



**Clarke Caton Hintz**

Architecture

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# **2015 AMENDED HOUSING ELEMENT & FAIR SHARE PLAN**

**Borough of Oceanport, Monmouth County, New Jersey**

**June 5, 2015**



Clarke Caton Hintz

**2015 AMENDED  
HOUSING ELEMENT & FAIR SHARE PLAN**

**Borough of Oceanport, Monmouth County, New Jersey**

**Adopted by the Borough of Oceanport Planning Board on  
June 5, 2015 & Endorsed by the Borough of Oceanport  
Governing Body on June 18, 2015**

Prepared for the Borough of Oceanport by:

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**William White, PE (Maser Consulting) – Board Engineer**



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**INTRODUCTION & EXECUTIVE SUMMARY**

The within is an amended Housing Element and Fair Share Plan, that amends the Amended 2008 *Housing Element and Fair Share Plan* and replaces the 2009 and 2012 *Amendments to the 2008 Plan*. It has been prepared for the Borough of Oceanport, Monmouth County, in accordance with the NJ Fair Housing Act (hereinafter “FHA”) at N.J.S.A. 52:27D-301 and the rules of the New Jersey Council on Affordable Housing (hereinafter “COAH”) at N.J.A.C. 5:93, in view of the invalidation of N.J.A.C. 5:96 et seq. and N.J.A.C. 5:97 et seq., by the New Jersey Supreme Court in a case entitled, In The Matter Of The Adoption Of N.J.A.C. 5:96 and 5:97 By The New Jersey Council On Affordable Housing.

This 2015 *Amended Housing Element and Fair Share Plan* (hereinafter the “2015 Plan”) is prepared consistent with the 2015 Settlement Agreement between Fair Share Housing Center (hereinafter “FSHC”) and the Borough of Oceanport. See the following section, “Borough of Oceanport Affordable Housing History” for additional information on this Settlement Agreement.

On September 26, 2013 the NJ Supreme Court invalidated COAH’s 2008 third round substantive and procedural rules, N.J.A.C. 5:96 and 5:97, (In The Matter Of The Adoption Of N.J.A.C. 5:96 and 5:97 By The New Jersey Council On Affordable Housing) and ordered COAH to prepare the necessary rules within 5 months, or by February 26, 2014. While no rules were forthcoming, on February 26 COAH filed a motion with the Supreme Court asking the Court to extend the deadline to propose new regulations to May 1, 2014. On March 14, 2014, the NJ Supreme Court ordered COAH to propose and adopt new regulations using a methodology similar to COAH’s first and second round methodologies. The Court set a schedule that included, among other milestones, adoption of new third round rules on or before October 22, 2014. Although COAH met all the Supreme Court’s deadlines leading up to the October 22, 2014 deadline, it missed that deadline. More specifically, on October 20, 2014, the COAH Board deadlocked with a 3-3 vote on the motion to adopt the rules it previously proposed. As a result, there are no third round rules to which the Borough may conform this plan.

On October 31, 2014 Fair Share Housing Center filed a motion before the NJ Supreme Court to enforce litigant’s rights. This motion argued that COAH violated the Supreme Court’s orders regarding the adoption of new rules and that the Court should hold that COAH no longer protects municipalities from exclusionary zoning litigation. The motion further argued that the Court should appoint a small number of judges to determine a consistent methodology for how municipal obligations are calculated and satisfied and that subsequent litigation, in the form of exclusionary zoning lawsuits (also known as builder’s remedy lawsuits), should take place in Superior Court. The Supreme Court heard arguments on this motion on January 6, 2015.

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On March 10, 2015, the Supreme Court issued a ruling on the Motion In Aid of Litigant's Rights filed by Fair Share Housing Center ("FSHC") (In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing). This long-awaited decision provides a new direction for how New Jersey municipalities are to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans (housing plans) from COAH to designated *Mount Laurel* trial judges. The implication of this is that COAH will no longer establish the standards with which municipalities must comply and that COAH will no longer be a forum available for municipalities to comply with their obligations voluntarily. Municipalities under COAH's jurisdiction must now file declaratory actions to bring themselves under the jurisdiction of the Court and must apply for immunity to remain protected from exclusionary zoning lawsuits. By extension, trial judges may very well expect municipalities under the jurisdiction of a Court to follow a parallel procedure. Regardless of how the trial judge obtains jurisdiction, in the future, as in the past, the trial judge will review plans independently or with the assistance of a master and approve them if warranted.

The decision established a 90-day transitional period starting the day of the decision. In the 30-day period following this 90-day transitional period, municipalities under COAH's jurisdiction may file a declaratory relief action and a motion for immunity from lawsuits. The Supreme Court indicated that municipalities will then have five months to submit a plan to the trial court for its review.

Under COAH's substantive rules for round two, there are two types of municipal affordable housing obligation: the rehabilitation share, the new construction obligation. The rehabilitation obligation is defined as the number of deficient housing units occupied by low- and moderate-income households within a municipality, as calculated by COAH, which must be addressed in a Fair Share Plan. The new construction obligation can be defined as the number of new affordable housing units restricted to low- and moderate-income households within a municipality, as calculated by COAH, which must be addressed in a Fair Share Plan (note that the restriction must be new, not the physical housing unit). The new construction obligation is further broken down into the prior round obligation, defined as the cumulative 1987-1999 fair share obligation and the third round obligation, defined as the fair share obligation for the years 1999 to the end of the not-yet-defined "third round".

This 2015 Plan addresses the Borough's rehabilitation and prior round obligations. Since there is no third round assigned obligation and no third round rules, this 2015 Plan identifies those units and programs that will contribute toward the third round obligation while reserving the right to rearrange how it applies the existing and proposed affordable units once new standards are established. As assigned by COAH, the Borough has a rehabilitation obligation of zero units and a prior round obligation of 149-units.

Oceanport conducted a vacant land adjustment analysis that resulted in an adjusted prior round obligation (also referred to as the "realistic development potential" or "RDP") of 31 units. As described in



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more detail in this 2015 Plan, the Borough will fully satisfy the 31 unit RDP using affordable housing units from, (i) one special needs facility known as Elizabeth Drive, (ii) one family inclusionary project known as Oceanport Village and (iii) two 100% affordable housing projects known as Oceanport Manor Existing and Pemberton Avenue. Units that will contribute toward the third round and/or the unmet need include those created or anticipated on Fort Monmouth, a 100% affordable housing project known as Oceanport Manor Unbuilt and a family inclusionary project known as Old Wharf.

Borough will seek court approval of this 2015 Plan, as may be further amended after judicial review, in a combined Fairness and Compliance Hearing. The purpose of the Fairness Hearing is to determine whether the settlement the Borough and FSHC entered into is fair and reasonable to lower income households. The purpose of the Compliance Hearing is to determine whether the 2015 Housing Element and Fair Share Plan creates a realistic opportunity for satisfaction of the rehab and prior round components of its fair share. The court approval of the Borough's affordable housing plan is known as a "prior round judgment of compliance and repose".

Oceanport reserves the right to reassign any of the affordable housing units and any associated bonus credits in the most advantageous manner permitted by the applicable regulations of the State agency or the Court having jurisdiction over the Borough.

**BOROUGH OF OCEANPORT AFFORDABLE HOUSING HISTORY**

On May 26, 2005, Oceanport Holdings filed an exclusionary zoning lawsuit against the Borough. The plaintiff sought to construct 60 units on Block 1, Lot 18 and Block 61, Lot 6 in a six story building. Pursuant to a dispositive motion filed by the Borough, Judge Coogan dismissed the plaintiff's complaint. The Planning Board adopted a third round housing element and fair share plan in October 2005 (the "2005 Plan") and submitted it to Superior Court as part of a request for a Judgment of Compliance and an Order of Repose.

On December 7, 2007, the Appellate Division reversed the trial judge's dismissal in a reported opinion entitled Oceanport Holding, L.L.C. v. Borough of Oceanport, 396 N.J. Super. 622 (App. Div. 2007). In its decision, the Appellate Division scrupulously avoided reversing the trial court's decision on substantive grounds. Rather, the Appellate Division ruled – as a procedural matter – that the trial court should have first decided whether the plaintiff had demonstrated a cause of action by proving that the Borough was non-compliant, before deciding plaintiff's entitlement to the remedy it sought. Consequently, the Appellate Division remanded the case to the trial judge for further processing.

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After the Appellate Division invalidated, in part, the first iteration of round three regulations, COAH adopted a second iteration of third round rules. COAH proposed these regulations and then had the proposed regulations published in the New Jersey Register on January 22, 2008. COAH adopted these regulations later that year as well as amendments to the new regulations.

On December 18, 2008, in response to COAH's publication of new proposed round three regulations on January 22, 2008, the Borough Planning Board adopted the *Amended Third Round Housing Element and Fair Share Plan* (the "2008 Plan"). The Borough Council endorsed the 2008 Plan on the same day. The Borough then submitted the 2008 Plan to the Court and sought its approval of same. The 2008 Plan found that the Oceanport Holdings site was not necessary to satisfy the Borough's affordable housing obligation and it was therefore not included as an affordable housing site.

Subsequent to adoption of the 2008 Plan, the Borough entered confidential settlement discussions with the plaintiff through the assistance of a court-appointed special master. The Borough and Plaintiff worked towards an agreement. In anticipation that the negotiations would culminate in a Settlement Agreement, on October 14, 2009, the Borough Planning Board adopted the *Amendment to the Amended Third Round Housing Element and Fair Share Plan* (the "2009 Plan"). On October 15, 2009, the Borough Council endorsed the 2009 Plan and thereafter filed it with the Court. As explained below, however, the Court never reached the point of commencing a review of a settlement.

Since 2009, the Borough continued negotiations with the Plaintiff in an effort to reach a settlement with Oceanport Holdings, LLC property consistent with the 2009 Plan. In July 2012, the Plaintiff indicated they no longer wished to participate in the litigation and stated support for a dismissal of the builder's remedy lawsuit. On September 4, 2012, the Honorable Jamie S. Perri, J.S.C. of the New Jersey Superior Court entered an order dismissing the Oceanport Holdings, LLC lawsuit and requiring the Borough to submit a revised Housing Element and Fair Share Plan addressing the prior round and rehabilitation obligations within 60 days.

The Borough adopted the 2012 *Amendment to the Amended Housing Element and Fair Share Plan* (hereinafter the "2012 Plan") in response to the September 4, 2012 order issued by Judge Perri and sought approval of same.

On July 12, 2013, in response to the Borough's application for plan approval, FSHC submitted an objection to the 2012 Affordable Housing Plan.

On August 26, 2013, the Court conducted a Compliance Hearing during which the Borough provided testimony and argument in support of the 2012 Plan and FSHC provided argument against said plan. The Borough and FSHC agreed to attempt to amicably resolve their disputes during a February 12, 2014 continuation of the August 26, 2013 Compliance Hearing. This 2015 Plan, and the Settlement Agreement

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which it responds to, are the result of the amicable resolution of the disputes. The Settlement Agreement can be found in the Fair Share Plan Appendices.

**AFFORDABLE HOUSING IN NEW JERSEY**

See the *2012 Amendment to the Amended Housing Element & Fair Share Plan* for this information and analysis.

**HOUSING STOCK AND DEMOGRAPHIC ANALYSIS**

See the *2012 Amendment to the Amended Housing Element & Fair Share Plan* for this information and analysis.

**OCEANPORT'S AFFORDABLE HOUSING OBLIGATION**

There are three components to a municipality's affordable housing obligation; the rehabilitation share, the prior round obligation and the third round obligation. However, as discussed in more detail above in the *Introduction and Executive Summary*, this 2015 Plan address the rehabilitation and prior round obligations and discusses those units that may satisfy the third round obligation and/or the unmet need.

**Rehabilitation Obligation**

The rehabilitation obligation is defined as the number of deficient housing units occupied by low and moderate income households within a municipality. COAH calculates this figure using indices such as overcrowding of units constructed prior to 1950, incomplete kitchen facilities, incomplete plumbing facilities and the estimated number of low and moderate income households in the municipality. Appendix B to COAH's 2008 substantive rules, N.J.A.C. 5:97 et seq., provide each municipality's rehabilitation obligation. Oceanport's rehabilitation obligation is 0 units. As such, the Borough is not required to operate or participate in a rehabilitation program.

### **Prior Round Obligation & Vacant Land Adjustment**

Oceanport's prior round obligation (1987-1999), as recalculated by COAH, is 149 units (Appendix C. to N.J.A.C. 5:97). However, due to limited vacant and developable land that is within the Borough's land use jurisdiction, the Borough qualifies for a vacant land adjustment. A vacant land adjustment is an adjustment to the prior round obligation (the new construction affordable housing obligation) due to a lack of vacant and developable land. The downward adjusted new construction affordable housing obligation that results from a vacant land adjustment is known as the realistic development potential or RDP. The RDP represents the portion of the new construction affordable housing obligation that can realistically be addressed with inclusionary development on lots identified in the vacant land adjustment.

In order to calculate the Borough's potential vacant land adjustment, all vacant properties, and underutilized properties must be analyzed. Those lands within the jurisdiction of the Fort Monmouth Economic Revitalization Authority (hereinafter "FMERA") and the Sports and Exposition Authority (hereinafter "SEA") were excluded from the analysis because the Borough does not have jurisdiction over the zoning of those properties.

### **Exclusion of Fort Monmouth and Sports and Exposition Authority from the Vacant Land Adjustment**

Approximately 436 acres or 17% of Oceanport Borough lands are located within the jurisdiction of the Fort Monmouth Economic Revitalization Authority (FMERA). FMERA's jurisdiction encompasses those lands previously occupied by the Fort Monmouth Army Base in portions of the municipalities of Oceanport, Tinton Falls and Eatontown. The Fort Monmouth Army Base has been closed since September 2011.

FMERA was created by the "Fort Monmouth Economic Revitalization Authority Act", signed by the Governor on August 17, 2010. It is established in, but not of, the Department of the Treasury as a public body corporate and politic as an office of the New Jersey Economic Development Authority (EDA). The Act states FMERA is "*constituted as an instrumentality of the State exercising public and essential governmental functions to provide for the public safety, convenience, benefit, and welfare*". FMERA was established as the successor to the Fort Monmouth Revitalization and Planning Authority (FMERPA) which was established in 2006 to create the Reuse and Redevelopment Plan for Fort Monmouth. FMERA is charged with, among other tasks, implementing the Reuse and Redevelopment Plan.

The purpose of FMERA, as stated in the Fort Monmouth Economic Revitalization Authority Act is as follows:

*"It shall be the purpose of the authority to oversee, administer, and implement the [Reuse and Redevelopment] plan as provided in this act, in a manner that will promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare; to*

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*conserve the natural resources of the State; to provide housing, including housing to address identified needs related to homelessness; and to advance the general prosperity and economic welfare of the people in the host municipalities, the county, and the entire State by cooperating and acting in conjunction with other organizations, public and private, to promote and advance the economic use of the facilities located at Fort Monmouth."*

The Reuse and Redevelopment Plan was adopted by FMERPA in 2008. This document prescribes land use, density and infrastructure (road, sewer, etc.) for the Fort Monmouth lands and supersedes local zoning power. The Fort Monmouth Economic Revitalization Authority Act states the following (C.52:27-34 Development and design guidelines, land use regulations; variances):

*"The authority shall propose and adopt development and design guidelines and land use regulations consistent with and in furtherance of the plan. Provisions may be made by the authority for the waiver, according to definite criteria, of strict compliance with the standards promulgated, where necessary to alleviate hardship. The plan and the development and design guidelines and land use regulations adopted by the authority shall supersede the master plans, the zoning and land use ordinances and regulations, and the zoning maps of the host municipalities adopted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) insofar as the same may pertain to the project area, except with respect to the procedures to be followed for submitting and processing applications for subdivision or site plan approvals." (Emphasis added)*

The Reuse and Redevelopment Plan provides for 720 residential units within Oceanport. Application of the 20% affordable housing set-aside required by the Land Use rules as well as the Reuse and Redevelopment Plan would yield approximately 144 low and moderate income housing units, unless the developer(s) demonstrate that it would be economically unfeasible to maintain a 20 percent set-aside.

FMERA adopted Land Use rules on June 20, 2013. These also state, at N.J.A.C. 19-31C-3.1(b), that the Reuse Plan the rules therein "supersede the master plans, the zoning and land use ordinances and regulations, and the zoning maps of the host municipalities adopted pursuant to the Municipal Land Use Law and county development regulations". Note that an exception to this in the case of density variances where FMERA may only grant a density variance if first approved by the municipality.

As shown by the language in the Fort Monmouth Economic Revitalization Authority Act and FMERA's recently adopted Land Use rules, the Borough has no power to zone those lands under the jurisdiction of FMERA for affordable housing, or any other use, independent of FMERA. As such, Oceanport has no right to compel FMERA to provide affordable housing.

Due to this lack of jurisdiction, all lands under the jurisdiction of Fort Monmouth have been excluded from the vacant land adjustment.

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Similar to Fort Monmouth, the Borough does not have jurisdiction over the zoning of the lands under control of the Sports and Exposition Authority (SEA). These lands consist of the Monmouth Park Racetrack along Oceanport Avenue, as well as surrounding streets. The Monmouth Racetrack recently, in 2012, signed a 40 year lease with the SEA for the continued use of the site. The statute that created the SEA speaks directly to the power to zone. Specifically, the powers of the authority (5:10-5 Powers of Authority) states the following:

*x. To determine the location, type and character of a project or any part thereof and all other matters in connection with all or any part of a project, notwithstanding any land use plan, zoning regulation, building code or similar regulation heretofore or hereafter adopted by the State, any municipality, county, public body politic and corporate...*

This same statute provides the following authority to the SEA (5:10-6 Authority of Projects)

*(5) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects consisting of (a) racetrack facilities located within the State of New Jersey, but outside of the meadowlands complex, (b) their contiguous properties, and (c) their auxiliary facilities, including, without limitation, pavilions, stands, field houses, clubhouses, training tracks for horses, racetracks for the holding of horse race meetings, fairgrounds, other exposition facilities, and other buildings, structures, facilities, properties and appurtenances related to, incidental to, necessary for, or complementary to a complex suitable for the holding of horse race meetings, other sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, including, but not limited to, driveways, roads, approaches, parking areas, parks, recreation areas, lodging facilities, vending facilities, restaurants, transportation structures, systems and facilities, equipment, furnishings, and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of any of those projects or any facility thereof.*

Due to this lack of jurisdiction, all lands under the jurisdiction of the SEA have been excluded from the vacant land adjustment.

### **Calculation of the Realistic Development Potential**

The second step is to narrow the list of identified properties to only those that contain sufficient developable area to create five dwelling units where there is a density of 8 units an acre (.63 ac). Developable land is generally defined as lands free of wetlands, other site constraints or historic structures. A determination was made that a density of 8 units an acre is appropriate. Support for

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excluding those lots which do not meet the criteria can be found in the “Comments” column of Appendix A.

Those properties which meet the above criteria must contribute toward calculation of the RDP. COAH’s rules require that the eight unit per acre density be applied to the unconstrained portion of the identified lots and that a 20% affordable housing set-aside be applied to the potential density. This calculation is illustrated in the following hypothetical example:

$$\text{Lot A: } 2 \text{ acres} \times 8 \text{ units/acre} \times .2 = 3.2 \text{ affordable unit RDP}$$

The analysis conducted by this office found 7 lots which should contribute toward the RDP. The development potential on these lots, assuming 8 units an acre and a 20% set-aside, yields 31 affordable units. As such, the Borough’s prior round RDP is calculated to be 31 affordable units, a 118 unit reduction from the 149 unit prior round obligation assigned by COAH. This reduction of 118 units also represents the unmet need. The term “unmet need” is defined as the difference between the new construction affordable housing obligation and the RDP.

### **Rental & Age-restricted Units**

In addition to satisfying RDP, the Borough must also adhere to a minimum rental obligation and maximum number of age-restricted units. See below for the calculation of each limitation.

- Minimum Rental Obligation = 8 units  
.25 (RDP) = .25 (31) = 7.75, rounded up to 8
  - A rental unit available to the general public receives one rental bonus;
  - An age-restricted unit receives a 0.33 rental bonus, but no more than 50 percent of the rental obligation shall receive a bonus for age-restricted units; and
  - No rental bonus is granted in excess of the prior round rental obligation
- Maximum Age Restricted = 7 units  
.25 (RDP) = .25 (31) = 7.75, rounded down to 7

## **OCEANPORT'S AFFORDABLE HOUSING PROGRAMS**

Oceanport has a variety of affordable housing programs, including special needs, 100% affordable housing and inclusionary housing.

### **39 Elizabeth Drive Special Needs Facility**

This facility is a 4 bedroom group home administered by Allies Inc. The site is a .25 acre property on Elizabeth Drive at Block 130, Lot 23. The property received funding from the New Jersey Department of Developmental Disabilities in exchange for 20 year affordability controls. This 20 year period is an acceptable affordability control pursuant to *N.J.A.C. 5:97-4.3(c)2.i*. The property is not located in a workforce housing census tract. The site was first occupied in 2008. See the Fair Share Plan Appendices for additional detail on this project and supporting documentation.

This project will be used to satisfy the 31 unit RDP, including the 8 unit rental obligation. The Borough is entitled to 4 credits from each of the 4 bedrooms and 4 rental bonus credits for a total of 8 prior round credits.

### **Fort Monmouth**

Approximately 436 acres or 17% of Oceanport Borough lands are located within the jurisdiction of the Fort Monmouth Economic Revitalization Authority (FMERA). FMERA's jurisdiction encompasses those lands previously occupied by the Fort Monmouth Army Base in portions of the municipalities of Oceanport, Tinton Falls and Eatontown. The Fort Monmouth Army Base has been closed since September 2011.

FMERA was created by the "Fort Monmouth Economic Revitalization Authority Act", signed by the Governor on August 17, 2010. It is established in, but not of, the Department of the Treasury as a public body corporate and politic as an office of the New Jersey Economic Development Authority (EDA). The Act states FMERA is "*constituted as an instrumentality of the State exercising public and essential governmental functions to provide for the public safety, convenience, benefit, and welfare*". FMERA was established as the successor to the Fort Monmouth Revitalization and Planning Authority (FMERPA) which was established in 2006 to create the Reuse and Redevelopment Plan for Fort Monmouth. FMERA is charged with, among other tasks, implementing the Reuse and Redevelopment Plan.

The purpose of FMERA, as stated in the Fort Monmouth Economic Revitalization Authority Act is as follows:



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*“It shall be the purpose of the authority to oversee, administer, and implement the [Reuse and Redevelopment] plan as provided in this act, in a manner that will promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare; to conserve the natural resources of the State; to provide housing, including housing to address identified needs related to homelessness; and to advance the general prosperity and economic welfare of the people in the host municipalities, the county, and the entire State by cooperating and acting in conjunction with other organizations, public and private, to promote and advance the economic use of the facilities located at Fort Monmouth.”*

The Reuse and Redevelopment Plan was adopted by FMERPA in 2008. This document prescribes land use, density and infrastructure (road, sewer, etc.) for the Fort Monmouth lands and supersedes local zoning power. The Fort Monmouth Economic Revitalization Authority Act states the following (C.52:27I-34 Development and design guidelines, land use regulations; variances):

*“The authority shall propose and adopt development and design guidelines and land use regulations consistent with and in furtherance of the plan. Provisions may be made by the authority for the waiver, according to definite criteria, of strict compliance with the standards promulgated, where necessary to alleviate hardship. The plan and the development and design guidelines and land use regulations adopted by the authority shall supersede the master plans, the zoning and land use ordinances and regulations, and the zoning maps of the host municipalities adopted pursuant to the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) insofar as the same may pertain to the project area, except with respect to the procedures to be followed for submitting and processing applications for subdivision or site plan approvals.” (Emphasis added)*

The Reuse and Redevelopment Plan provides for 720 residential units within Oceanport. Application of the 20% affordable housing set-aside required by the Land Use rules as well as the Reuse and Redevelopment Plan would yield approximately 144 low and moderate income housing units, unless the developer(s) demonstrate that it would be economically unfeasible to maintain a 20 percent set-aside.

FMERA adopted Land Use rules on June 20, 2013. These also state, at N.J.A.C. 19-31C-3.1(b), that the Reuse Plan the rules therein “supersede the master plans, the zoning and land use ordinances and regulations, and the zoning maps of the host municipalities adopted pursuant to the Municipal Land Use Law and county development regulations”. Note that an exception to this in the case of density variances where FMERA may only grant a density variance if first approved by the municipality.

As shown by the language in the Fort Monmouth Economic Revitalization Authority Act and FMERA’s recently adopted Land Use rules, the Borough has no power to zone those lands under the jurisdiction of FMERA for affordable housing, or any other use, independent of FMERA.

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As such, Oceanport has no right to compel FMERA to provide affordable housing. However, the Legislature that created FMERA does. More specifically, N.J.S.A. 52:27D-329.9 provides as follows:

*“Notwithstanding any rules of the council to the contrary, for developments consisting of newly-constructed residential units located, or to be located, within the jurisdiction of any regional planning entity required to adopt a master plan or comprehensive management plan pursuant to statutory law, including the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c. 404 (C.13:17-6), the Pinelands Commission pursuant to section 7 of the “Pinelands Protection Act,” P.L.1979, c. 111 (C.13:18A-8), the Fort Monmouth Economic Revitalization Planning Authority pursuant to section 5 of P.L.2006, c. 16 (C.52:27I-5), or its successor, and the Highlands Water Protection and Planning Council pursuant to section 11 of P.L.2004, c. 120 (C.13:20-11), but excluding joint planning boards formed pursuant to section 64 of P.L.1975, c. 291 (C.40:55D-77), there shall be required to be reserved for occupancy by low or moderate income households at least 20 percent of the residential units constructed, to the extent this is economically feasible.” (Emphasis added)*

In compliance with N.J.S.A. 52:27D-329.9 (a), the FMERA Land Use rules include a requirement to provide an affordable housing set-aside where residential housing is constructed. N.J.A.C. 19:31C-3.23 states the following:

- “(a) Development within the Fort Monmouth Project Area shall ensure that affordable housing units are constructed and comply with applicable provisions of the Fair Housing Act of 1985 and implementing rules and guidelines. As used in this section, “low or moderate income” shall have the meaning in the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and implementing rules and guidelines.*
- (b) For developments consisting of newly-constructed residential units located, or to be located, within the Fort Monmouth Project Area, at least 20 percent of the residential units constructed shall be required to be reserved for occupancy by low or moderate income households, to the extent this is economically feasible.*
- (c) A developer of a project consisting of newly-constructed residential units within the Fort Monmouth Project Area being financed in whole or in part with State funds, including, but not limited to, transit villages designated by the Department of Transportation and units constructed on State-owned property, shall be required to reserve at least 20 percent of the residential units constructed for occupancy by low or moderate income households.*

- (d) *Affordable housing units constructed within the Fort Monmouth Project Area in accordance with COAH rules and guidelines and this subchapter may be utilized by the host municipality where such units are located toward fulfilling its COAH obligation (if such obligation specifically includes the host municipality's obligation attributable to development within the boundaries of the Fort Monmouth Project Area).*
- (e) *The Authority shall identify and coordinate regional affordable housing opportunities in cooperation with the host municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation. Coordination of affordable housing opportunities may include methods to regionally provide housing in line with regional concerns, such as transit needs or opportunities, environmental concerns, or such other factors as COAH may permit; provided, however, that such provision by the Authority may not result in more than a 50 percent change in the fair share obligation of any municipality.*
- (f) *Notwithstanding any other law or provision of this subchapter to the contrary, no development fees assessed within the Fort Monmouth Transportation Planning District (as defined in the Fort Monmouth Economic Revitalization Authority Act) shall be assessed for any low and moderate income housing units which are constructed within the Fort Monmouth Project Area pursuant to this subchapter.” (Emphasis added)*

As stated, the Reuse and Redevelopment Plan provides for 720 residential units, including 144 low and moderate income housing units, unless the developer(s) demonstrate that it would be economically unfeasible to maintain a 20 percent set-aside.

Given its limited power over this 17% of the Borough within FMERA’s jurisdiction, Oceanport has diligently coordinated its efforts to provide affordable housing with FMERA, to the extent possible, and has on multiple occasions worked with FMERA on the creation of affordable housing on the Fort Monmouth lands located in Oceanport.

In as early as 2008 the Borough began looking at the Fort Monmouth lands for opportunities to create affordable housing. At this time the Barker’s Circle project was included in the 2008 Amended Housing Element and Fair Share Plan. The site is located within the Fort (approximately 500 feet north of the southern boundary), along Oceanport Avenue. This project was also included in the 2009 Amendment to the 2008 Housing Element and Fair Share Plan. This project entails reuse of 4 of the 6 existing buildings on the Fort Monmouth base in an area known as Barker’s Circle. The site is located in the Fort Monmouth Historic District. The Borough planned to partner with an affordable housing developer to convert 4 of the existing buildings (Buildings 205, 207, 208 and 287) to multi-family housing units. One

building would be converted to 21 age-restricted affordable units and the remaining three buildings would be converted to 36 or more multi-family sale units, of which a minimum of 9 will be affordable family sale units. As such, a 25% set-aside shall be required for the inclusionary component. This is consistent with the Fort Monmouth Reuse and Redevelopment Plan Technical Memoranda: Facilities Assessment. Page 2 of the Memoranda states the following:

*“A complex of four former barracks buildings (205-208) known as Barker’s Circle is located adjacent to and to the south of the Parade Ground. These units appear to be structurally sound. One building has been renovated as office space, and the remaining three are vacant. These buildings are also eligible for listing on the National Register. They are potentially suitable for conversion to loft-type housing units or office space.”*

The Fort Monmouth Reuse and Redevelopment Plan states on page 3-13 that three buildings in Barker’s Circle, Buildings 205, 207 and 208, can be reused for 75 units. Additionally, the conversion of Buildings 205 and 287 to affordable housing is consistent with architectural concept plans prepared by Clarke Caton Hintz. Note that the estimate of 75 units does not include Building 287.

During preparation of the 2008 Amended Housing Element and Fair Share Plan, this office as well as Borough officials discussed use of the four buildings comprising this project for affordable housing. At this time, the Borough spoke with FMERPA, the predecessor agency of FMERA, about an early conveyance of land. At that time FMERPA expressed a willingness to convey the property to the Borough when FMERPA had the ability. During preparation of the 2012 Amendment to the Amended Housing Element and Fair Share Plan FMERA stated there would be no process for early conveyance.

The Borough is no longer seeking prior round affordable housing credits for this site due to the timing of redevelopment on the Fort. The property has not yet been conveyed to the Borough, as contemplated by the 2008 Plan. Since the base closure in September 2011 the Fort Monmouth Economic Revitalization Authority (FMERA) has been proceeding with implementing the *Fort Monmouth Reuse and Redevelopment Plan*, which calls for Barker’s Circle to be developed with mixed income housing (pages 3-8, 4-10 and 4-11), the Borough will be able to claim credit for the project in the future.

In addition to Barker’s Circle, Oceanport Borough has worked with FMERA on the creation of affordable housing on Oceanport’s Fort Monmouth lands. Most recently a site known as the Fort Monmouth Main Post Historic Housing Site (also referred to as the “Officer’s Quarters”) was acquired by RPM, an affordable housing developer, from FMERA and received site plan approval from the Borough of Oceanport.

The development will consist of two sectors; the North Post and the South Post. The North Post will involve the construction of 68 units of for sale market rate housing. The South Post will consist of 48 rental units with a mix of 24 market rate units and 24 affordable units. These rental units will comprise a

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total of 40 three bedroom units and 8 two bedroom units, as well an additional structure that will house the functions of community room and management office. RPM will serve as the owner and administrator of the affordable units. It is anticipated the project will apply for and receive Low Income Housing Tax Credits. The property will have 30 year affordability controls. See the Fair Share Plan Appendices for additional detail on this project and supporting documentation.

The 24 affordable units that will be created in the Fort Monmouth Main Post Historic Housing Site are part of the 144 affordable units planned for in the Reuse and Redevelopment Plan.

**Oceanport Gardens 100% Affordable Senior Housing**

The Oceanport Gardens apartment complex is a 100 unit age-restricted affordable housing project with all units containing one or two bedrooms. It is located at 274 East Main Street, on Block 121, Lot 5, in the B-1 district. The subject site is seven acres in size, which equates to a 14.3 unit per acre gross density. The project was funded by HUD Pre-81 Universe Project Based HAP Contract and has remained affordable for the life of the project. The project is administered by Wen Management. The project provides housing to households of extremely low (40% of units), low and moderate income. There are 10 two-bedroom units and 90 one-bedroom units. The deed restrictions on the units have been extended and it is anticipated that they will be further extended resulting in 50 years of restrictions and the housing primarily of very low income households.

The project's certificate of occupancy was issued on September 4, 1980. COAH's substantive rules, N.J.A.C. 5:97-1.4, defines a prior cycle credit as, "a credit granted by the Council for eligible low and moderate income units, except for rehabilitated units, constructed on or after April 1, 1980 and before December 15, 1986." However, in its 2013 objection, FSHC contends that the site was constructed and occupied prior to April 1, 1980. In an effort to close the ongoing litigation, the Borough will not utilize any credits from the Oceanport Gardens apartments to address its affordable housing obligation at this time and will stipulate that the Oceanport Gardens apartments were built and occupied prior to April 1, 1980. However, the Borough reserves the right to address the creditworthiness of those units at a future date should that be necessary.

**Oceanport Manor 100% Affordable Housing**

The Oceanport Manor Apartments is a facility with 6 affordable family rental units located on Block 110, Lot 18.01 in the R-5 district. The property is .902 acres. The project is owned and administered by the Affordable Housing Alliance. The property has 15 year affordability controls and these will be extended to 30 years, consistent with a PILOT agreement between the Affordable Housing Alliance and the Borough. Additionally, the Borough has entered into a PILOT agreement with Affordable Housing Alliance. The

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affordable units will be accessible and adaptable as required by the Fair Housing Act and the Barrier Free Subcode. See the Fair Share Plan Appendices for additional detail on this project and supporting documentation.

In addition to the six existing units, the Affordable Housing Alliance also received approval for a six unit expansion of the existing facility from the Oceanport Planning Board on July 9, 2008. These six additional units will contribute toward the third round obligation.

The site is available, approvable, developable and suitable. The site meets COAH's site suitability standards, pursuant to N.J.A.C. 5:93-5.3(b).

- *The site has a clear title and is free of encumbrances which preclude development of affordable housing.* The site has a clear title and no legal encumbrances which would preclude its development as an affordable housing project. It is currently owned by the Affordable Housing Alliance.
- *The site is adjacent to compatible land uses and has access to appropriate streets.* The site currently has access to Main Street. Surrounding the property on Main Street is a mix of residential and commercial uses.
- *Adequate sewer and water capacity is available.* The site is located in the Borough's public water service area and is within the approved sewer service area. Adequate water capacity will be provided by New Jersey American and sewer capacity will be provided by Two Rivers Water Reclamation Authority to serve the project.
- *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.

Development of the site is consistent with the State Development and Redevelopment Plan (hereinafter the "State Plan") and the rules and regulations of all agencies with jurisdiction over the site.

- *The site is located in a "Smart Growth Planning Area".* The adopted 2001 State Plan and the Preliminary State Plan both designate the site in the Metropolitan Planning Area, Planning Area 1.
- *The development is not within jurisdiction of a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, CAFRA, Highlands, or Meadowlands.
- *The site will comply with all applicable environmental regulations.* A portion of the site is constrained with flood plain and steep slopes. The area of the free of these constraints is .197 acres. However, these constraints will not preclude development of the site, as evidenced by its municipal approval.
- *The site will not impact any historic or architecturally important sites and districts.* The site is not located in an historic district and the building is not historic. The existing building and expansion of the facility will not have a detrimental impact on any historic or architecturally important sites or districts.

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The six (6) existing units and two (2) of the unbuilt units will satisfy a portion of the 31 unit RDP, including the 8 unit rental obligation. As such, the Borough is entitled to prior round credit for the six (6) existing credits, two (2) unbuilt units, and four prior round bonus credits associated with these units. The remaining four (4) approved, but not yet constructed units, will contribute toward the third round.

**Oceanport Village Inclusionary Development**

This project, formerly known as the New Jersey Sports and Exposition (NJSEA) site, is a mixed use development located on Block 88, Lot 26.01 at the corner of Main Street and Port Au Peck Avenue. The site is 4 acres located in the VC district. The site, which is currently under construction, will be developed with 36 total residential units, of which 9 shall be affordable rental units, above approximately 32,000 square feet of retail and office space. The gross residential density is 9 dwelling units an acre. The developer and the Borough have executed a development agreement setting forth the terms of the development; however, the affordable units in this development are associated with not only the residential and nonresidential development on the subject site but also the residential units approved at the “Jockey Club Estates” development, a 44 unit age-restricted development whose developer is also the NJSEA. The 9 affordable units are secured by a developer’s agreement between the Borough and the NJSEA. In addition, the 9 affordable units satisfy an affordable housing obligation associated with a project known as Jockey Club Estates. Oceanport Village received Planning Board Approval on August 25, 2004, Jockey Club Estates received Planning Board approval on October 25, 2006, and subsequently, the developer’s agreement was finalized in 2006.

NJSEA will provide 5 low income units and 4 moderate income units. These units shall be eligible for rental credits since the Developer’s Agreement specifically states the affordable units shall be for rent. The Developer’s Agreement states that all of the affordable units shall be one or two bedrooms; however, as memorialized on December 10, 2008, NJSEA received amended site plan approval to provide the correct bedroom distribution.

Pursuant to the Developer’s Agreement, the affordable units will be developed and occupied in accordance with the Uniform Housing Affordability Control rules, *N.J.A.C. 5:26-1 et seq.*, including but not limited to the bedroom distribution requirements and affordability controls of at least 30 years. Additionally, the affordable units will comply with *N.J.A.C. 5:97-3.14*, accessible and adaptable affordable units. See the Fair Share Plan Appendices for additional detail on this project and supporting documentation.

This project will satisfy a portion of the prior round obligation. As such, the Borough is entitled to 9 prior round credits for this project.



### **Old Wharf Inclusionary Development**

This site, known as Block 121, Lots 1.01 and 2, will be rezoned for family inclusionary housing that will consist of 20 units, of which 4 will be affordable sale or rental units. The 1.88 acre site is located along East Main Street in the VC Village Commercial district. The Oceanport Creek borders the site to the west. The property was formerly used as a restaurant site, the Old Wharf, and a single family home. However, the site is currently vacant and the structures have been demolished, with the exception of the foundation of the restaurant, and much of the paving which existed.

The VC district permits two story buildings. The first floor must be developed entirely of commercial uses; the second floor may be developed with office or studio, one and two bedroom apartments. The Borough proposes to rezone the site to permit 20 residential units, a residential density not to exceed 12 units per acre, with a 20% affordable housing set-aside – therefore creating 4 affordable units. Limited commercial space may also be permitted.

In 2006 the site was approved by the Oceanport Planning Board for the construction of a 4 story building containing 27 senior units, a clubhouse and tenant storage spaces, as well as 72 parking spaces. This project was known as Holiday at Oceanport. Subsequent to receiving site plan approval from the Borough, the applicant proceeded with obtaining outside agency permits.

The applicant was denied the necessary CAFRA permits for the construction of the Holiday at Oceanport project. The NJDEP found that the site contained illegal fill in areas previously mapped as coastal wetlands without demonstrating that the proposed project met the criteria for filling coastal wetlands and the application proposed to disturb existing wetland areas without demonstrating the project could not be redesigned around the existing wetlands. The applicant did not attempt to remedy the deficiencies in the site plan after receiving the denial.

Notwithstanding the CAFRA denial, this site is developable as currently proposed. The proposed density has been reduced by approximately 25% below that for Holiday at Oceanport; this will not only reduce the building footprint, but also the required parking which will further reduce the development footprint. Additionally, the previous application included 18 excess parking spaces, beyond that which was required by NJ R.S.I.S. These changes to the site plan will allow the project to be developed consistent with CAFRA regulations.

In order to avoid having to obtain a CAFRA permit, the development must avoid areas within the 50 foot wetlands buffer and within the 150 feet mean high water line buffer. Excluding those areas provides .75 acre of developable land. This area is adequate for the development of a 20 unit building and associated parking. Note however that similar to the 2006 application, it is anticipated that development of the site



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will include first floor parking. While it may be most desirable to avoid triggering the need for a permit, it is not uncommon for developments to obtain waivers from these NJDEP permits.

The affordable units will be developed and occupied in accordance with COAH's rules and the Uniform Housing Affordability Control rules, N.J.A.C. 5:26-1 et seq., including but not limited to bedroom distribution and affordability controls of at least 30 years. Additionally, the affordable units will be accessible and adaptable as required by the Fair Housing Act and the Barrier Free Subcode. The administrative agent for the project has not yet been selected. See the Fair Share Plan Appendices for additional detail on this project and supporting documentation.

The site is available, approvable, developable and suitable. The site meets COAH's site suitability standards, pursuant to N.J.A.C. 5:93-5.3(b).

- *The site has a clear title and is free of encumbrances which preclude development of affordable housing.* The site is free of encumbrances which would preclude its development as an inclusionary housing project.
- *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has over 600 feet of frontage along East Main Street. North of the site is a townhouse development in the RM Multi-family district. Immediately west of the site is the Oceanport Creek; further west is a residential neighborhood and the Old Wharf park. South of the site, along East Main Street are commercial uses in the VC district and the Oceanport Gardens senior affordable housing project.
- *Adequate sewer and water capacity is available.* Adequate public water capacity and sewer are available.
- *The site can be developed in accordance with R.S.I.S.* Development of the site is consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.

Development of the site is consistent with the State Development and Redevelopment Plan (hereinafter the "State Plan") and the rules and regulations of all agencies with jurisdiction over the site.

- *The site is located in a "Smart Growth Planning Area".* The 2001 State Plan designates the property as the Metropolitan Planning Area (PA 1).
- *The development is consistent with Regional Planning Agency and CAFRA regulations.* The site is located outside of the Pinelands, Highlands and Meadowlands. The Coastal Areas Facilities Review Act (CAFRA) regulations have jurisdiction over many portions of the Borough; however, as discussed above, the proposed rezoning will create a development opportunity that does not require a CAFRA permit.
- *The site will comply with all applicable environmental regulations.* The site contains environmentally constrained land; however, it remains developable for 20 residential units. Wetlands and buffers are located along the west and south property lines and the required 150 foot buffer to the mean high

water line is located along the western property line. As discussed above, the proposed rezoning will create a development opportunity that does not include improvements in these areas and therefore does not require a CAFRA permit. An area of isolated wetlands is located within the otherwise developable portion of the site; similar to the 2006 application, this area will be filled and developed. Additionally, the site is located within the floodplain; however, as was proposed in the 2006 application and elsewhere in the Borough, the first floor of habitable space will be raised outside of the flood elevation (8.4 feet). The inclusionary zoning will permit the ground floor of the development to consist of parking.

- *The site will not impact any historic or architecturally important sites and districts.* There are no historic or architecturally important districts or sites in the immediate vicinity or on the property that will preclude the site's use for affordable housing.

This site will contribute four (4) units toward the third round.

#### **Pemberton Avenue 100% Affordable Municipally Sponsored Construction**

The Borough is proposing a municipally sponsored construction program on Block 113, Lot 2.02. The property is a .25 acre Borough-owned lot at the corner of Pemberton Avenue and East Main Street in the VC Village Commercial district. The property has been cleared and portions of the site contain gravel. The lot is not located in a workforce housing census tract. The Borough is proposing the construction of one duplex, for a total of 2 units. Both units will be family sale affordable housing units. The local chapter of Habitat for Humanity recently expressed interest in developing the project.

The family affordable units will be developed and occupied in accordance with the Uniform Housing Affordability Control rules, N.J.A.C. 5:26-1 et seq., including but not limited to bedroom distribution and affordability controls of at least 30 years. Additionally, the affordable units will be accessible and adaptable as required by the Fair Housing Act and the Barrier Free Subcode. The units will be administered by the affordable housing developer the Borough partners with for the construction of the project. See the Fair Share Plan Appendices for additional detail on this project and supporting documentation.

The site is available, approvable, developable and suitable. The site meets COAH's site suitability standards, pursuant to N.J.A.C. 5:93-5.3(b).

- *The site has a clear title and is free of encumbrances which preclude development of affordable housing.* The site is free of encumbrances which would preclude its development as an affordable housing project. The property is owned by the Borough.
- *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has approximately 150 feet of frontage on Pemberton Avenue and approximately 70 feet of frontage on East Main Street. While the property is currently in the VC district, it is surrounded by appropriate

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land uses. South of the site along Pemberton Avenue are single family residences in the R-5 Residential district and west of the site are duplexes in the R-5 Residential district. Immediately east of the site is the Borough of Oceanport First Aid and Fire Rescue Squad building, north of the site is Old Wharf Park.

- *Adequate sewer and water capacity is available.* The site will be served by public sewer and water.
- *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.

Development of the property is consistent with the State Development and Redevelopment Plan (hereinafter the “State Plan”) and the rules and regulations of all agencies with jurisdiction over the site.

- *The site is consistent with the State Plan.* The 2001 Adopted State Plan Map designates the property as the Metropolitan Planning Area (PA 1).
- *The development is not within jurisdiction of a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, Highlands and Meadowlands planning areas. While much of Oceanport Borough is located within the jurisdiction of the New Jersey Coastal Areas Facilities Review Act (CAFRA), this site is not. A CAFRA permit only applies to the development of a duplex where it is located on a beach or dune or within 150 feet of the mean high water line of a tidal water body or the landward limit of a beach or dune; this site is located far in excess of 150 feet of these areas and is therefore exempt.
- *The site will comply with all applicable environmental regulations.* There are no wetlands, floodplains, steep slopes, Category One streams or contaminated sites located on the property or in the immediate vicinity that will be impacted by the development or will preclude development of the property.
- *The site will not impact any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will be impacted by the development or will preclude development of the property.

This site will contribute two (2) units toward the prior round obligation

### **SATISFACTION OF THE PRIOR ROUND RDP**

The Borough meets its 31 unit RDP, including the 8 unit rental obligation, using a variety of affordable housing projects including prior cycle credits, special needs, inclusionary housing and 100% affordable housing. The 8 unit prior round rental obligation is exceeded with 4 units at the Elizabeth Drive group home, 9 family units at Oceanport Village and 6 units at the existing Oceanport Manor. Details of each of the below listed projects can be found in the preceding section.

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**Satisfaction of the 31 Unit Prior Round RDP**

Project	Rental	Senior	Family	Units	Rental Bonus Credits	Total Credits
Special Needs						
Elizabeth Drive	x			4	4	8
Inclusionary Housing						
Oceanport Village	x		x	9	0	9
100% Affordable Housing						
Oceanport Manor - Existing	x		x	6	4	10
Oceanport Manor – Unbuilt (2 of 6)	x		x	2	0	2
Pemberton Avenue			x	2	0	2
<b>Total</b>				<b>23</b>	<b>8</b>	<b>31</b>

**CONTRIBUTION OF THIRD ROUND AFFORDABLE HOUSING UNITS & THE UNMET NEED**

As previously discussed, there is a tremendous amount of uncertainty about the third round due to the 2013 Supreme Court decision and the events that followed the issuance of that decision. Despite this challenge, the Borough of Oceanport remains committed to addressing its yet-to-be-determined third round obligation. Additionally, the Borough has an unmet need of 118 units.

Oceanport has a total of 154 affordable housing units that are available to satisfy the yet-to-be-determined third round obligation and the unmet need. At this time the units are not specifically allocated to the unmet need or the third round. This allocation will occur when valid third round rules are issued by COAH or the Court and the third round obligation, as well as any unmet need requirement, is known.

As such, Oceanport proposes the following affordable housing programs to contribute toward the yet-to-be-determined third round obligation and the unmet need.

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**Unmet Need & Third Round Affordable Housing Units**

Project	Rental	Senior	Family	Units
Inclusionary Housing				
Old Wharf			x	4
Fort Monmouth Main Post Historic Housing Site	x		x	24
Fort Monmouth Remaining Housing Projects (144-24=120)				120
100% Affordable Housing				
Oceanport Manor – Unbuilt (4 of 6)	x		x	4
<b>Total</b>				<b>152</b>

**FAIR SHARE ORDINANCES & AFFIRMATIVE MARKETING**

Oceanport Borough has prepared an Affirmative Marketing and Fair Share Ordinance in accordance with COAH’s substantive rules and the Uniform Housing Affordability Controls (hereinafter “UHAC”) at N.J.A.C. 5:80-26. The Fair Share Ordinance will govern the establishment of affordable units in the Borough, as well as regulating the occupancy of such units. The Borough’s Fair Share Ordinance covers the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc.

All of the Borough’s affordable housing units are administered by the developer/provider. The Borough will contract with an experienced affordable housing administrator at the appropriate time to administer the proposed affordable housing units, except where the developer is already an experienced provider of affordable housing. The costs of the affordable housing administration will be paid by the developer.

The affirmative marketing plan is designed to attract buyers and/or renters regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to

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apply for affordable units and who reside in the Borough's housing region, Region 4, consisting of Mercer, Monmouth and Ocean Counties.

The affirmative marketing plan includes regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and affordable unit marketing in accordance to *N.J.A.C. 5:80-26*. All newly created affordable units will comply with the minimum thirty-year affordability control required by UHAC, *N.J.A.C. 5:80-26-5* and *5:80-26-11*. This plan must be adhered to by all private, non-profit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit. The costs of implementing the affirmative marketing plan (i.e., the costs of advertising the affordable units, etc.) are the responsibilities of the developers of the affordable units. This requirement is included in the Borough's fair share ordinances and shall be a condition of any municipal development approval.

#### **AFFORDABLE HOUSING TRUST FUND**

The Borough adopted a development fee ordinance most recently in 2009 to permit collection of residential development fees equal to 1.5% of the equalized assessed value of new residential construction and nonresidential development fees equal to 2.5% of the equalized assessed value of new nonresidential construction.

The Borough's proposed spending plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, has been prepared in accordance with COAH's substantive rules. All collected revenues will be placed in the Borough's Affordable Housing Trust fund and will be dispensed for the use of affordable housing activities. The Borough may use the funds in the trust fund for any of the below listed items.

- Rehabilitation program;
- New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be pro-rated based on the proportion of affordable housing units included in the development;
- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites; in the case of inclusionary developments, costs shall be pro-rated based on the proportion of affordable housing units included in the development;
- Acquisition and/or improvement of land to be used for affordable housing;
- Purchase of existing market rate or affordable housing for the purpose of maintaining or implementing affordability controls, such as in the event of foreclosure;

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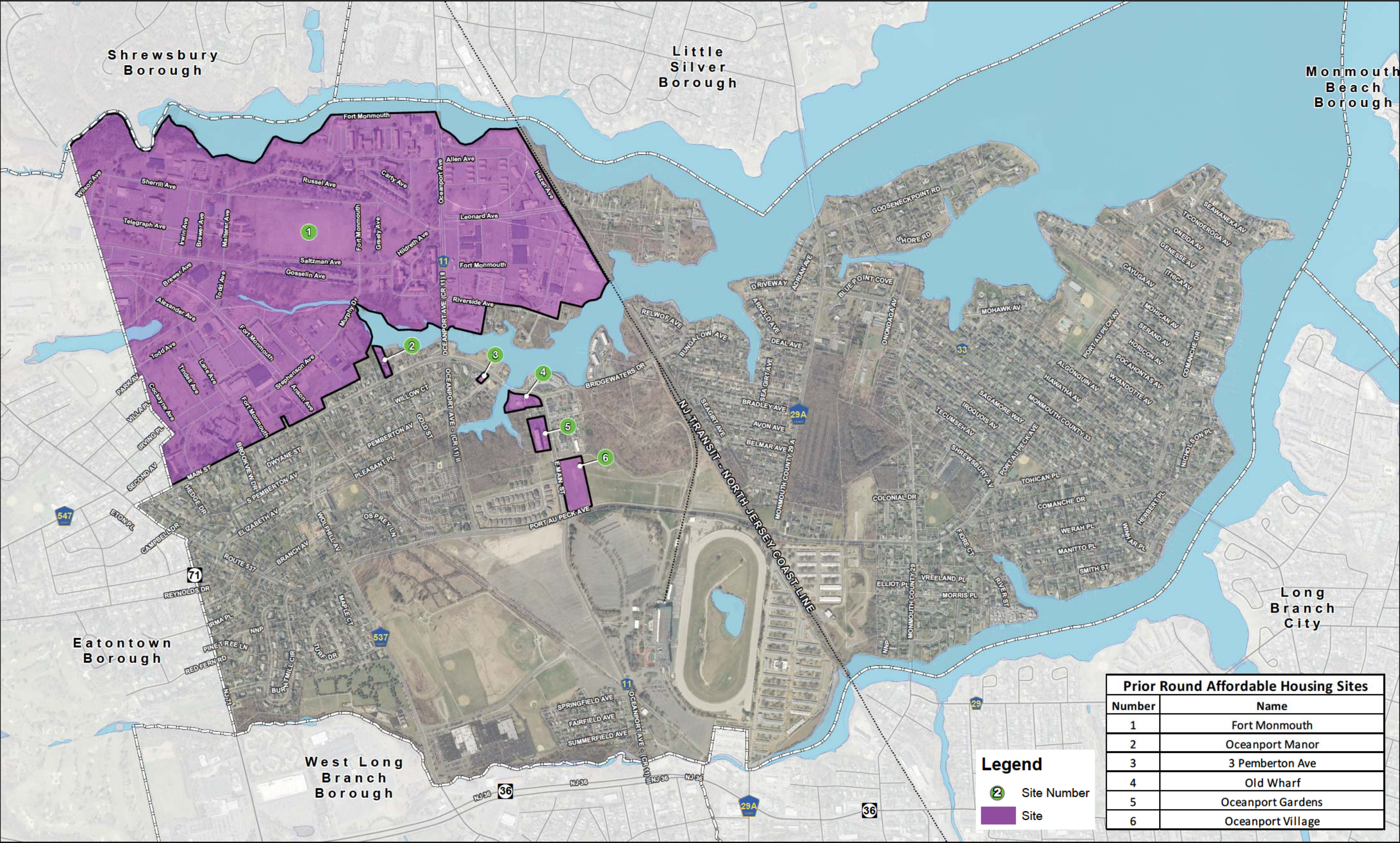
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- Accessory apartment or market to affordable programs;
- ECHO housing and related repair or unit relocation costs;
- Green building strategies designed to be cost-saving for low- and moderate income households, either for new construction that is not funded by other sources, or as part of necessary maintenance or repair of existing units;
- Maintenance and repair of affordable housing units;
- Repayment of municipal bonds issued to finance low- and moderate-income housing activity; and
- Any other activity as specified in the approved spending plan.
- However, the Borough is required to fund the programs in the certified Housing Element and Fair Share Plan, as well as provide affordability assistance.

At least 30% of collected development fees, excluding expenditures made from the inception of the fund to June 2, 2008 on all new construction, previously funded RCAs and rehabilitation activities, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. Additionally, no more than 20% of the revenues collected from development fees each year, exclusive of the fees used to fund an RCA, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program.

W:\5000's\Oceanport\5365.02 Affordable Housing\2015 Settlement & Amendment\2015 Amendment\150605 CLEAN Draft Housing Element.docx





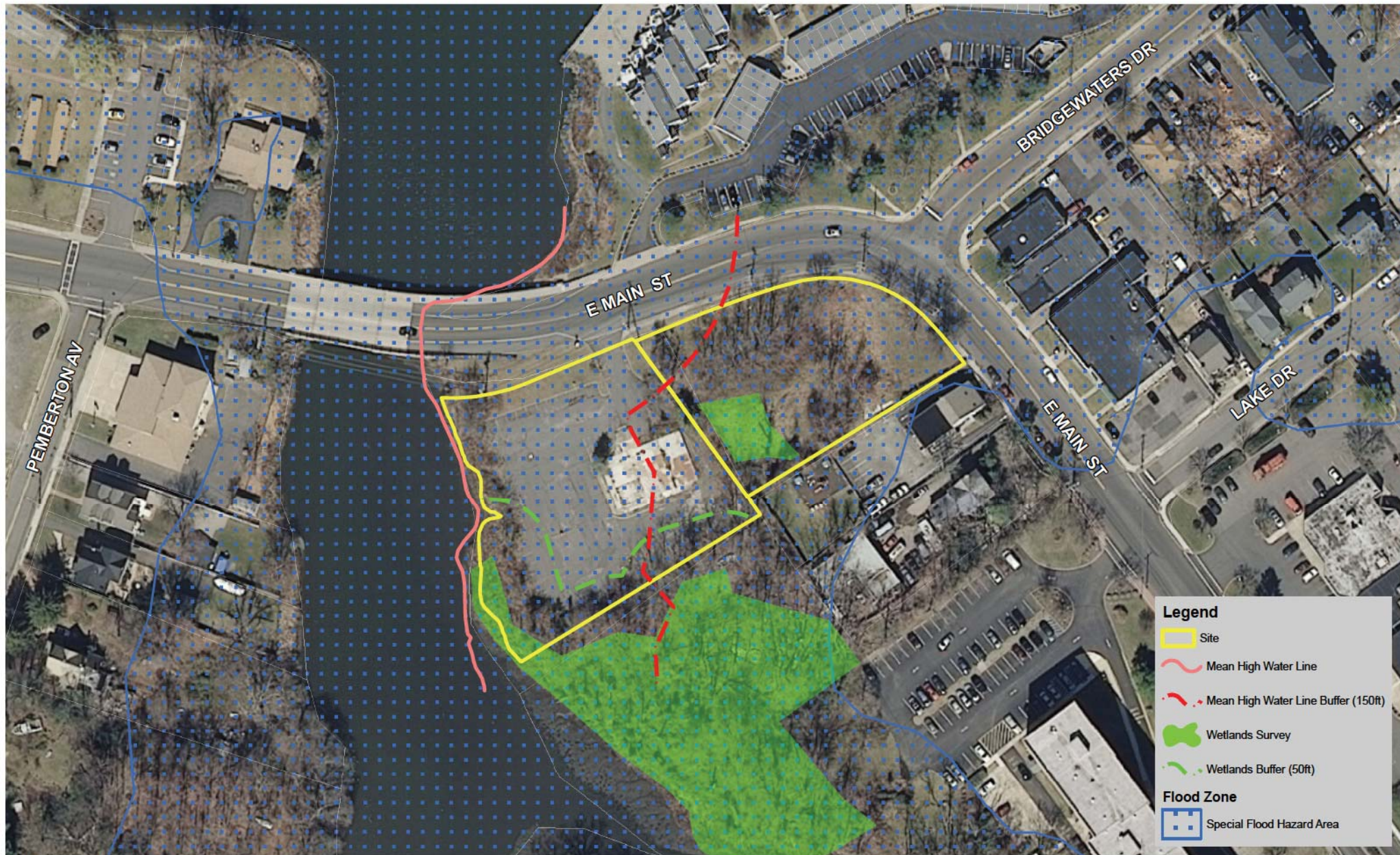
Aerial Orthophotography Source: NJGIN - New Jersey 2012 High Resolution Orthophotography

This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP, and is not state authorized.

# Prior Round Affordable Housing Sites

Oceanport, Monmouth County, NJ November 2014





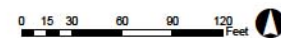
Aerial Orthophotography Source: NUGIN - New Jersey 2012 High Resolution Orthophotography  
 Wetlands Survey and Tidal Wetlands Source: PRELIMINARY AND FINAL MAJOR SITE PLAN - EXISTING DRAINAGE  
 AREA MAP FOR OCEAN CREEK by Maser Consulting P.A. - Dated March 1, 2005

This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital  
 data, but this secondary product has not been verified by NJDEP, and is not state authorized.

BLOCK 121 LOTS 1.02 & 2 / 1.75 ACRES

# Old Wharf Inclusionary Development

Oceanport Borough, Monmouth County, NJ November 2014



Clarke Caton Hintz

Architecture

Planning

Landscape Architecture



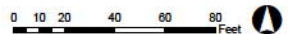


Aerial Orthophotography Source: NUGIN - New Jersey 2012 High Resolution Orthophotography  
 This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP, and is not state authorized.

BLOCK 113 LOT 2.02 / 0.25 ACRES

# Pemberton Avenue 100% Affordable Municipally Sponsored Construction

Oceanport Borough, Monmouth County, NJ November 2014



Clarke Caton Hintz

Architecture  
 Planning  
 Landscape Architecture