelop with affordable housing, as permitted by the Affordable Housing Overlay Zone, a maximum of between 262 units (for sale) and 337 units (for rent) could be developed. This would generate a maximum of between 65 and 68 affordable units, which would satisfy the unmet need of 37 units in the Borough and provide potential opportunities for additional growth share. (See Appendix for Draft Affordable Housing Overlay Zone Map and Draft Zoning Ordinance.)

SUMMARY OF FAIR SHARE PLAN STRATEGIES

Existing/Proposed Credits/Bonuses/Adjustments that Address the Prior Round Obligation		
Prior Cycle Obligation:	=	206
Realistic Development Potential (RDP)	=	169
Existing Johnston Drive Group Homes	-	3
Group Home Bonus	-	3
Existing Villa Dominico Age-Restricted Units	-	8
Regional Contribution Agreement (RCA)	-	57
Existing Inclusionary Rental Development	-	40
Rental Bonus	-	39
Proposed East Drive 100% Affordable Family Rental Development	-	19
Balance	=	0

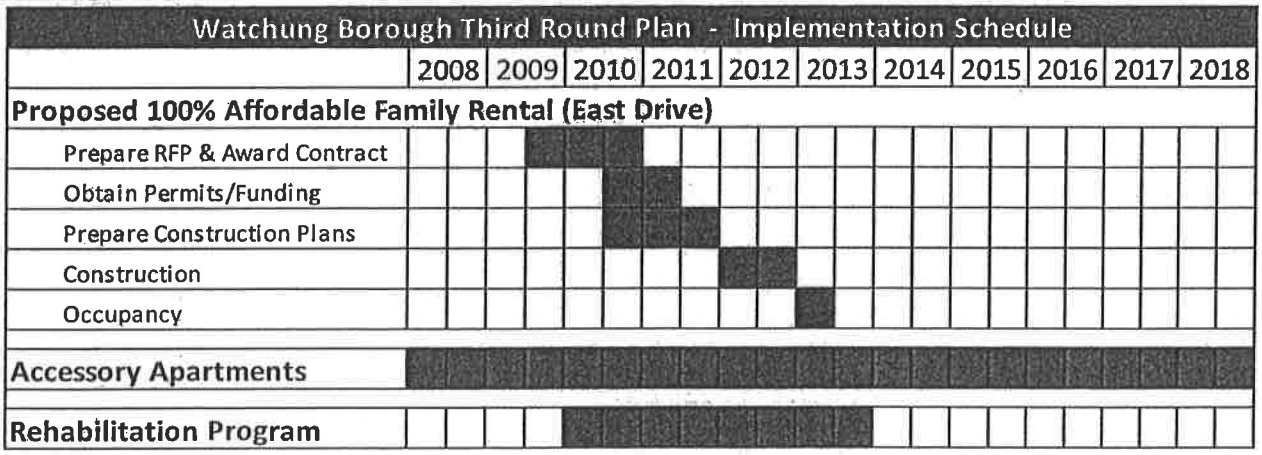
Existing/Proposed Credits/Bonuses/Adjustments that Address the Unmet Need		
Prior Cycle Obligation:	=	206
Realistic Development Potential (RDP):	=	-169
Unmet Need:	=	37
Affordable Housing Overlay Zone	-	37
Balance	=	0

Existing/Proposed Credits/Bonuses/Adjustments that Address the Growth Share Obligation		
COAH's Allocated Growth Share Obligation:	=	73
Adjusted Growth Share Obligation:	=	42
Proposed East Drive 100% Affordable Family Rental Development	-	27
Rental Bonus	-	10
Accessory Apartments	-	5
Balance	=	0

V. SPENDING PLAN

The detailed Spending Plan is located in the Appendix.

VI. IMPLEMENTATION SCHEDULE



APPENDIX

1) Draft Development Fee Ordinance
2) Draft Spending Plan
3) Draft Affordable Housing Ordinance
4) Vacant Land Inventory in support of Adjustments
    a. Worksheet C
    b. Inventory of Vacant Land
    c. Land Use Map
    d. Environmental Constraints Map
    e. Vacant Land Map
5) East Drive - 100% Affordable Municipal Project
    a. Site Location Map
    b. Draft Zoning Ordinance
6) Affordable Housing Overlay Zone
    a. Draft Affordable Housing Overlay Zone Map
    b. Draft Zoning Ordinance

DRAFT DEVELOPMENT FEE ORDINANCE

EXPLANATION: This Ordinance repeals Ordinance No. OR:97/14 as amended by Ordinance Nos. OR:98/15, OR:00/07 and OR:05/08 and adopts an Affordable Housing Development Fee Ordinance for the Borough of Watchung.

BOROUGH OF WATCHUNG
ORDINANCE No. OR: 08/__

AN ORDINANCE REPEALING ORDINANCE NO. OR:97/14 AS AMENDED BY ORDINANCE NOS. OR:98/15, OR:00/07 and OR:05/08 AND ADOPTING AN AFFORDABLE HOUSING DEVELOPMENT FEE ORDINANCE FOR THE BOROUGH OF WATCHUNG.

BE IT ORDAINED, by the Council of the Borough of Watchung, in the County of Somerset and State of New Jersey, as follows:

Section 1. Ordinance No. OR:97/14 as amended by Ordinance Nos. OR:98/15, OR:00/07 and OR:05/08 is hereby repealed in its entirety and replaced as follows:

Affordable Housing Development Fees

1. Purpose

a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 ("Act"), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

c) This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This Ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic Requirements

a) This Ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.

b) The Borough of Watchung shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

a) The following terms, as used in this Ordinance, shall have the following meanings:

i) "**Affordable housing development**" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

ii) "**COAH**" or the "**Council**" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

iii) "**Development fee**" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

iv) "**Developer**" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

v) "**Equalized assessed value**" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

vi) "**Green building strategies**" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development Fees

a) Imposed fees

i) Within the Rural Single-Family Residential ("R-R"); Single Family Residential ("R-A") and Single Family Residential ("R-B") districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1.5%) percent of the equalized assessed value for residential development provided no increased density is permitted.

ii) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two (2) year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two (2) year period preceding the filing of the variance application.

Example: If an approval allows four (4) units to be constructed on a site that was zoned for two (2) units, the fees could equal one (1%) percent of the equalized assessed value on the first two

(2) units; and the specified higher percentage up to six (6%) percent of the equalized assessed value for the two (2) additional units, provided zoning on the site has not changed during the two (2) year period preceding the filing of such a variance application.

b) Eligible exactions, ineligible exactions and exemptions for residential development

i) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

ii) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

iii) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

iv) Residential structures demolished and replaced as a result of a natural disaster, shall be exempt from paying a development fee.

5. Non-residential Development Fees

a) Imposed fees

i) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and

improvements, for all new non-residential construction on an unimproved lot or lots.

ii) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b) Eligible exactions, ineligible exactions and exemptions for non-residential development

i) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half (2.5%) percent development fee, unless otherwise exempted below.

ii) The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

iii) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv) A developer of a non-residential development exempted from the non-residential development fee

pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

v) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Watchung as a lien against the real property of the owner.

6. Collection Procedures

a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

c) The construction official responsible for the issuance of a building permit shall notify the Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.

d) Within ninety (90) days of receipt of that notice, the Tax Assessor, based on the plans filed, shall provide

an estimate of the equalized assessed value of the development.

e) The construction official responsible for the issuance of a final certificate of occupancy notifies the Tax Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

f) Within ten (10) business days of a request for the scheduling of a final inspection, the Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

g) Should the Borough of Watchung fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

h) Fifty (50%) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

i) Appeal of development fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Watchung. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Watchung. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing Trust Fund

a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

i) payments in lieu of on-site construction of affordable units;

ii) developer contributed funds to make ten (10%) percent of the adaptable entrances in a townhouse or other multistory attached development accessible;

iii) rental income from municipally operated units;

iv) repayments from affordable housing program loans;

v) recapture funds;

vi) proceeds from the sale of affordable units; and

vii) any other funds collected in connection with the Borough of Watchung's affordable housing program.

c) Within seven (7) days from the opening of the trust fund account, the Borough of Watchung shall provide COAH with written authorization, in the form of a three (3) party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8. Use of Funds

a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough of Watchung's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

b) Funds shall not be expended to reimburse the Borough of Watchung for past housing activities.

c) At least thirty (30%) percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees

collected shall be used to provide affordability assistance to those households earning thirty (30%) percent or less of median income by region.

i) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.

ii) Affordability assistance to households earning thirty (30%) percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income. The use of development fees in this manner shall entitle the Borough of Watchung to bonus credits pursuant to N.J.A.C. 5:97-3.7.

iii) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

d) The Borough of Watchung may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.

e) No more than twenty (20%) percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to COAH's

regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

a) The Borough of Watchung shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Watchung's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing Collection of Fees

a) The ability for the Borough of Watchung to impose, collect and expend development fees shall expire with its substantive certification unless the Borough of Watchung has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Watchung fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Borough of Watchung shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification, nor shall the Borough of Watchung retroactively impose a development fee on such a development. The Borough of Watchung shall not expend development fees after the expiration of its substantive certification.

Section 2. Severability.

Should any provision of this Ordinance be determined invalid by a court or administrative tribunal of competent jurisdiction, such determination shall not affect the remaining provisions.

Section 3. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Ordinance of the Borough of Watchung, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Watchung are hereby ratified and confirmed except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Somerset County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63, if required.

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the this Ordinance to the Planning Board of the Borough of Watchung for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Council, within thirty-five (35) days after referral, a report including

identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; (3) filing of the final form of adopted Ordinance by the Clerk with (a) the Somerset County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1; and (4) approval from COAH pursuant to N.J.A.C. 5:96-5.1.

ATTEST:

BOROUGH OF WATCHUNG

_____
Laureen B. Fellin, Borough Clerk

By:_____
Albert S. Ellis, Mayor

DRAFT SPENDING PLAN

BOROUGH OF WATCHUNG 12/11/08
DRAFT Affordable Housing Trust Fund Spending Plan

INTRODUCTION

The Borough of Watchung has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH on September 10, 1997 and adopted by the Borough of Watchung on October 9, 1997. The ordinance establishes the Borough of Watchung affordable housing trust fund for which this spending plan is prepared.

As of July 17, 2008, the Borough of Watchung has collected $1,510,535 in development fees, $127,740 in interest and expended $1,153,977, resulting in a balance of $484,298. All development fees, payments in lieu of constructing affordable units on site, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in TD Bank (formerly Commerce Bank) for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

The Borough of Watchung first petitioned COAH for substantive certification on September 26, 1988 and received prior approval to maintain an affordable housing trust fund on September 10, 1997. As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was $1,139,149. From January 1, 2005 through July 17, 2008, the Borough of Watchung collected an additional $1,638,275 in development fees, payments in lieu of construction, other funds, and/or interest (not accounting for expenditures).

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of third round substantive certification, the Borough of Watchung considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):
Payments in lieu have not been collected or assessed.

(c) Other funding sources:
No other funds have been or are anticipated to be collected.

(d) Projected interest:
Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate, estimated at 3 percent.

BOROUGH OF WATCHUNG
DRAFT Affordable Housing Trust Fund Spending Plan

SOURCE OF FUNDS	Projected Revenues-Housing Trust Fund - 2008 THROUGH 2018											
	7/18/08 Through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
(a) Development fees:	$117,065	$174,680	$125,900	$61,460	$61,460	$61,460	$61,460	$115,160	$72,200	$72,200	$72,200	$953,360
1. Actual Development Fees Collected	$41,885	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$41,885
2. Approved Residential Development	$75,180	$139,620	$107,400	$42,960	$42,960	$42,960	$42,960	$96,660	$53,700	$53,700	$53,700	$751,800
3. Approved Non-Residential Development	$0	$25,560	$0	$0	$0	$0	$0	$0	$0	$0	$0	$25,560
4. Projected Non-Residential Development	$0	$9,500	$18,500	$18,500	$18,500	$18,500	$18,500	$18,500	$18,500	$18,500	$18,500	$176,000
(b) Payments in Lieu of Construction	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
(c) Other Funds	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
(d) Interest	$4,745	$5,240	$3,777	$1,844	$1,844	$1,844	$1,844	$3,455	$2,166	$2,166	$2,166	$31,090
Total	$121,810	$179,920	$129,677	$63,304	$63,304	$63,304	$63,304	$118,615	$74,366	$74,366	$74,366	$984,450

The Borough of Watchung projects a total of $984,450 in revenue to be collected between July 18, 2008 and December 31, 2018. This includes the difference between the trust fund account ending balance on July 17, 2008 and November 6, 2008 of $33,244 including interest. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Watchung:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Borough of Watchung's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

The Borough of Watchung Administrator recommends to the governing body the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)**

The Borough of Watchung will dedicate $175,000 to rehabilitation or new construction programs (see detailed descriptions in Fair Share Plan) as follows:

Rehabilitation program: $50,000

The Borough of Watchung Construction Official performed an exterior conditions survey, which resulted in 2 existing housing units suitable for rehabilitation. The Borough of Watchung will allocate $25,000 for the rehabilitation of each unit, for a total of $50,000 to be expended from the trust fund. The units will be rehabilitated in accordance with the Watchung Borough Rehabilitation Program that will be reenacted in accordance with COAH.

New construction project(s): $625,000

The Borough of Watchung will fund 5 accessory low-income accessory apartments at $25,000 per units, for a total of $125,000 to be expended from the trust fund. Additional funding may be provided through the Affordability Assistance program to designate these units for very low income households

The Borough of Watchung will fund $500,000 towards municipal sponsored projects, including the East Drive 100% Affordable Project. Additional funding may be provided through the Affordability Assistance program to designate these units for very low income households.

(b) **Affordability Assistance (N.J.A.C. 5:97-8.8)**
Projected minimum affordability assistance requirement:

Actual development fees through 7/17/2008		$1,510,536
Actual interest earned through 7/17/2008	+	$127,740
Development fees projected* 2008-2018	+	$953,360
Interest projected* 2008-2018	+	$31,090
Less housing activity expenditures through 6/2/2008	-	$1,153,977
Total	=	$1,468,748
PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018	x 0.30 =	$440,625
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018	÷ 3 =	$146,875

* Note: The 2008 portion of this projection reflects 2008 subsequent to July 17 as the remainder of 2008 is included in the actual figure reported above.

The Borough of Watchung will dedicate a minimum of $440,625 from the affordable housing trust fund to render units more affordable, including a minimum of $146,875 to render units more affordable to households earning 30 percent or less of median income by region. Affordability assistance programs will include down-payment assistance, rental assistance, and the conversion of low-income units to very-low-income units (including the accessory apartments) and other programs approved by COAH.

(c) **Administrative Expenses (N.J.A.C. 5:97-8.9)**

The Borough of Watchung projects that a maximum of $293,750 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

The fee will be utilized for administrative purposes such as salaries and benefits for municipal employees or consultant fees necessary to develop or implement municipal housing programs such as rehabilitation, accessory apartments, new construction, housing elements and/or affirmative marketing programs. Administrative funds may be used to income qualify households and monitor implementation. Development fees may be used to defray the costs of staff or consultants that are preparing or implementing a Fair Share Plan.

The Borough of Watchung will expend the remainder of the trust fund budget (after setting aside funds for the rehabilitation program, municipal sponsored projects, accessory apartment program and administrative expenses) for affordability assistance.

As required by COAH, the entire balance as of July 17, 2008 will be expended or committed within four years. More specifically, the Draft Spending Plan projects a total of $770,000 will be expended or committed by the end of 2012, whereas the July 17, 2008 trust fund balance was $484,298.

4. EXPENDITURE SCHEDULE

The Borough of Watchung intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

Program	Funds Expended and/or Dedicated	Projected Expenditure Schedule											
	2005 - 7/17/08	7/18/08 – 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Rehabilitation Program				$25,000	$25,000								$50,000
Accessory Apartments			$25,000	$25,000	$25,000	$25,000	$25,000						$125,000
Municipal Sponsored Projects					$100,000	$200,000	$200,000						$500,000
Total Programs	$0	$0	$25,000	$50,000	$150,000	$225,000	$225,000	$0	$0	$0	$0	$0	$675,000
Affordability Assistance			$50,000	$50,000	$50,000	$50,000	$45,000	$45,000	$45,000	$45,000	$45,000	$15,625	$440,625
Administration		$11,130	$30,000	$30,000	$30,000	$30,000	$30,000	$30,000	$30,000	$30,000	$30,000	$12,620	$293,750
Total Expenditures	$0	$11,130	$105,000	$130,000	$230,000	$305,000	$300,000	$75,000	$75,000	$75,000	$75,000	$28,245	$1,409,375
Projected Funds	$484,298	$121,810	$179,920	$129,677	$63,304	$63,304	$63,304	$63,304	$118,615	$74,366	$74,366	$74,366	$984,450
Accumulated Funds	$484,298	$606,108	$786,028	$915,705	$979,009	$1,042,313	$1,105,617	$1,168,921	$1,287,535	$1,361,901	$1,436,267	$1,510,633	$1,468,748
Remaining Balance	$484,298	$594,978	$681,028	$785,705	$749,009	$737,313	$805,617	$1,093,921	$1,212,535	$1,286,901	$1,361,267	$1,482,388	$59,373

5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of The Borough of Watchung has adopted a resolution agreeing to fund any shortfall of funds required for implementing the accessory apartment program, rehabilitation program or affordability assistance program. In the event that a shortfall of anticipated revenues occurs, the Borough of Watchung will intends to bond to cover the additional costs. A copy of the adopted resolution is attached. In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to supplement the affordability assistance program.

SUMMARY

The Borough of Watchung intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the Borough of Watchung Housing Element and Fair Share Plan dated November 2008.

The Borough of Watchung has a balance of $484,298 as of July 17, 2008 and anticipates an additional $984,450 in revenues before the expiration of substantive certification for a total of $1,468,748 . The municipality will dedicate $125,000 towards the accessory apartment program, $50,000 for the rehabilitation program, $500,000 towards municipal sponsored programs, a minimum of $440,625 to render units more affordable, and a maximum of $293,750 to administrative costs. Any shortfall of funds will be offset by bonds. The municipality will dedicate any excess funds toward the affordability assistance program.

SPENDING PLAN SUMMARY		
Balance as of July 17, 2008		$484,298
Projected REVENUE July 18, 2008-2018	+	$984,450
Development fees		$953,360
Interest		$31,090
TOTAL REVENUE	=	$1,468,748
EXPENDITURES		
Funds used for Rehabilitation	-	$50,000
Funds used for New Construction	-	$625,000
1. Accessory Apartments		$125,000
2. Municipal Sponsored Projects (East Drive)		$500,000
Funds used for Affordability Assistance	-	$440,625
Funds used for Administration	-	$293,750
TOTAL PROJECTED EXPENDITURES	=	$1,409,375
REMAINING BALANCE	=	$59,373

DRAFT AFFORDABLE HOUSING ORDINANCE

EXPLANATION: This Ordinance amends the Land Development Ordinance of the Borough of Watchung to address the requirements of the Council on Affordable Housing regarding compliance with the Borough's affordable housing obligations.

BOROUGH OF WATCHUNG
ORDINANCE No. OR: 08/__

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF WATCHUNG TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING REGARDING COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS.

BE IT ORDAINED by the Council of the Borough of Watchung, County of Somerset, and State of New Jersey, that the Land Development Ordinance of the Borough of Watchung is hereby amended to include provisions addressing the Borough's constitutional obligation to provide for its fair share of low- and moderate-income housing, consistent with N.J.A.C. 5:97-1, et seq., as may be amended and supplemented, and N.J.A.C. 5:30-26.1, et seq., as may be amended and supplemented, and pursuant to the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.

The Borough of Watchung Planning Board adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use

Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the methods by which the Borough shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97-1, et seq., as may be amended and supplemented.

The Borough of Watchung shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96 et seq. regarding the status of the implementation of the Housing Element and Fair Share Plan. Any report filed by the Borough with COAH and any report prepared by COAH in response shall be available to the public at the Borough of Watchung Clerk's office, 15 Mountain Boulevard, Watchung, New Jersey, 07069, at the COAH offices at P.O. Box 813, 101 South Broad Street, Trenton, New Jersey 08625-0813, and on COAH's website.

Section 1. Municipal Fair Share Obligation

The Borough of Watchung has a fair share obligation consisting of a ____ unit prior round obligation, a ___ unit rehabilitation obligation, and a ___ unit projected growth share obligation. Notwithstanding that the Housing Element and Fair Share Plan have been prepared based upon the projected third round growth share obligation, the actual third round growth

share obligation will be determined based on the actual development that occurs between January 1, 2004, and December 31, 2018, and calculated at the rate of one (1) affordable housing unit for every four (4) market rate residential units constructed and one (1) affordable housing unit for every sixteen (16) jobs created through the development or expansion of non-residential floor area in accordance with the schedule presented in Appendix D of COAH's Substantive Rules (N.J.A.C. 5:97).

Section 2. Definitions

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

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

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

"Administrative agent means the entity responsible for the administration of affordable units in accordance with this Ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and Uniform Housing Affordability Controls N.J.A.C. 5:80-26.

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

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

"Affordable" means a sales price or rent level that is within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9 and in the case of an ownership unit, that the

sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

"Affordable development" means a housing development of which all or a portion consists of restricted units.

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

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

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

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

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

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

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

"COAH" means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

"DCA" means the State of New Jersey Department of Community Affairs.

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

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

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

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

"Low-income household" means a household with a total gross annual household income equal to 50 percent or less of the median household income.

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

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

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

"Median income" means the median income by household size for the applicable housing region, as adopted annually by COAH.

"Moderate-income household" means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

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

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

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

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

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

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

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

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

"Very low-income household" means a household with a total gross annual household income equal to 30 percent or less of the median household income for the applicable housing region.

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

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

Section 3. Affordable Housing Programs

The Borough of Watchung determined that it will use the following programs to satisfy its affordable housing obligations:

1. A rehabilitation program.

2. An accessory apartment program.

3. A one hundred (100%) percent municipally sponsored program.

Section 4. Rehabilitation

1. The Borough of Watchung's rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28. The rehabilitation program shall be divided into two segments, an owner occupancy rehabilitation program and a renter occupancy rehabilitation program.

2. Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.

3. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units, the control period shall be enforced with a lien, and, for renter occupied units, the control period shall be enforced with a deed restriction.

4. The Borough of Watchung shall adopt a resolution committing to fund any shortfall in either the rental or the owner occupied rehabilitation programs.

5. The Administrative Agent shall provide a rehabilitation manual for the owner occupancy rehabilitation program to be adopted by resolution of the governing body, and the Borough of Watchung shall prepare and adopt by resolution a rehabilitation manual for the rental occupancy rehabilitation program to be administered by the Administrative Agent. Both

manuals shall be continuously available for public inspection in the Office of the Borough Clerk and in the office of the Administrative Agent.

6. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and UHAC, but shall be administered in accordance with the following:

a. Upon the initial rental of a vacant unit subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and to be affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.

b. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.

c. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.

d. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

Section 5. Occupancy Standards

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

1. Provide an occupant for each bedroom;

2. Provide children of different sexes with separate bedrooms;

3. Provide separate bedrooms for parents and children; and

4. Prevent more than two persons from occupying a single bedroom.

Section 6. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until the Borough of Watchung takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

Section 7. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

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

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

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

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

Section 8. Buyer Income Eligibility

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

2. Notwithstanding the foregoing, however, the Administrative Agent may, subject to COAH's approval, permit

moderate-income purchasers to buy low-income units in housing markets determined by COAH to have an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing restrictions for low-income units.

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

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

Section 9. Limitations on Indebtedness Secured by Ownership Unit; Subordination

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

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

Section 10. Capital Improvements To Ownership Units

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

2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or

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

Section 11. Control Periods for Restricted Rental Units

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until the Borough of Watchung takes action to

release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

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

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

a. Sublease or assignment of the lease of the unit;

b. Sale or other voluntary transfer of the ownership of the unit; or

c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

Section 12. Rent Restrictions for Rental Units; Leases

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

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

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

Section 13. Tenant Income Eligibility

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

a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.

b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-

income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

c. The household is currently in substandard or overcrowded living conditions;

d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

e. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

Section 14. Municipal Housing Liaison

1. COAH requires the Borough of Watchung to appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. The Borough of Watchung shall adopt an Ordinance creating the position of Municipal Housing Liaison. The Borough of Watchung shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee.

2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Watchung, including the following responsibilities which may not be contracted out to the Administrative Agent:

a. Serving as the Borough of Watchung's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

b. Monitoring the status of all restricted units in the Borough of Watchung's Fair Share Plan;

c. Compiling, verifying and submitting annual monitoring reports as required by COAH;

d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

3. The Borough of Watchung may designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval by COAH. The Operating Manuals shall be available for public inspection in the Office of the Borough Clerk and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

Section 15. Administrative Agent

The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including:

1. Affirmative Marketing:

a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Watchung and the provisions of N.J.A.C. 5:80-26.15; and

b. Providing counseling or contracting to provide counseling services to low- and moderate-income

applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

a. Soliciting, scheduling, conducting and following up on interviews with interested households;

b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-25.1 et seq.;

e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and

f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Watchung when referring households for certification to affordable units.

3. Affordability Controls:

a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Somerset County Clerk's office after the termination of the affordability controls for each restricted unit;

d. Communicating with lenders regarding foreclosures; and

e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resales and Rerentals:

a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rerental; and

b. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Requests from Unit Owners:

a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or

bathrooms and the depreciated cost of central air conditioning systems;

c. Notifying the municipality of an owner's intent to sell a restricted unit; and

d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

a. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

c. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

e. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund or other appropriate municipal fund approved by the DCA; and

f. Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time for their submission by the Municipal Housing Liaison to COAH, as required by COAH.

c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH.

Section 16. Affirmative Marketing Requirements

1. The Borough of Watchung shall adopt by resolution an Affirmative Marketing Plan, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that

directs marketing activities toward COAH Housing Region 3 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 3, comprised of Middlesex, Somerset and Hunterdon Counties.

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

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

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

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

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

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

Section 17. Enforcement of Affordable Housing Regulations

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

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

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

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

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

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

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

1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such

earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

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

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

5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

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

Section 18. Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court unless the Court delegates this responsibility to the Executive Director of COAH.

Section 19. Severability

Should any provision of this Ordinance be determined invalid by a court or administrative tribunal of competent jurisdiction, such determination shall not affect the remaining provisions.

Section 20. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Ordinance of the Borough of Watchung, the provisions hereof shall be

determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Watchung are hereby ratified and confirmed except where inconsistent with the terms hereof.

Section 21. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Somerset County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63, if required.

Section 22. After introduction, the Borough Clerk is hereby directed to submit a copy of the this Ordinance to the Planning Board of the Borough of Watchung for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 23. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; (3) filing of the final form of adopted Ordinance by the Clerk with (a) the Somerset County Planning

Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

ATTEST:

BOROUGH OF WATCHUNG

_____
Laureen B. Fellin, Borough Clerk

By: _____
Albert S. Ellis, Mayor

VACANT LAND INVENTORY IN SUPPORT OF ADJUSTMENTS

Summary of Adjusted Growth Share Projection Based On Land Capacity

(Introduction to Workbook C)

Municipality Name: Watchung Borough

This workbook contains two separate worksheets to be used for determining the projected Municipal Growth Share Obligation. Worksheet A must be completed by all municipalities. The Worksheet is a tool that allows the user to enter COAH-generated Growth Projections included in Appendix F(2) of the revised Third Round Rules to determine the projected Growth Share Obligation after applying exclusions permitted by N.J.A.C. 5:97-2.4. Municipalities that accept the COAH-generated Growth projections need only use Worksheet A.

Click Here to complete Worksheet A

Municipalities seeking to request a downward adjustment to the COAH-generated growth projections may do so by providing a detailed analysis of municipal land capacity. After completing this analysis, the growth projections may be lowered if the resulting growth share obligation results in a figure that is at least 10 percent lower than the projected Growth Share Obligation that would result from the COAH-generated growth projections. Actual growth must first be determined using the Actual Growth worksheet. A growth projection adjustment may only apply to any remaining growth.

Click Here to Enter Actual Growth to Date
Click Here to Complete the Residential Parcel Inventory and Capacity Analysis
Click Here to Complete the Non-residential Parcel Inventory and Capacity Analysis

Summary Of Worksheet Comparison

	COAH Projected Growth Share (From Worksheet A)	**Growth Share Based on Municipal Capacity** (From Worksheet C)
Residential Growth	131	171
Residential Exclusions	42	42
Net Residential Growth	91	129
Residential Growth Share	18.20	25.79
Non-Residential Growth	749	264
Non-Residential Exclusions	0	0
Net Non- Residential Growth	749	264
Non-Residential Growth Share	46.81	16.51
Total Growth Share	65	42

The Municipal land capacity analysis results in a reduction to the COAH-generated growth projection. Please file Workbook C and use a Residential Growth Share of 25.79 plus a Non-residential Growth Share of 16.51 for a total Growth Share Obligation of 42 affordable units

Growth Projection Adjustment - Actual Growth

Municipality Name: **Watchung Borough**

Actual Growth 01/01/04 to Present

Residential COs Issued	69				
Non-residential CO's by Use Group		Square Feet Added (COs Issued)	Square Feet Lost Demolition Permits Issued)	Jobs/1,000 SF	Total Jobs
B		4304		2.8	12.05
M		143354	6397	1.7	232.83
F				1.2	0.00
S				1.0	0.00
H				1.6	0.00
A1				1.6	0.00
A2			1200	3.2	-3.84
A3				1.6	0.00
E				0.0	0.00
I				2.6	0.00
R1		4212		1.7	7.16
Total		**151870**	**7597**		**248**

Return to Growth Projection Adjustment Summary Screen
Proceed to Inventory of Vacant Residential Land
Proceed to Inventory of Non-residential Land

Watchung Borough Growth Projection Adjustment - Residential Parcel Inventory

Block	Lot	Address	Owner	Planning Area	Urban Center (Y/N)	Sewer Service Area (Y/N)	HUC 11 NO3 Density*	Total Acreage	Constrained Acreage	Constraint Description	Buildable Acreage	Density (Units/Ac)	Capacity (Units)
1.02	8	6 Mountain Court	Schultz Jr, William & Mercedes	2	N	Y		0.68			0.68	6.00	4.09
11.02	1	285 Anderson Rd	Nagle Beatricelc/Oadmund Nagle,Exec	2	N	Y		1.51	0.38	Steep Slopes	1.13	6.00	6.79
11.02	8	111 Stanle Brae Dr	Ciasulli, Michael J	2	N	Y		1.58	0.00	Steep Slopes	1.58	6.00	9.48
40.03	5.01	175 Park Pl	Anisko, Joseph & Eugenie	2	N	Y		1.41	1.24	Steep Slopes	0.18	6.00	1.07
68.02	17	30 Jared Ct	Schiller, Herbert Jr & Helen T	2	N	Y		1.45	0.61	Steep Slopes	0.84	6.00	5.03
69.06	8	845 Johnston Dr	Engelman, Charles H & Lorraine	2	N	Y		1.33			1.33	6.00	7.98
69.06	9.01	825 Johnston Dr	Alpert, Perry & Eleanor	2	N	Y		1.47			1.47	6.00	8.80
70.01	5	67 Price Dr	Fechtner, Dr J L & Sondra	2	N	Y		1.50	0.05	Steep Slopes	1.45	6.00	8.73
		40 Century Lane								Approved			1.00
			Cronheim (Gallowae)							Approved			3.00
		101 Washington R	Scott, William							Approved			1.00
		195 Somerset Rd	Bartholomew							Approved			1.00
		Stirling Road	Joren, Sandon & Debra							Approved			1.00
		Mountain Blvd	O'Connor, Bob Rose							Approved			26.00
		95 Wetunka Lane	Pinnacle							Approved			1.00
		243 Johnson Dr	Stone Bridge							Approved			1.00
			Villa Dominico							Approved			15.00
												Subtotal This Page	101.96
												Subtotal Page 2	0.00
												Subtotal Page 3	0.00
												Subtotal Page 4	0.00
												Grand Total	**101.96**

Click Here to Return to Workbook C Summary
Click Here to Procede to Non-residential Parcel Inventory and Capacity Analysis

Add More sheets

Watchung Borough Growth Projection Adjustment - Non-Residential Parcel Inventory

Block	Lot	Address	Owner	Planning Area	Urban Center (Y/N)	Sewer Service Area (Y/N)	HUC 11 NO3 Density *	Total Acreage	Constrained Acreage	Constraint Description	Remaining Buildable Acreage	Density (Jobs/Ac)	Capacity (Jobs)
		Union Ave	Car Wash	2	N	Y		0.27		Approved	0.27	60.00	16.00

Click Here to Return to Workbook C Summary
Click Here to Proceed to Residential Parcel Inventory and Capacity Analysis
Add More Sheets

Subtotal This Page	16.00
Subtotal Page 2	0.00
Subtotal Page 3	0.00
Subtotal Page 4	0.00
Grand Total	**16**

* Note: Hyperlink to GIS files requires GIS software. Files must be downloaded first and then opened in a GIS Viewer.

Worksheet A: Growth Share Determination Using Published Data

(Appendix F(2), *Allocating Growth To Municipalities)*

COAH Growth Projections

Must be used in all submissions

Municipality Name: Watchung Borough

Enter the COAH generated growth projections form Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. on Line 1 of this worksheet. Use the Tab at the bottom of this page or the links within the page to toggle to the exclusions portion of this worksheet. After entering all relevant exclusions, toggle back to this page to view the growth share obligation that has been calculated based on COAH's growth projections.

		Residential	Non-Residential
1	**Enter Growth Projections From Appendix F(2)***	131	749
2	**Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab**	Click Here to enter Prior Round Exclusions	
	COs for prior round affordable units built or projected to be built post 1/1/04		
	Inclusionary Development	8	
	Supportive/Special Needs Housing	0	
	Accessory Apartments	0	
	Municipally Sponsored or 100% Affordable	0	
	Assisted Living	0	
	Other	0	
	Market Units in Prior Round Inclusionary development built post 1/1/04	32	
3	**Subtract the following Non-Residential Exclusions (5:97-2.4(b)**		
	Affordable units	0	
	Associated Jobs		0
4	**Net Growth Projection**	**91**	**749**
5	**Projected Growth Share** (Conversion to Affordable Units Divide HH by 5 and Jobs by 16)	**18.20 Affordable Units**	**46.81 Affordable Units**
6	**Total Projected Growth Share Obligation**	**65 Affordable Units**	

Click Here to return to Workbook C Summary

* For Residential Growth, See Appendix F(2), Figure A.1, Housing Units by Municipality. For Non-residential Growth, See Appendix F(2), Figure A.2, Employment by Municipality

Affordable and Market-Rate Units Excluded from Growth

Municipality Name: Watchung Borough

Prior Round Affordable Units NOT included in Inclusionary Developments Built Post 1/1/04

Development Type	Number of COs Issued and/or Projected
Supportive/Special Needs Housing	
Accessory Apartments	
Municipally Sponsored and 100% Affordable	
Assisted Living	
Other	
Total	**0**

Market and Affordable Units in Prior Round Inclusionary Development Built post 1/1/04
N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if rental units resulted from N.J.A.C. 5:93-5.15(c)5 incentives)

Development Name	Rentals? (Y/N)	Total Units	Market Units	Affordable Units	Market Units Excluded
Villa Domenico	N	42	34	8	32
		0			0
		0			0
		0			0
		0			0
Total		**42**	**34**	**8**	**32**

Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development
N.J.A.C. 5:97-2.4(b)

Development Name		Affordable Units Provided	Permitted Jobs Exclusion
			0
			0
			0
			0
Total		**0**	0

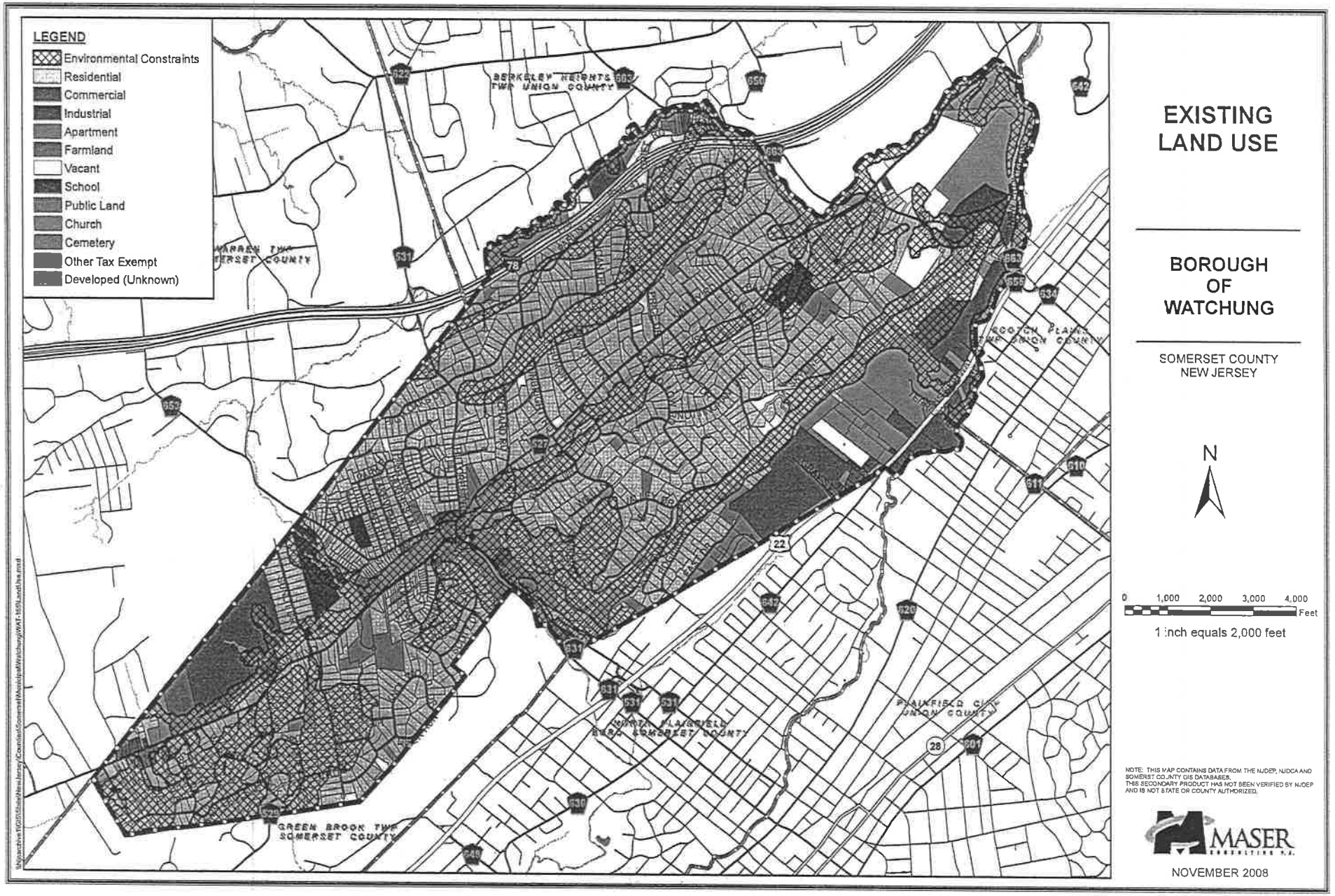
When finished, click here to return to Worksheet A

WATCHUNG BOROUGH

Adjustment of Third Round Growth Share Obligation based on Available Land Capacity

11/3/2008

Block	Lot	Address	Owner	Planning Area	Zoning	Total Acreage	Constrained Acreage	Constraint Description	Buildable Acreage	Include?	NOTES
1.01	1	816 MOUNTAIN BLVD	SIPOS, STEVEN A	2	Residential	0.11			0.11	No	Part of Development
1.01	2	UNKNOWN	SIPOS, STEVEN A	2	Residential	0.28			0.28	No	Part of Development
1.01	3	800 MOUNTAIN BLVD	JCPLCO C/O FE SERV TAX DEPT	2	Residential	0.21			0.21	No	Part of Development
1.01	4	1 HELEN STREET	GITONEAS, WILLIAM & CYNTHIA	2	Residential	0.18			0.18	No	Part of Development
1.02	8	6 MOUNTAIN COURT	SCHULTZ JR, WILLIAM & MERCEDES	2	Residential	0.68			0.68	Yes	Potential
3.01	28.02	UNKNOWN	TWIN BROOKS	2	Residential	1.48	0.66	Wetlands / Floodprone	0.82	No	Golf Course
3.01	28.03	UNKNOWN	TWIN BROOKS	2	Residential	1.20	0.76	Wetlands / Floodprone	0.43	No	Golf Course
3.01	29	666 MOUNTAIN BLVD	NESS, MACK C/O MARK L STANTON ESQ	2	Residential	19.83	6.26	Wetlands / Floodprone	13.57	No	Proposed Parkland
4.03	2	66 GLEN EAGLES DRIVE	SHURTS, H NORMAN & LOIS A	2	Residential	0.79	0.79	Steep Slopes	0.00	No	Part of Development
11.02	1	285 ANDERSON ROAD	NAGLE BEATRICELC/OEDMUND NAGLE,EXEC	2	Residential	1.51	0.38	Steep Slopes	1.13	Yes	Partial
11.02	8	111 STANIE BRAE DRIVE	CIASULLI, MICHAEL J	2	Residential	1.58	0.00	Steep Slopes	1.58	Yes	Partial
40.03	5.01	175 PARK PLACE	ANISKO, JOSEPH & EUGENIA	2	Residential	1.41	1.24	Steep Slopes	0.18	Yes	Partial
43.03	1	115 CRESTWOOD DRIVE	SIT, CHO-WEI & HELENA	2	Residential	0.48	0.48	Steep Slopes	0.01	No	Constrained
43.06	3.02	54 OLD SOMERSET ROAD	REID, ANDREW B ESTATE OF	2	Residential	1.32	0.06	Steep Slopes	1.26	No	Included in RDP
43.08	1.01	20 SUNBRIGHT ROAD	POPIK, JEAN J	2	Residential	1.17			1.17	No	Included in RDP
54.02	1	8 WEST DRIVE	UMRATH, ERNEST & FRIEDA	2	Residential	0.43			0.43	No	Part of Development
59.01	3	ROUTE 22	WATCHUNG VF LLC	2	Non-Residential	11.30	6.20	Wetlands	5.10	No	Parking Lot/Buffer to Shopping Center
64.03	2	1120 JOHNSTON DRIVE	REID, RANDALL JAMES	2	Residential	1.54	1.54	Steep Slopes	0.00	No	Constrained
64.03	13.01	1304 JOHNSTON DRIVE	HUANG TONY T / LU QI	2	Residential	2.08	2.08	Steep Slopes	0.00	No	Constrained
64.04	2.03	UNKNOWN	LEVIN PROPERTIES	2	Residential	3.41	1.68	Steep Slopes	1.73	No	Parking Lot/Buffer to Shopping Center
68.02	17	30 JARED COURT	SCHILLER, HERBERT JR & HELEN T	2	Residential	1.45	0.61	Steep Slopes	0.84	No	Included in RDP
69.06	8	845 JOHNSTON DRIVE	ENGELMAN, CHARLES H & LORRAINE	2	Residential	1.33			1.33	Yes	Potential
69.06	9.01	825 JOHNSTON DRIVE	ALPERT, PERRY & ELEANOR	2	Residential	1.47			1.47	Yes	Potential
69.06	13.01	35 DEVONSHIRE LANE	CONNELL, TONI	2	Residential	2.67			2.67	No	Included in RDP
70.01	2	DRIFT ROAD	BERLANT, ROBERT D	2	Residential	0.86			0.86	No	Part of Development
70.01	5	67 PRICE DRIVE	FECHTNER, DR J L & SONDRA	2	Residential	1.50	0.05	Steep Slopes	1.45	Yes	Partial
70.1	1	UNKNOWN	ALBERT< HENRY F & MARIA E	2	Residential	0.02			0.02	No	Undersized Lot
70.1	2	UNKNOWN	BERLANT, ROBERT D	2	Residential	2.11	0.68	C1	1.43	No	Nonbuildable (Wetlands)
70.1	3	UNKNOWN	BERLANT, ROBERT D	2	Residential	0.59			0.59	No	Nonbuildable (Wetlands)
70.1	4.01	FALMOUTH STREET	BECKERMAN< DAVID M	2	Residential	2.46	2.07	C1	0.39	No	Nonbuildable (Wetlands)
70.1	4.02	FALMOUTH STREET	BECKERMAN< DAVID M	2	Residential	2.79	0.52	C1	2.28	No	Nonbuildable (Wetlands)
74.02	18	325 BONNIE BURN RD	MAYERSKY, ARLENE F	2	Residential	0.47			0.47	No	Part of Development
74.02	19.02	BONNIE BURN ROAD	KARKA INVESTMENTS INC	2	Residential	5.13	4.36	Steep Slopes	0.77	No	Included in RDP
74.03	10	BONNIE BURN ROAD	PHILLIP PROPERTIES INC	2	Residential	21.44	7.04	Wetlands	14.40	No	Included in RDP
74.03	17	1353 JOHNSTON DRIVE	GIAVA, JOHN S	2	Residential	1.35	1.35	Steep Slopes	0.00	No	Constrained
74.03	18	JOHNSTON DRIVE	WELDON MATERIALS INC	2	Residential	1.46	1.46	Steep Slopes	0.00	No	Constrained
75.01	1	VALLEY ROAD	CONNELL COMPANY	2	Residential	14.09	9.60	C1 / Wetlands / Floodprone	4.49	No	Part of Development
75.01	2	1085 VALLEY ROAD	CONNELL COMPANY	2	Residential	0.88	0.13	Floodprone	0.75	No	Part of Development
75.01	3	1125 VALLEY ROAD	CONNELL RICE & SUGAR CO INC	2	Residential	3.08	2.84	C1 / Wetlands / Floodprone	0.24	No	Part of Development
76.01	8	264 BONNIE BURN ROAD	WELDON MATERIALS INC	2	Residential	2.98	1.57	Steep Slopes	1.41	No	Quarry
76.01	9.01	BONNIE BURN ROAD	WELDON MATERIALS INC	2	Residential	6.89	1.31	Steep Slopes	5.58	No	Quarry
76.01	10	230 BONNIE BURN ROAD	WELDON MATERIALS INC	2	Residential	2.48	1.77	Steep Slopes	0.71	No	Quarry
76.01	11	230 BONNIE BURN ROAD	WELDON MATERIALS INC	2	Residential	1.16	0.35	Steep Slopes	0.81	No	Quarry
76.01	12.01	230 BONNIE BURN ROAD	WELDON MATERIALS INC	2	Residential	0.85			0.85	No	Quarry
76.01	12.02	334 BONNIE BURN ROAD	WELDON MATERIALS INC	2	Residential	2.37	0.40	Steep Slopes	1.97	No	Quarry
76.01	15	368 BONNIE BURN ROAD	WELDON MATERIALS INC	2	Residential	0.60	0.19	C1	0.41	No	Quarry
76.01	18	368 BONNIE BURN ROAD	WELDON MATERIALS INC	2	Residential	1.37	0.39	C1	0.98	No	Quarry
76.01	20	VALLEY ROAD	WELDON MATERIALS INC	2	Residential	44.71	1.48	Steep Slopes	43.23	No	Quarry



EXISTING LAND USE

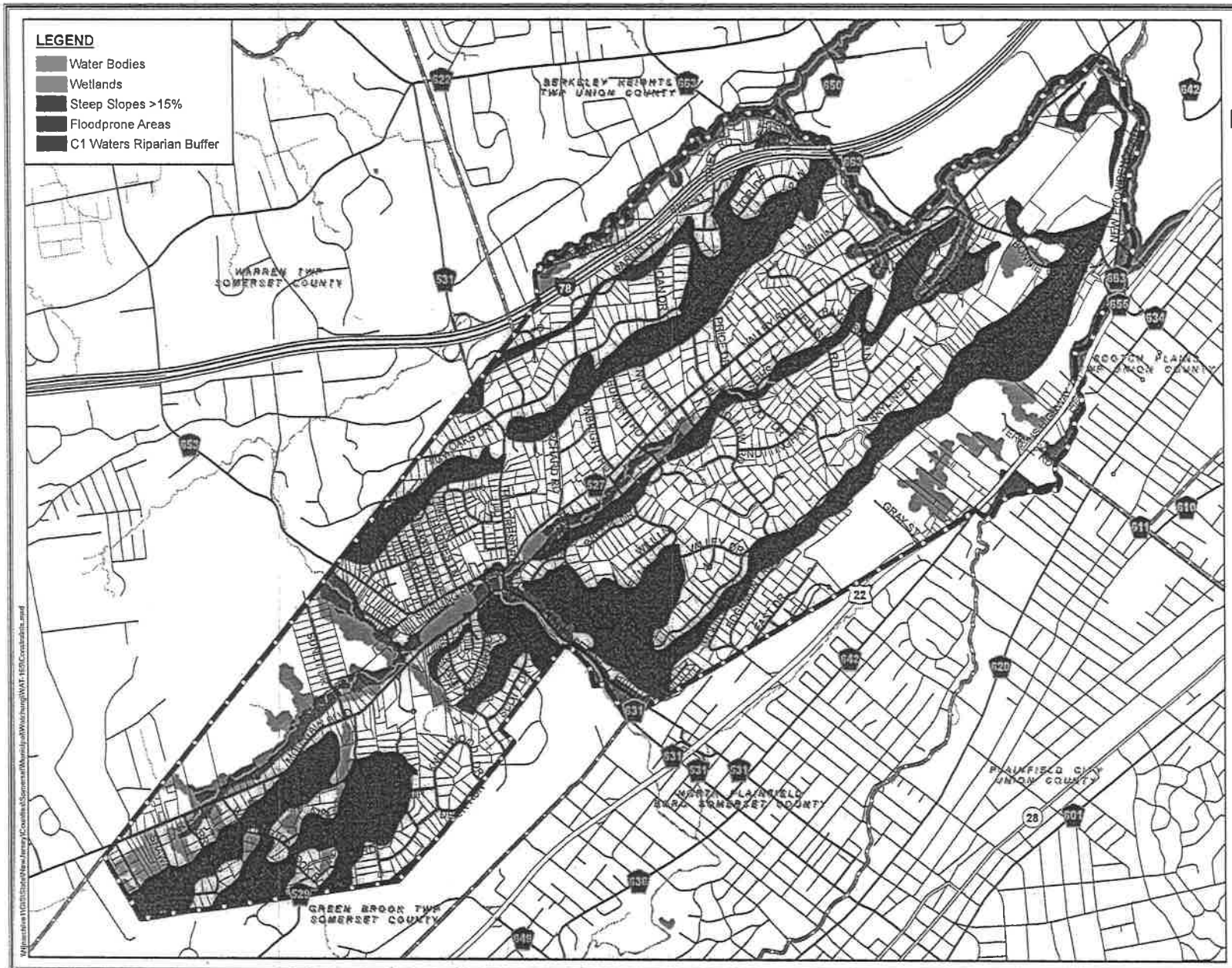
BOROUGH OF WATCHUNG

SOMERSET COUNTY
NEW JERSEY

NOTE: THIS MAP CONTAINS DATA FROM THE NJDEP, NJDCA AND SOMERST COUNTY GIS DATABASES. THIS SECONDARY PRODUCT HAS NOT BEEN VERIFIED BY NJDEP AND IS NOT A STATE OR COUNTY AUTHORIZED.

MASER CONSULTING P.A.

NOVEMBER 2008



ENVIRONMENTAL CONSTRAINTS

BOROUGH OF WATCHUNG

SOMERSET COUNTY
NEW JERSEY

N

0 1,000 2,000 3,000 4,000 Feet

1 inch equals 2,000 feet

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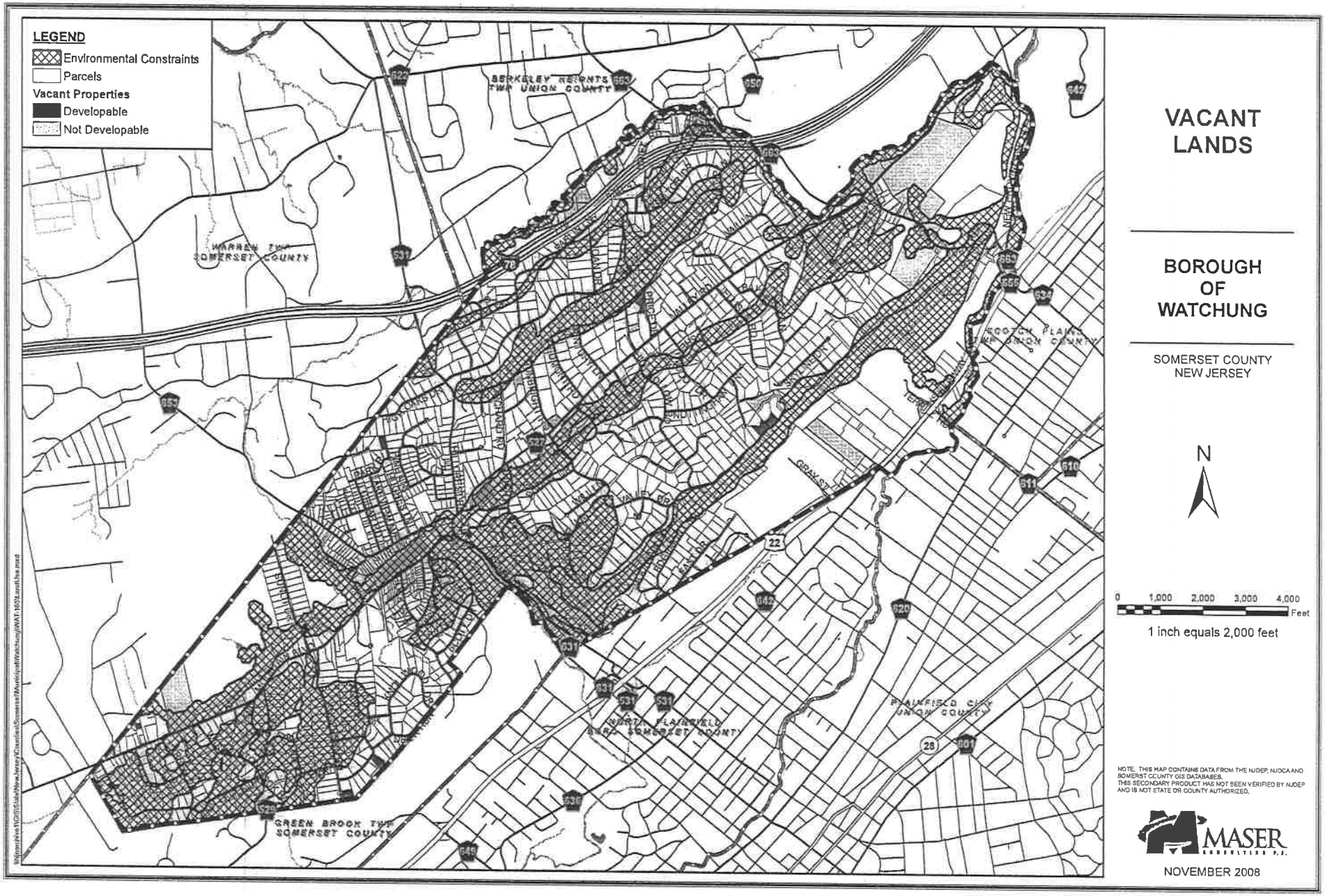

VACANT LANDS

BOROUGH OF WATCHUNG

SOMERSET COUNTY
NEW JERSEY

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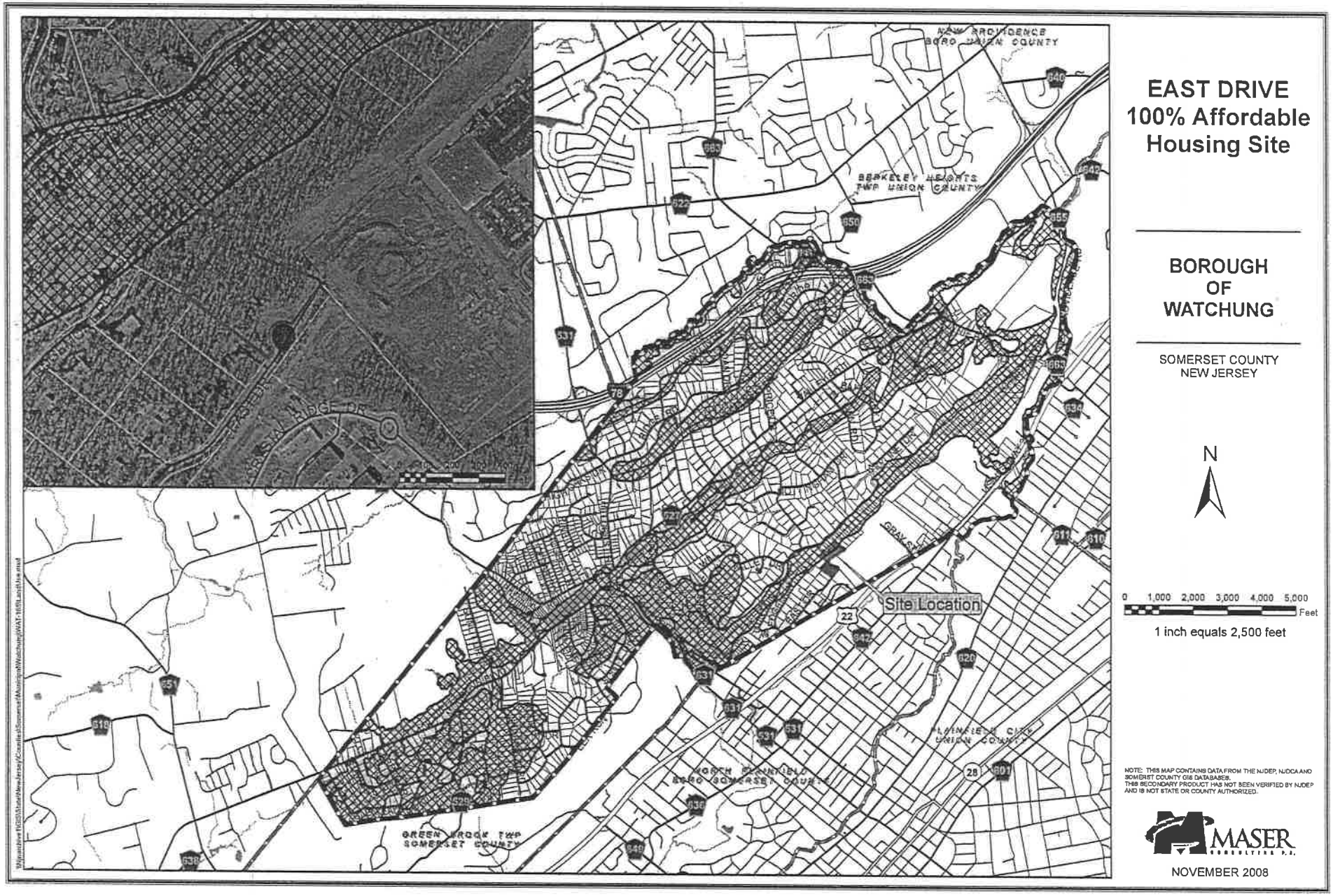
EAST DRIVE - 100% AFFORDABLE MUNICIPAL PROJECT


EAST DRIVE
100% Affordable
Housing Site
BOROUGH
OF
WATCHUNG
SOMERSET COUNTY
NEW JERSEY
N
Site Location
0 1,000 2,000 3,000 4,000 5,000
Feet
1 inch equals 2,500 feet
NOTE: THIS MAP CONTAINS DATA FROM THE NJDEP, NJDCA AND SOMERSET COUNTY GIS DATABASES.
THIS SECONDARY PRODUCT HAS NOT BEEN VERIFIED BY NJDEP AND IS NOT STATE OR COUNTY AUTHORIZED.
MASER CONSULTING P.A.
NOVEMBER 2008
NEW PROVIDENCE BORO UNION COUNTY
BERKELEY HEIGHTS TWP UNION COUNTY
GREEN BROOK TWP SOMERSET COUNTY
NORTH PLAINFIELD BORO SOMERSET COUNTY
PLAINFIELD CITY UNION COUNTY
GRAY ST
CRYSTAL RIDGE DR

DRAFT ZONING ORDINANCE FOR EAST DRIVE 100% AFFORDABLE HOUSING SITE

§138-XXX R-M-L District VII -Multi -family affordable housing zone VII. [Added XXX by Ord. No.XXX]

A. Permitted principal use. Multifamily residential attached dwelling units.

B. Permitted accessory uses. Uses and structures customary and Incidental to the principal permitted use.

C. Other standards. The height, area, yard, and other standards for this zone are:

(1) Minimum set-back distance of any building from the front lot line: forty (40) feet.

(2) Minimum set-back from any building from the side lot line: twenty (20) feet

(3) Minimum set-back from any building from the rear lot line: forty (40) feet.

(4) Minimum set-back of parking: ten (10) feet from any side lot line; twenty (20) feet from the front or rear lot line.

(5) Maximum residential density of twelve (12) units per acre on condition that all units shall be low and moderate income family rental units and a minimum 13% of the units shall be very low income rental units.

(6) Maximum building height: thirty-five (35) feet.

(7) Maximum number of units per structure: twenty-four (24).

(8) Minimum distance between structures: one-half (1/2) the sum of the height of adjacent structures, except end-to-end: fifteen (15) feet.

(9) Minimum off-street parking requirements shall comply with New Jersey Residential Site Improvement Standards.

(10) Parking spaces: nine feet by eighteen feet (9' x 18').

(11) Off-street parking may be permitted under or within a building structure.

(12) Maximum percent building coverage: thirty percent (30%).

(13) Maximum percent lot coverage: sixty percent (60%).

(14) Minimum paved, driveway: twenty four (24) feet.

DRAFT

(15) A landscape buffer shall be provided to screen adjacent single family residential uses subject to the approval of the appropriate Board and the Borough Engineer.

(16) Site lighting shall meet Borough standards and shall be positioned to minimize impact on adjacent single family residential uses.

(17) One project identification sign shall be permitted not to exceed 16 square feet in sign area on one side.

(18) All portions of the tract not utilized by buildings or paved surfaces shall be landscaped utilizing existing vegetation and the planting of conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of the vegetation of the area and lessen the visual impact of the structures and paved areas.

(19) Architectural building elevations and floor plans for each typical building shall be submitted as part of the site plan application.

DRAFT

AFFORDABLE HOUSING OVERLAY ZONE

DRAFT
ORDINANCE #

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER XXVIII, ENTITLED "LAND DEVELOPMENT REGULATIONS OF THE BOROUGH OF WATCHUNG" TO ESTABLISH AN AFFORDABLE HOUSING OVERLAY ZONE

BE IT ORDAINED, by the Mayor and Council of the Borough of Watchung, New Jersey as follows:

SECTION 1. Purpose. The purpose of this ordinance is to create an Affordable Housing Overlay Zone in which affordable housing development will be permitted if redevelopment of the site occurs and development regulations for permitted multi-family development that includes affordable housing units in the Borough of Watchung in accordance with the Housing Element and Fair Share Plan for Affordable Housing and the New Jersey Council on Affordable Housing rules and regulations pertaining to affordable housing units.

SECTION 2. A new Section entitled "Affordable Housing Overlay Zone" is established as follows:

A. **Purpose:** The purpose of the Affordable Housing Overlay Zone is to create a realistic opportunity for the creation of low and moderate-income housing as land becomes available for development or redevelopment in the Borough of Watchung, in accordance with the requirements of the New Jersey Council on Affordable Housing.

B. **Area of the Borough to be included in the Overlay Zone:** Block 64.02, Lot 3 and a portion of Block 64.02, Lot 5 as shown on the Draft Affordable Housing Overlay Zone Map

C. **Principal Permitted Uses:** All uses permitted within the underlying Zoning District in which the site is located.

D. **Permitted Conditional Uses:** Affordable Housing Development shall be permitted as a conditional use in the form of garden apartment dwelling units for sale or rental, provided that the provisions of subsections E through J below are also complied with.

E. **Permitted Accessory Uses:**

1) Uses customary and incidental to housing development.

2) Fences and walls, in accordance with Section §28-502.

3) Sign, in accordance with Section §28-504.

F. **Maximum Gross Density:**

1) For Sale. Affordable housing development with units for sale shall be permitted to have a maximum gross density of 14 units per acre.

DRAFT

2) For Rent. Affordable housing development with units for rent shall be permitted to have a maximum gross density of 18 units per acre.

G. **Maximum Building Height:** No building shall exceed thirty-five (35) feet in height and three (3) stories.

H. **Area, Yard and Other Requirements:**

1) No building or structure shall be located closer than one hundred (100) feet from the US Route 22 right-of-way or fifty (50) feet from any other right-of-way.

2) No building or structure shall be located closer than fifty (50) feet from any sideline.

3) The minimum distance between structures shall be one-half (1/2) the sum of the height of the adjacent structures, except that a minimum of fifteen (15) feet shall be maintained when structures abut end to end.

4) The maximum building length shall be one hundred and sixty (160) feet.

5) The minimum number of dwelling units in a building shall be four (4) and the maximum number of dwelling units in a building shall be thirty (30).

6) The maximum building coverage shall be thirty percent (30%).

7) A minimum of five percent (5%) of the lot shall be developed as open space and recreation area, including both active and passive recreation facilities.

8) All portions of the tract not utilized by buildings or paved surfaces shall be landscaped, utilizing a variety of planting materials, including planting of conifers and/or deciduous trees native to the area, in order to either maintain or reestablish the tone of vegetation in the area and lessen the visual impact of the structures and paved areas.

9) Architectural building elevations and floor plans for each typical building shall be submitted as part of the site plan application.

I. **Roadways, Off-street Parking and Private Residential Garages:**

1) On-street parking shall be permitted within the development tract. No parking will be permitted on Route 22.

2) Off-street parking may be permitted under or within a building structure, provided that the building shall not exceed the maximum building height.

3) The number of required parking spaces shall be in accordance with the New Jersey Residential Site Improvement Standards (RSIS).

DRAFT

4) No parking area or driveway shall be located within ten (10) feet of any property line.

J. **Affordable Housing Requirements:**

1) For Sale Units. Affordable housing development with units for sale shall make no less than 25 percent of the total number of units available for low and moderate income households, with at least 13 percent of these affordable units available for households earning 30 percent or less of the median income limit for the COAH Region.

2) For Rent Units. Affordable housing development with units for rent shall make no less than 20 percent of the total number of units available for low and moderate income households, with at least 13 percent of these affordable units available for households earning 30 percent or less of the median income limit for the COAH Region.

K. **Off-Street Loading/Solid Waste Disposal:** Adequate trash, recycling, and garbage pickup containers shall be provided within a totally enclosed area(s) and located in a manner so as to be obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three (3).

SECTION 3. Expiration.

This Ordinance shall remain in effect until such time that the unmet affordable housing need for the Borough of Watchung has been fulfilled. This Ordinance shall expire after the last affordable unit fulfilling the unmet affordable housing need receives a Certificate of Occupancy.

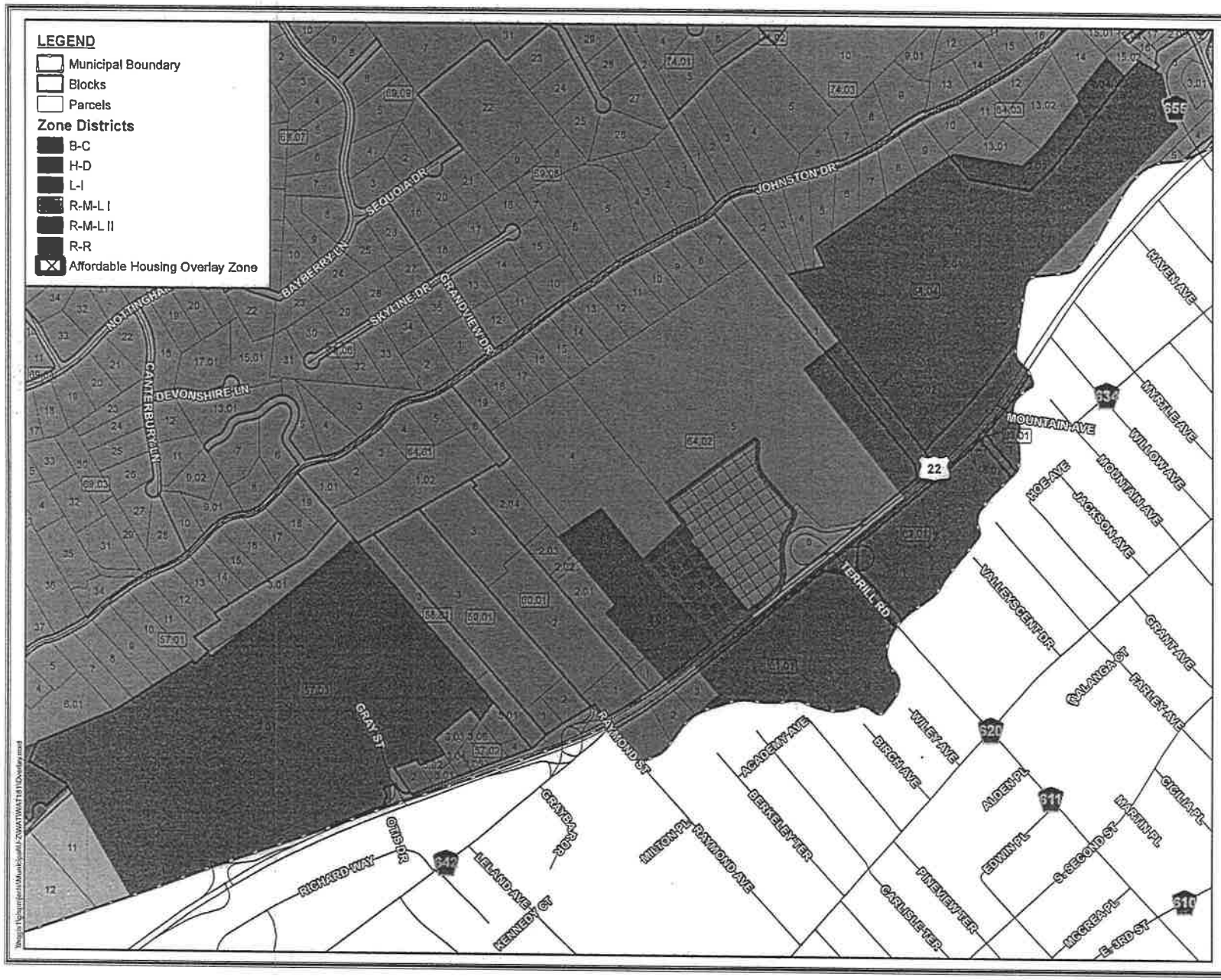
SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 5. Effective Date.

This ordinance shall take effect immediately upon passage and publication as required by law.

DRAFT



DRAFT AFFORDABLE HOUSING OVERLAY ZONE

BOROUGH OF WATCHUNG

SOMERSET COUNTY
NEW JERSEY

N

0 250 500 750 1,000 Feet

THIS MAP WAS CREATED USING SOMERSET COUNTY AND NEW JERSEY STATEWIDE DATA SOURCES. THIS SECONDARY PRODUCT HAS NOT BEEN AUTHORIZED AND IS NOT COUNTY APPROVED.

MASER CONSULTING P.A.

MARCH 2010

Exhibit C

BOROUGH OF WATCHUNG
DRAFT Affordable Housing Trust Fund Spending Plan

5/20/13

INTRODUCTION

The Borough of Watchung, Somerset County, has prepared a Housing Element and Fair Share Plan in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the affordable housing regulations of the New Jersey Department of Community Affairs (the Department) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by the Department on September 10, 1997 and adopted by the Borough of Watchung on October 9, 1997. The ordinance establishes the Borough of Watchung affordable housing trust fund for which this spending plan is prepared. Draft development fee ordinances were developed by the Borough in July 2005, December 2008 and July 2010; however, none of those draft ordinances were approved by the Department and have not been adopted by the Borough.

1. REVENUES FOR CERTIFICATION PERIOD

As of December 31, 2011, the Borough of Watchung has collected **$1,735,551**, expended **$1,245,273**, and earned **$138,353** in interest, resulting in a balance of **$628,631**. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in TD Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9, as described in the sections that follow.

To calculate a projection of revenue anticipated during the period of third round substantive certification, the Borough of Watchung considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and

3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

Payments in lieu have been assessed on ZV Development (Phillip Properties), which has not yet been constructed. Due to uncertainty as to whether these fees will be collected, they are not included in this spending plan at this time.

(c) Other funding sources:

None collected or projected.

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate.

SOURCE OF FUNDS	PROJECTED REVENUES – AFFORDABLE HOUSING TRUST FUND 2012 THROUGH 2018							
	2012	2013	2014	2015	2016	2017	2018	Total
(a) Development fees:	$ 82,535	$ 53,700	$ 53,700	$ 53,700	$ 53,700	$ 53,700	$ 53,700	$ 404,735
Approved Development	$ 82,535	$ -	$ -	$ -	$ -	$ -	$ -	$ 82,535
Projected Development		$ 53,700	$ 53,700	$ 53,700	$ 53,700	$ 53,700	$ 53,700	$ 322,200
(b) Payments in Lieu of Construction	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
(c) Other Funds (Specify source(s))	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
(d) Interest	$ 1,290	$ 1,611	$ 1,611	$ 1,611	$ 1,611	$ 1,611	$ 1,611	$ 10,956
Total	$ 83,825	$ 55,311	$ 55,311	$ 55,311	$ 55,311	$ 55,311	$ 55,311	$ 415,691

The Borough of Watchung projects a maximum of **$415,691** in revenue, to the extent available and depending on the extent of development fees to be collected between January 1, 2012 and December 31, 2018, including **$82,535** collected in 2012. This amount, when added to the Borough of Watchung's trust fund balance as of December 31, 2011, results in anticipated total revenue of **$1,044,322** available to fund and administer its affordable housing plan. All interest earned on the account shall be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Watchung:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Borough of Watchung's development fee ordinance for both residential and non-residential developments in accordance with the Department's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by the Department on September 10, 1997 and adopted by the Borough of Watchung on October 9, 1997. Draft development fee ordinances were developed by the Borough in July 2005, December 2008 and May 2010; however, none of those draft ordinances were approved by the Department and have not been adopted by the Borough.

(b) Distribution of development fee revenues:

The Borough of Watchung Administrator recommends to the governing body the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution in accordance with the Department-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)

The Borough of Watchung will dedicate **$610,000** to rehabilitation or new construction programs (see detailed descriptions in Fair Share Plan and as discussed below) as follows:

Rehabilitation program: $50,000

The Borough of Watchung Construction Official performed an exterior conditions survey, which resulted in 2 existing housing units suitable for rehabilitation. The Borough of Watchung has committed **$25,000** for the rehabilitation of each unit, for a total of **$50,000** to be expended from the trust fund. The units will be rehabilitated in accordance with the Watchung Borough Rehabilitation Program, in accordance with the Department requirements. The Borough has entered into a contract with Community Action Services to conduct the program, which is now underway. A copy of the Borough Council Resolution approving the contract with Community Action Services and approving the Borough Rehabilitation Services Manual is attached.

New construction project(s): $560,000

Municipal Sponsored Projects: $435,000

The Borough of Watchung will fund **$435,000** towards municipal sponsored projects, including the East Drive 100% Affordable Family Rental Project. The Borough owns the 6.4 acre property that will be used as an affordable housing site. The project is divided into two phases. Phase 1 consists of 20 affordable rental family units, which will satisfy the Borough's remaining Second Round affordable housing obligation of 19 units. The Borough adopted a Resolution on May 10, 2012 to issue a Request for Proposal for Developers. The Borough plans to select a Developer and adopt a resolution accepting the selected Developer. When completed, a copy of the governing body resolution and the development pro-forma will be forwarded to the COAH as an addendum to this spending plan.

The Borough has committed **$435,000** of funds in its Affordable Housing Trust Fund to assist with the site improvements costs at the East Drive site. Additional funds will be available to provide affordability assistance to render these rental units more affordable for low and very-low income families.

At this time, the Borough plans to utilize the remainder of the East Drive site to construct a Phase 2 of 20 affordable family rental units on the East Drive site. The Borough anticipates collection of $280,000 in payment-in-lieu funds from ZV Development (Phillip Properties). If and when these funds become available, the Borough plans to contribute the funds to site improvements costs associated with East Drive Phase 2. Phase 2 of the East Drive 100% Affordable Family Rental Project is contingent upon the resolution of the Department's amended Third Round Rules and is not included in this spending plan at this time.

Accessory Apartments: $125,000

The Borough of Watchung plans to fund 5 accessory low-income accessory apartments at **$25,000** per units, for a total of **$125,000** to be expended from the trust fund. Additional funding may be provided through the Affordability Assistance program to designate these units for very low income households. Additional funding may be provided through the Affordability Assistance program to render these accessory apartments more affordable, such as providing a portion or all of a security deposit for new affordable renters or assisting in utility payments. The Borough has an adopted accessory apartment zoning requirement, which permits for affordable accessory apartment units. The Borough plans to contract with a housing services provider to manage the program. However, the Accessory Apartment program is contingent upon the resolution of the Department's amended Third Round Rules.

(b) **Affordability Assistance (N.J.A.C. 5:97-8.8)**

AFFORDABILITY ASSISTANCE CALCULATION		
Actual development fees through 12/31/2011		**$1,735,551**
Actual interest earned through 12/31/2011	+	**$138,353**
Development fees projected 2012-2018	+	**$404,735**
Interest projected 2012-2018	+	**$10,956**
Less housing activity expenditures through 6/2/2008	-	**$1,098,108**
Total	=	**$1,191,487**
Calculate 30 percent	x .30 =	**$357,446**
Less Affordability assistance expenditures through 12/31/2011	-	**$0**
PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2012 through 12/31/2018	=	**$357,446**
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2012 through 12/31/2018	÷ 3 =	**$119,149**

The Borough of Watchung will dedicate a minimum of **$357,446** from the affordable housing trust fund, to the extent available, such ultimately depending on the development fees collected between 2012 and 2018, to render units more affordable. This would potentially include **$119,149** to render units more affordable to households earning 30 percent or less of median income by region. Affordability assistance programs will include down-payment assistance, rental assistance, and the conversion of low-income units to very-low-income units (including the accessory apartments) and other programs approved by the Department. It is expected that a majority of the affordable assistance funds will used for the municipal sponsored East Drive project.

(c) **Administrative Expenses (N.J.A.C. 5:97-8.9)**

ADMINISTRATIVE EXPENSE CALCULATION		
Actual Deposits and Interest thru 12/31/2011		$ 1,873,904
Projected Development Fees and Interest 2012 thru 2018	+	$ 415,691
Payments-In-Lieu of contruction and other deposits thru 7/17/08	+	$ -
Less RCA expenditures thru 12/31/18	-	$ 1,098,108
Total For Admin. Calculation, 1/1/2012 to 12/31/2018	=	$ 1,191,487
20% Maximum for Admin Expense	x .20	$ 238,297
Less Admin thru 12/31/2011	-	$ 147,165
PROJECTED MAXIMUM available for administrative expenses 1/1/2012 thru 12/31/2018	=	$ 91,132

The Borough of Watchung projects that **$76,876** will be available from the affordable housing trust fund to be used for administrative purposes through 2018, including $19,738 spent in 2012. This is less than the projected maximum of $91,132 available for administrative expenses due to the funds projected to be used for rehabilitation, new construction and required affordability assistance. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

The fee will be utilized for administrative purposes such as salaries and benefits for municipal employees or consultant fees necessary to develop or implement municipal housing programs such as rehabilitation, accessory apartments, new construction, housing elements and/or affirmative marketing programs. Administrative funds may be used to income qualify households and monitor implementation. Development fees may be used to defray the costs of staff or consultants that are preparing or implementing a Fair Share Plan.

The Borough of Watchung will expend the remainder of the trust fund budget (after setting aside funds for the rehabilitation program, municipal sponsored projects, accessory apartment program and administrative expenses) for affordability assistance.

4. EXPENDITURE SCHEDULE

The Borough of Watchung intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. The Borough has committed to expend **$485,000** towards rehabilitation and the East Drive 100% Affordable Family Rental municipally sponsored project, plus at least **$357,446** towards affordability assistance, which is greater than the **$526,371** trust fund balance as of March 31, 2009.

PROJECTS/ PROGRAMS	Number of Units Projected								
		2012	2013	2014	2015	2016	2017	2018	Total
Rehabilitation	2		$ 50,000						$ 50,000
Accessory Apartments	5		$ -	$ 25,000	$ 25,000	$ 25,000	$ 25,000	$ 25,000	$ 125,000
Municipal Sponsored Projects	19		$ 435,000						$ 435,000
Total Programs		$ -	$ 485,000	$ 25,000	$ 25,000	$ 25,000	$ 25,000	$ 25,000	$ 610,000
Affordability Assistance				$ 70,000	$ 70,000	$ 70,000	$ 70,000	$ 77,446	$ 357,446
Administration		$ 19,738	$ 15,000	$ 15,000	$ 8,000	$ 8,000	$ 8,000	$ 3,138	$ 76,876
Total Expenditures		$ 19,738	$ 500,000	$ 110,000	$ 103,000	$ 103,000	$ 103,000	$ 105,583	$ 1,044,322
Projected Funds		$ 83,825	$ 55,311	$ 55,311	$ 55,311	$ 55,311	$ 55,311	$ 55,311	$ 415,691
Accumulated Funds	$ 628,631	$ 712,456	$ 748,028	$ 303,339	$ 248,650	$ 200,961	$ 153,272	$ 105,583	$ 1,044,322
Remaining Balance	$ 628,631	$ 692,717	$ 248,028	$ 193,339	$ 145,650	$ 97,961	$ 50,272	$ -	$ -

5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of the Borough of Watchung has adopted a resolution agreeing to fund any shortfall of funds required for implementing the accessory apartment program, rehabilitation program or affordability assistance program. In the event that a shortfall of anticipated revenues occurs, the Borough of Watchung intends to bond to cover the additional costs. A copy of the adopted resolution is attached. In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to supplement the affordability assistance program.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough of Watchung's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

SUMMARY

The Borough of Watchung intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and generally consistent with the housing programs outlined in the Housing Plan Element dated July 20, 2010. Because of the indeterminate status of the Department's amended Third Round Rules, the Borough will address and complete its Prior Round obligation of 19 units and 2 rehabilitation units at this time. Future construction and implementation of additional affordable units will be subject to consistency with future rules. The Borough plans to update its Housing Element and Fair Share Plan within the next two years or at such time as directed by the Department.

The Borough of Watchung has a balance of **$628,630** as of December 31, 2011 and anticipates an additional **$404,735** in revenues through 2018 for a total of **$1,044,322**. The municipality plans to dedicate **$610,000** towards rehabilitation, accessory apartments and municipal sponsored projects. In addition, the Borough anticipates spending at least **$357,446** to render units more affordable, and at most **$91,132** for administrative costs, depending on actual development fees and interest collected. At the current projection, the Borough anticipates a need to reduce the administrative fees to **$76,876** in order to cover the costs for the rehabilitation, new construction and required affordability assistance. Any shortfall of funds will be offset by bonds. The municipality will dedicate any excess funds or remaining balance toward the affordability assistance program.

SPENDING PLAN SUMMARY		
Balance as of December 31, 2011		$ 628,631
PROJECTED REVENUE 2012-2018		
Development fees	+	$ 404,735
Payments in lieu of construction	+	$ -
Other funds	+	$ -
Interest	+	$ 10,956
TOTAL AVAILABLE FUNDS	=	$ 1,044,322
PROJECTED EXPENDITURES 2012-2018		
Funds used for Rehabilitation		$ 50,000
Funds used for New Construction		
1. East Drive - Phase I (100% affordable)	+	$ 435,000
2. Accessory Apartments	+	$ 125,000
Affordability Assistance *	+	$ 357,446
Administration **	+	$ 76,876
TOTAL PROJECTED EXPENDITURES	=	$ 1,044,322
REMAINING BALANCE	=	$ -

* Actual affordability assistance minimums are calculated on an ongoing basis, based on actual revenues.

** Administrative expenses are limited to 20 percent of what is actually collected.