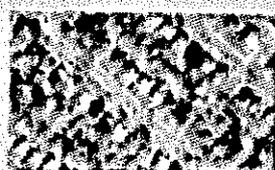
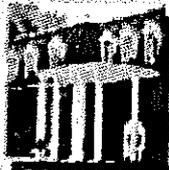
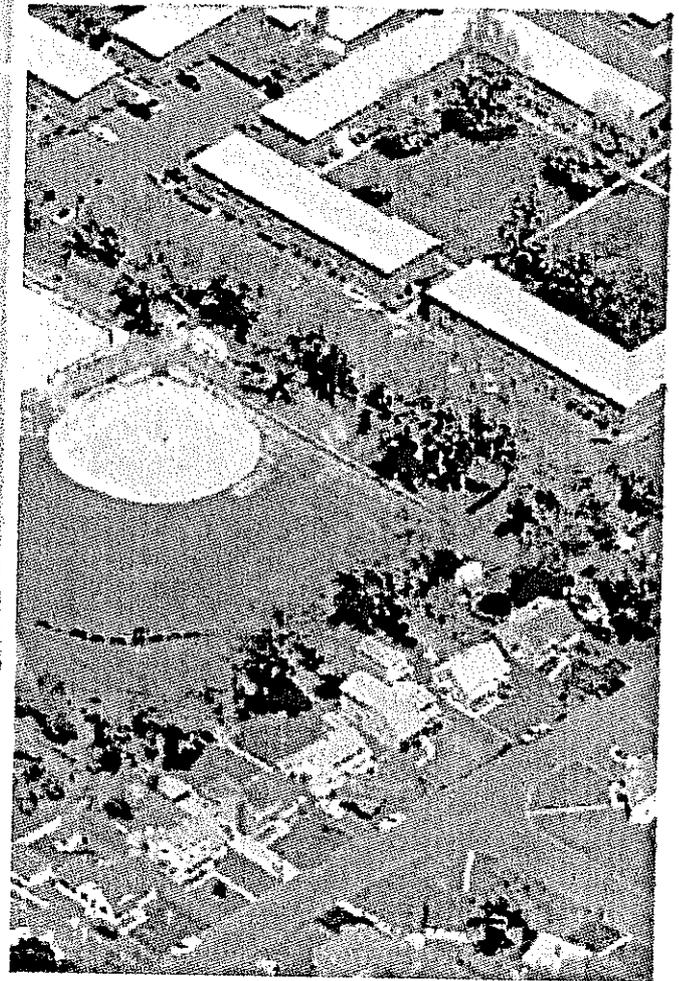


# EXHIBIT E

Township of Clark  
Union County, New Jersey

*Housing Element  
&  
Fair Share Plan  
for  
Clark Township*

*March 12, 2009*



Prepared by \_\_\_\_\_

**H2M**

ENGINEERS & ARCHITECTS & PLANNERS & SURVEYORS

**H2M Associates, Inc.**

113 Cherry Hill Road, Suite 200 Parsippany, NJ 07054

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# HOUSING ELEMENT AND FAIR SHARE PLAN

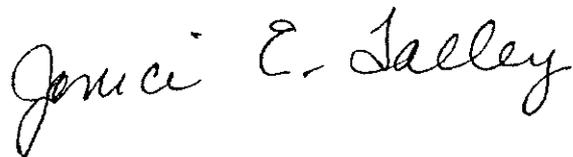
TOWNSHIP OF CLARK  
UNION COUNTY, NEW JERSEY

Adopted March 12, 2009

Prepared for

**Township of Clark**  
Municipal Building  
430 Westfield Avenue  
Clark, NJ 07066

The original of this report was signed and  
sealed in accordance with N.J.S.A. 45:14A-12.



---

Janice E. Talley, P.P. #5059

## ACKNOWLEDGEMENTS

### Mayor & Council

Mayor Sal Bonaccorso  
Angel Albanese, President, Member At Large  
Alvin Barr, Vice President, Member At Large  
Sheila Whiting, Member At Large  
Frank Mazarella, First Ward  
Patrick O'Connor, Second Ward  
Richard Kazanowski, Third Ward  
Brian P. Toal, Fourth Ward  
  
John Laezza, Business Administrator  
Joseph J. Triarsi, Township Attorney  
Richard O'Connor, Township Engineer

### Planning Board

Michael N. Kurzawski, Chairman  
Robert Tarantino  
Neil Curcio  
Kevin Koch  
John Zamboni  
James Zizza  
Frank Mazarella  
John Laezza, Township Administrator  
Sal Bonaccorso, Mayor  
Tim Nugent, Alternate 1  
Joseph Pubchara, Alternate 2  
  
Lisa McCabe, Board Secretary  
Michael Cresitello, Esq., Board Attorney

### Planning Consultant

Janice E. Talley, P.P., AICP, H2M

**TOWNSHIP OF CLARK PLANNING BOARD**

**RESOLUTION**

**WHEREAS**, the Planning Board of the Township of Clark, State of New Jersey, adopted its current Master Plan pursuant to N.J.S.A. 40:55D-28 in 2003; and

**WHEREAS**, the Master Plan includes a Housing Element pursuant to N.J.S.A. 40:55D-28(b)(3); and

**WHEREAS**, N.J.A.C. 5:97-2.1(a) requires the adoption of the Housing Element by the Planning Board and endorsement by the Governing Body; and

**WHEREAS**, N.J.A.C. 5:97-3.1(a) requires the preparation of a Fair Share Plan to address the total 1987 – 2018 fair share obligation of the Township of Clark; and

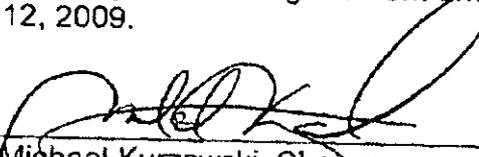
**WHEREAS**, N.J.A.C. 5:97-3.1(b) requires the adoption of the Fair Share Plan by the Planning Board and endorsement by the Governing Body; and

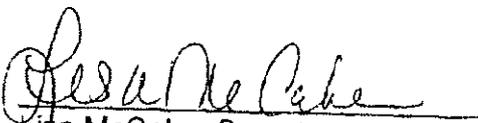
**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board of the Township of Clark held a public hearing on the Housing Element and Fair Share Plan on March 12, 2009; and

**WHEREAS**, the Planning Board determined that the proposed Housing Element and Fair Share Plan are consistent with the goals and objectives of the Township of Clark's Master Plan and that the adoption and implementation of the Housing Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Clark, State of New Jersey that the Planning Board hereby adopts the February 23, 2009 Housing Element and Fair Share Plan.

I hereby certify that the above Resolution is a true copy of the Resolution adopting the Housing Element and Fair Share Plan of the Township of Clark, on March 12, 2009.

  
Michael Kurzawski, Chairman  
Township of Clark Planning Board

  
Lisa McCabe, Secretary  
Township of Clark Planning Board

(A0553864.DOC)



# Clark Township Housing Element and Fair Share Plan

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# Clark Township Housing Element and Fair Share Plan

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# Clark Township Housing Element and Fair Share Plan

## SECTION I – INTRODUCTION AND SUMMARY OF FINDINGS

### INTRODUCTION

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The Mount Laurel II decision<sup>1</sup>, handed down by the New Jersey Supreme Court in January 1983, requires all municipalities to provide a realistic opportunity for the construction of housing affordable to those households of lower income. In response to the Mt. Laurel II decision, the Fair Housing Act ("FHA") was adopted in 1985 and signed by the Governor (Chapter 222, Laws of New Jersey, 1985). The Act established a Council on Affordable Housing (COAH) to facilitate the ability of municipalities to voluntarily meet their responsibilities to provide affordable housing.

The Council on Affordable Housing (COAH) adopted its "Third Round regulations" in November of 2004 and those regulations became effective on December 20, 2004. The new regulations utilize a "growth share" approach to determine each municipality's new construction affordable housing obligation for the third housing cycle. Under Growth Share, one "affordable" unit must be provided for every four "market units" built, and one affordable unit for every sixteen jobs created between 2004 and 2018. This is a significant change from previous COAH methodologies in which numbers were assigned based on formulas and other variables. This method is a "build as you grow" approach which is more accommodating for good planning.

The Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq, mandates that municipalities include a housing element in their master plans. The principal purpose of the housing element is to provide for methods of achieving the goal of access to affordable housing to meet the municipality's present and prospective low and moderate-income housing needs. Low-income households are defined as those with an income no greater than 50 percent of the median household income adjusted for household size of the housing region in which the municipality is based. Moderate-income households are those with incomes no greater than 80 percent of the median household income, adjusted for household size of the housing region. Clark Township is located in the Region 2, which consists of Essex, Morris, Union and Warren counties. The median household income in the region for a family of four is \$83,771 as of 2008. Qualifying households have incomes of approximately \$25,131 - \$67,017 for a family of four.

COAH regulations require the Housing Element be adopted by the Planning Board and endorsed by the governing body prior to the municipal filing pursuant to N.J.A.C. 5:95-2 or the municipal petition for

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<sup>1</sup> South Burlington County NAACP v. Mt. Laurel Township, 92 NJ 158, 456 A.2d 390 (1983).

## Clark Township Housing Element and Fair Share Plan

substantive certification pursuant to N.J.A.C. 5:95-3. A municipality's Housing Element shall be designed to achieve the goal of providing affordable housing to meet the total 1987-2018 affordable housing need comprised of estimated growth share, the remaining balance of Prior Round Obligation from the municipality's 1987-1999 affordable housing obligation that has not been addressed (if any), and the rehabilitation share. The Housing Element submitted to the Council shall include the minimum requirements prescribed by N.J.A.C. 5:97-2.3.

### **EXECUTIVE SUMMARY**

Clark Township received first round substantive certification on September 4, 1991. Due to insufficient vacant land, the Township received a vacant land adjustment and established a realistic development potential (RDP) of 23 units. Clark addressed its 23-unit RDP in its first round through zoning for 42 affordable units on four sites designated by COAH as suitable. Accordingly, the Township revised its Ordinance to accommodate the newly created R-B District-Multi-family Residential, which required twenty (20) percent of the total development to be set aside for low and moderate income households. Clark Township's Planning Board adopted a housing element and fair share plan on September 2, 1997, which addressed its 12-year cumulative obligation. The Township filed the plan with COAH on September 4, 1997 but did not petition at that time. COAH received Clark's resolution of petition on August 23, 1999. Three days later, the Township published a notice in The Star Ledger however; no objections were received then by COAH. On March 28, 2000, COAH issued a report requesting additional information from the Township. Subsequently, the Planning Board adopted an amended housing element and fair share plan on February 12, 2001. The governing body approved a resolution endorsing the plan and re-petitioned COAH for substantive certification on March 1, 2001. The Township re-published a notice in The Star Ledger and again no objections were received by COAH.

As a result of the change in municipal administration, however, the Planning Board adopted a third amendment to its housing plan on December 11, 2001 and re-petitioned COAH for substantive certification on December 17, 2001. On publishing a notice, COAH received two objections during the 45-day objection period. Mediation led to an agreement with Clark Developers for rezoning of Block 58/Lot 4 for age-restricted affordable housing overlay permitting a maximum of 300 units with 20 percent set aside for affordable housing. As a result of the agreement, the Planning Board adopted and amended the housing element and fair share plan for the fourth time on August 24, 2004. Clark re-petitioned on September 13, 2004, with the only changes being the inclusion of the age-restricted overlay zoning on the Clark Developers property and an increase in permitted density on block 57/lot 1, locally as Schwarz Farm. The plan did not receive certification because objections were filed by several interested parties.

## Clark Township Housing Element and Fair Share Plan

The plan was further reviewed through COAH's mediation process and a Mediation Report was issued on October 21, 2005. An amended Housing Element and Fair Share Plan, which incorporated the recommendations from mediation and addressed the Township's third-round affordable housing obligation, was adopted by the Planning Board on December 6, 2005. The Plan was submitted to COAH along with a petition for substantive certification. A report was issued by COAH on August 9, 2006 and recommended changes to the Plan. The Plan was amended to reflect these changes and adopted by the Planning Board on October 26, 2006 and submitted to COAH.

In the interim, a lawsuit was filed against COAH's third round regulations. Revised regulations were adopted in June 2008, along with proposed changes, setting a deadline of December 31, 2008 for municipalities to submit revised housing plans. This report addresses the Township's third round affordable housing obligation under the revised rules, which is comprised of a rehabilitation component, a prior round component (second round realistic development potential), and a growth share component, which is summarized in Table 1.

Components	Obligation (units)
Rehabilitation	11
Prior Round Obligation	23
Growth Share Obligation	25
TOTAL	59

### Prior Round Obligation (23).

Clark Township's prior round obligation is comprised of two parts: realistic development potential (RDP) and unmet need. The Township's RDP is 23 units, based upon the vacant land adjustment granted by COAH in 1991. COAH, however, has recalculated each municipality's prior-round obligation and, for Clark Township, has increased the prior round obligation from 63 units to 92 units. As a result, the unmet need has increased from 40 to 69 units.

Clark's RDP of twenty-three (23) units is reduced to eleven (11) units due to credits received from existing group home facilities. Clark has two existing group homes that are eligible for credits. These homes are eligible for a total of 6 credits. Also, Clark can receive 6 additional rental bonus credits for these existing

## Clark Township Housing Element and Fair Share Plan

group homes. The remaining 11-unit (23-6-6) obligation will be addressed through reductions received on the sixty (60) affordable units that will be created at the Clark Developers property. Of the 11 units from the Clark Developers site used to address the RDP, five (5) units will be non-age-restricted handicapped rental units, while the remaining six (6) units will be age-restricted.

### Growth Share Obligation (25 units)

COAH has projected Clark Township's Growth Share Obligation as 84 units, based on projected growth of 377 residential units and 1,103 jobs between 2004 and 2018. A land capacity analysis was prepared as part of this housing element, which indicated that vacant land within the Township, can accommodate only 47 units and 25 jobs. The Township has a total growth share obligation of 25 units. The growth share obligation will be addressed through pre-cycle credits, credits from the Clark Developers site, a market to affordable housing program and bonus credits.

# Clark Township Housing Element and Fair Share Plan

## SECTION II – DEMOGRAPHIC, HOUSING, AND EMPLOYMENT ANALYSIS

### POPULATION TRENDS

The Township of Clark is a vibrant suburban community located in the south-central part of Union County. Access to various industries and the New York Metropolitan area made Clark an ideal town for those who desired the ease of suburban living. Clark is presently home to 14,597 residents.

The Township's population increased dramatically in the 1940s and 1950s, with a 109 percent increase between 1940 and 1950 and 180 percent increase between 1950 and 1960. These numbers clearly indicate the strong influence suburbanization and the Baby boom period had on Clark Township.

As indicated in Table 2, the Township's population peaked in 1970 at 18,829. Since then Clark Township has been experiencing a gradual decline in population. The Township lost approximately 2,000 residents per decade in the 1970s and 1980s. However, the decline in the population subdued over the last decade, resulting in a loss of only 32 residents between 1990 and 2000.

Union County has been experiencing similar population trends in the last few decades, but at a much slower rate than the Township. The County's population grew rapidly through the 1970s with a 21 percent increase during the 1940's and a 27 percent increase during the 1950s. Similar to the Township the County experienced their highest recorded population in 1970 with a total

population of 543,116. The County's population also declined in the following two decades but increased again in 2000.

Table 2 POPULATION TREND: 1940 - 2000 Township of Clark and Union County			
Township of Clark			
Year	Population	Number Changed	Percent Changed
1930	1,474		
1940	2,083	609	41.32
1950	4,352	2,269	108.93
1960	12,195	7,843	180.22
1970	18,829	6,634	54.40
1980	16,699	-2,130	-11.31
1990	14,629	-2,070	-12.40
2000	14,597	-32	-0.22
Union County			
Year	Population	Number Changed	Percent Changed
1930	305,209		
1940	328,344	23,135	7.58
1950	398,138	69,794	21.26
1960	504,255	106,117	26.65
1970	543,116	38,861	7.71
1980	504,094	-39,022	-7.18
1990	493,819	-10,275	-2.04
2000	522,541	28,722	5.82

Source: U.S. Bureau of the Census

## Clark Township Housing Element and Fair Share Plan

### POPULATION COMPOSITION BY AGE

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Clark Township has experienced a significant increase in the Baby Boomer population (age group 35 and 54), over the last decade. The 'Baby Boom' population (those born between 1946 and 1964) comprises approximately thirty percent of the population in both the Township of Clark and the County of Union, as shown in Table 3. The population in the Township, between the age groups of 25 and 34, decreased. This is a result of the 'Baby Bust' period. The Township as well as the County experienced a significant increase in population for the age group of '5-14'. This can be attributed to the 'Baby Boom Echo' period, as the Baby Boomer generation had children.

The Township experienced a significant decrease in the senior citizen population between the ages of 55 and 74 in the last decade. These age groups constitute approximately twenty-five (25) percent of the Township's total population. The County has experienced a similar trend, but at a much lower rate than the Township. The elderly citizen population for the Township of Clark and Union County has increased significantly during the last decade. The Township experienced 66 percent and 189 percent increase in the population for the age group '75-84' and '85 and over' respectively and is at a much higher rate than the County. Although these age groups, '75 to 84' and '85 and above' make up only 8.7 and 2.6 percent respectively of the Township's current total population, the trend indicates an increasing demand for services of elder citizens.

## Clark Township Housing Element and Fair Share Plan

Table 3 POPULATION COMPOSITION BY AGE: 1990 - 2000 Township of Clark and Union County						
Township of Clark						
	1990		2000		Change	
	No. of Persons	Percent	No. of Persons	Percent	Number	Percent
Under 5	685	4.7	759	5.2	74	10.8
5-14	1,398	9.6	1,784	12.2	386	27.6
15-24	1,755	12.0	1,283	8.8	-472	-26.9
25-34	2,085	14.3	1,645	11.3	-440	-21.1
35-44	2,055	14.0	2,383	16.3	328	16.0
45-54	1,707	11.7	2,094	14.3	387	22.7
55-64	2,127	14.5	1,486	10.2	-641	-30.1
65-74	1,926	13.2	1,519	10.4	-407	-21.1
75-84	759	5.2	1,263	8.7	504	66.4
84-over	132	0.9	381	2.6	249	188.6
<b>Total</b>	<b>14,629</b>		<b>14,597</b>		<b>-32</b>	<b>-0.2</b>
Under 18	2,325	15.9	3,035	20.8	710	30.5
Over 65	2,817	19.3	3,163	21.7	346	12.3
Union County						
Under 5	32,421	7.8	36,441	7.0	4,020	12.4
5 - 14	58,291	14.1	73,754	14.1	15,463	26.5
15 - 24	64,984	15.7	61,215	11.7	-3,769	-5.8
25 - 34	85,028	20.5	75,189	14.4	-9,839	-11.6
35 - 44	73,653	17.8	88,398	16.9	14,745	20.0
45 - 54	54,877	13.3	69,568	13.3	14,691	26.8
55 - 64	50,440	12.2	45,935	8.8	-4,505	-8.9
65-74	44,113	10.7	35,350	6.8	-8,763	-19.9
75-84	23,269	5.6	27,322	5.2	4,053	17.4
84-over	6,743	1.6	9,369	1.8	2,626	38.9
<b>Total</b>	<b>493,819</b>		<b>522,541</b>		<b>28,722</b>	<b>5.8</b>
Under 18	108,088	21.9	129,941	24.9	21,853	20.2
Over 65	74,125	17.9	72,041	13.8	-2,084	-2.8
Source: U.S. Bureau of the Census						

## Clark Township Housing Element and Fair Share Plan

### POPULATION COMPOSITION BY RACE

Clark Township has a largely homogeneous population as shown in the figure 3a. In Clark, almost all residents (99.3 percent) categorize themselves as being of one race, while less than one (1) percent indicates that their heritage is comprised of two or more races. Of those of one race, 96.3 percent are White. Asians comprise the second-largest racial group at 2.8 percent. Blacks make up only 0.3 percent of the total population.

Union County as a whole has lower percentage of white population at 65.5 percent, than the Township. Approximately 21 percent of the County's population is Black.

Hispanics and Latinos account for nearly 20 percent of the total population in Union County, while they comprise only 3.7 percent in Clark.

Table 4 POPULATION COMPOSITION BY RACE: 2000 Township of Clark and Union County				
	Township of Clark		Union County	
	Number	Percent	Number	Percent
<b>One Race</b>	14,496	99.3	505,581	96.8
White	13,956	96.3	342,302	65.5
Black/African American	44	0.3	108,593	20.8
American Indian/Alaska Native	2	0.0	1,215	0.2
Asian	402	2.8	19,993	3.8
Native Hawaiian/Other Pacific Islander	0	0.0	201	0.0
Some Other Race	92	0.6	33,277	6.4
<b>Two or More Races</b>	101	0.7	16,960	3.2
Hispanic or Latino (any race)	535	3.7	103,011	19.7
Not Hispanic or Latino	14,062	96.3	419,530	80.3
<b>Total Population</b>	<b>14,597</b>		<b>522,541</b>	

Source: U.S. Bureau of the Census

## Clark Township Housing Element and Fair Share Plan

### HOUSEHOLD CHARACTERISTICS

Significant household characteristics indicated by the 2000 Census, and displayed in Table 5, include:

- Family households dominate the Township and comprise approximately seventy-three (73) percent of the total households.
- Of the Township's family households, approximately 61.4 percent are married households.
- Female-headed households account for 9 percent of the Township's family households.
- Approximately twenty-four (24) percent of the non-family householders live alone, of which more than one tenth is senior citizens (age 65 and over).
- More than a quarter of the Township's households include children under the age of 18 and about 38 percent include senior citizen (65 years or older).
- The average household size in 2000 in Clark Township was 2.56 persons per unit, which is lower than the Union County average of 2.77.

Table 5 TYPE OF HOUSEHOLDS Township of Clark		
Type of Household	Number	Percent
<b>Total Households</b>	<b>5,637</b>	
<b>Family Households</b>	4,124	73.2
Married couple families	3,459	61.4
Other family, female householder	509	9.0
<b>Non-Family*</b>	1,513	26.8
Householder Living Alone	1,631	24.1
Householder 65 years and over	726	12.9
Households with individuals under 18 years	1,681	29.8
Households with individuals over 65 years and over	2,150	38.1
<b>Average Household Size</b>	<b>2.56</b>	
*Not a member of a family. Roommates, boarders, resident employees, foster children, etc. are included in this category. Source: U.S. Bureau of the Census		

## Clark Township Housing Element and Fair Share Plan

### HOUSING UNIT CHARACTERISTICS

Clark Township is a typical suburban town with the majority (81 percent) of residents living in owner occupied homes. The Township has fewer renter-occupied units, at 18.5 percent, as indicated in Table 6. The Township, as well as the County, share similar housing characteristics. Year-round housing dominates the Township at 98.7 percent, which is nearly equal to the County average of 96.5 percent. However, the Township's housing tenure differs from that of the Union County, which has roughly 62 percent owner-occupied units and 38.4 percent renter-occupied housing units.

Table 6 HOUSING UNIT DATA-2000 Township of Clark				
Unit Type	Clark Township		Union County	
	Number	Percent	Number	Percent
Occupied Year Around	5,637	98.7	186,124	96.5
Vacant	72	1.3	6,821	3.5
<b>Total</b>	<b>5,709</b>		<b>192,945</b>	
<b>Tenure of Occupied Units</b>				
Owner Occupied	4,592	81.5	114,638	61.6
Renter Occupied	1,045	18.5	71,486	38.4
<b>Total</b>	<b>5,637</b>		<b>186,124</b>	
Source: U.S. Bureau of the Census				

The housing stock in Clark Township is in very good condition. Table 7 and 8 displays information that is indicators of substandard housing conditions. The age of housing stock is usually considered the most reliable indicator of substandard housing conditions, however, individual units should be considered on a case-by-case basis.

Suburbanization had a strong influence on the formation of Clark Township. Approximately 80 percent of the houses in Clark Township were built between 1940 and 1970. The Township of Clark has newer houses in comparison to the County. Only 6 percent of the houses were built before 1940, which is much lower than the County where approximately 26 percent of the houses were built before 1940. Approximately, 55 percent of the housing units in the Township were built before 1960. Construction has been minimal during the last two decades. Similar to the Township, the County has an older housing stock. Nearly 68.4 percent of the houses were built before 1960.

## Clark Township Housing Element and Fair Share Plan

Table 7 HOUSING UNIT DATA Township of Clark and Union County				
Characteristics	Clark Township		Union County	
	Number	Percent	Number	Percent
<b>Year Built</b>				
1999 – March 2000	27	0.5	1,030	0.5
1995 – 1998	48	0.8	2,937	1.5
1990 – 1994	26	0.5	3,289	1.7
1980 – 1989	194	3.4	8,797	4.6
1970 – 1979	516	9.0	15,799	8.2
1960 – 1969	1,780	31.2	29,205	15.1
1940 – 1959	2,752	48.2	81,542	42.3
1939 or earlier	366	6.4	50,346	26.1
<b>Units in Structure</b>				
One detached	4,587	80.3	102,794	53.3
One attached	99	1.7	7,951	4.1
2 units	167	2.9	29,415	15.2
3 to 4 units	80	1.4	16,704	8.7
5 to 9 units	93	1.6	7,785	4.0
10 to 19 units	255	4.5	7,754	4.0
20+ units	417	7.3	20,290	10.5
Other	11	0.2	252	0.1
Median rooms per unit	6.3		5.7	
Total Housing Units (2000)	5,709		192,945	
Total Housing Units (1990)	5,638		187,033	
Change: 1990 to 2000	101	1.8	7,256	3.7
Source: U.S. Bureau of the Census				

## Clark Township Housing Element and Fair Share Plan

The majority of the housing stock in Clark is single-family detached homes, typical of a suburban community. Single-family detached homes are dominant, at 80.3 percent, in Clark Township. Other housing types include townhouses, two-family homes, multi-family houses and apartments, but are very limited. The Township differs from the County, which offers a more diverse housing stock mix to meet the needs of its residents, including single-family detached houses, two-family homes, multi-family homes and apartments

As mentioned earlier, the age of the housing stock is usually considered the most reliable indicator of housing conditions. Other indicators of housing condition – including lack of complete plumbing facilities, kitchen facilities and overcrowding- are not a problem within the Township. The County, however, has a larger old housing stock with 2 percent of the houses without telephone services and approximately 7 percent suffering from overcrowded conditions. Table 8 displays information that indicates substandard housing conditions.

TABLE 8 INDICATORS OF HOUSING CONDITIONS-2000 Clark Township, Union County, New Jersey				
Number of Units	Clark Township		Union County	
	Number	Percent	Number	Percent
Built before 1940	366	6.4	50,346	26.1
Lacking complete plumbing facilities	8	0.1	1,465	0.8
Lacking complete kitchen facilities	8	0.1	1,628	0.9
No telephone service	19	0.3	3,962	2.1
More than 1.0 persons per room	25	0.4	12,504	6.72
Source: U.S. Bureau of the Census, 2000				

## Clark Township Housing Element and Fair Share Plan

### INCOME

Clark Township is a wealthier community with a median household income in 1999 at \$65,019, which is approximately \$10,000 higher than the state figure. Union County as a whole has a median household income and per capita income approximately equal to the State. The 1999 per capita income of the Township's residents, at \$29,883, is much higher than the County as well as the State's per capita income.

Table 9 INCOME Township of Clark, Union County, and New Jersey			
	Clark Township	Union County	New Jersey
1989 Median Household Income	\$50,095	\$41,791	\$40,927
1999 Median Household Income	\$65,019	\$55,339	\$55,146
1989 Per Capita Personal Income	\$20,422	\$19,660	\$18,714
1999 Per Capita Personal Income	\$29,883	\$26,992	\$27,006
Source: U.S. Bureau of the Census			

## Clark Township Housing Element and Fair Share Plan

### HOUSING VALUES

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The Township of Clark had a relatively affordable housing stock in 2000, with approximately 79 percent of its housing unit values falling in the range of \$150,000-\$299,999. Table 10 details the owner-occupied housing unit values in 2000. The 2000 US Census data indicates that the median housing value in Clark was \$217,500, which was \$28,700 more than the County's median housing value of \$188,800. The home sale market has changed in northern and central New Jersey towns between 2000 and 2003. The 2003 data indicates that the average home sales price in Clark was \$311,670, which was \$86,278 more than the average sales price in 2000, representing an increase of 38.3% in three years<sup>2</sup>.

Table 10 HOUSING VALUES Township of Clark and Union County				
Value Range	Clark Township		Union County	
	Number	Percent	Number	Percent
Less than \$50,000	0	0.0	666	0.7
\$50,000 to \$99,999	32	0.7	4,849	5.0
\$100,000 to \$149,999	307	6.9	21,352	22.0
\$150,000 to \$199,999	1,466	32.9	26,728	27.6
\$200,000 to \$299,999	2030	45.6	22,869	23.6
\$300,000 to \$499,999	610	13.7	14,807	15.3
\$500,000 to \$999,999	5	0.1	4,981	5.1
\$ 1,000,000 or more	0	0.0	736	0.8
Median (dollars)	217,500		188,800	
Source: U.S. Bureau of the Census				

<sup>2</sup> Star Ledger, November 30, 2003, page 8, section one.

## Clark Township Housing Element and Fair Share Plan

### HOUSING AFFORDABILITY

Housing affordability remains a problem with certain segments of Clark's population. Cost-burdened households are defined as households that spend more than 30 percent of their income on housing related costs. The Township of Clark and Union County follow similar traits for homeowner and renter cost burdens. For both, the Township as well as the County, renter households share greater cost burden than homeowners. As indicated in Table 11, housing costs are a problem for approximately 30 percent of the homeowner households and 34 percent of renter households in the Township. Housing costs are a problem for 37 percent of the renters in the County, which is higher compared to the Township.

The 1999 median gross rent in Clark was \$941, which was \$189 more than the County's median gross rent of \$752. The median room per housing unit is relatively high in the Township, averaging at 6.3 rooms per unit. The higher housing values as well as the median gross rents can be associated with the larger size of the houses.

<b>Table 11</b>				
<b>HOUSING AFFORDABILITY</b>				
Township of Clark and Union County				
	Clark Township		Union County	
	Number	Percent	Number	Percent
<b>Selected Monthly Owner Costs as a Percent of Household Income</b>				
Less than 15 percent	1,208	27.0	27,416	28.3
15 to 19 percent	586	13.1	15,814	16.3
20 to 24 percent	819	18.3	14,766	15.2
25 to 29 percent	481	10.7	10,783	11.1
30 to 34 percent	366	8.2	7,346	7.6
35 percent or more	966	21.6	20,390	21.0
Not computed	24	0.5	473	0.5
<b>Cost burdened households</b>	<b>1332</b>	<b>29.7</b>	<b>27736</b>	<b>28.6</b>
<b>Gross Rent as a Percentage of Household Income</b>				
Less than 15 percent	137	13.1	13,711	19.2
15 to 19 percent	263	25.1	11,009	15.4
20 to 24 percent	149	14.2	9,327	13.1
25 to 29 percent	74	7.1	7,699	10.8
30 to 34 percent	56	5.3	5,307	7.4
35 percent or more	299	28.6	20,789	29.1
Not computed	69	6.6	3,565	5.0
<b>Cost burdened households</b>	<b>355</b>	<b>33.9</b>	<b>26,096</b>	<b>36.5</b>
<b>Median Gross Rent (1999)</b>	<b>\$941</b>		<b>\$752</b>	
Source: U.S. Bureau of the Census				

## Clark Township Housing Element and Fair Share Plan

### EMPLOYMENT TRENDS

Covered employment in the Township has fluctuated over the past ten years, registering a high of 8,378 jobs in 1999 and a low of 6,319 jobs in 1993. As shown in Table 12, the Township experienced an 11 percent increase in the private sector employment in 1997. The Township's private sector employment peaked in 1999 when it reached 8,378 jobs but declined until 2002. Between 1999 and 2002, Clark lost 1,904 private sector jobs. However, the private sector employment bounced back in 2003 with an increase of 4.7 percent.

The County has experienced similar employment trends as the Township. The County's employment growth stabilized during 1997 through 2002, however, started to decline in the following years. In 2003, the Township's employment increased by 4.71 percent, while the County experienced a decline in its employment by one percent.

Table 12 COVERED PRIVATE SECTOR EMPLOYMENT Township of Clark and Union County			
Township of Clark			
Year	Number of jobs	Average Annual Change*	Average Annual Percent Change*
1993	6,319		
1994	6,792	473	7.49
1995	6,822	30	0.44
1996	7,228	406	5.95
1997	8,022	794	10.99
1998	7,670	-352	-4.39
1999	8,378	708	9.23
2000	7,756	-622	-7.42
2001	7,484	-272	-3.51
2002	6,474	-1,010	-13.50
2003	6,779	305	4.71
2004	7,134	355	5.23
Union County			
Year	Number of jobs	Average Annual Change*	Average Annual Percent Change*
1993	198,925		
1994	203,968	5,043	2.54
1995	199,946	-4,022	-1.97
1996	199,925	-21	-0.01
1997	202,604	2,679	1.34
1998	203,820	1,216	0.60
1999	205,560	1,740	0.85
2000	209,558	3,998	1.94
2001	206,488	-3,070	-1.46
2002	202,267	-4,221	-2.04
2003	210,031	3,543	1.75
2004	200,328	-1,939	-0.96
Source: NJ Department of Labor and Workforce Development, Third Quarter Data			

## Clark Township Housing Element and Fair Share Plan

### LABOR FORCE CHARACTERISTICS

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Clark Township residents are employed in a variety of occupations. Nearly thirty-seven (37) percent of the Township's employees work in management, professional and related occupations, followed closely by almost 35 percent of the employee population working in sales and office positions. The remaining labor force is engaged in service occupations (10.8 percent), production/transportation/material moving occupations (9.1 percent), and construction/extraction/maintenance occupations (8.6 percent). Although at slightly different percentages, the employment characteristics in Clark roughly mimic that of Union County. The Township has a larger number of workers in the management, professional & related occupations than in the County.

Table 13 also identifies the class of workers found in Clark Township and Union County. As expected, the largest sector of workers for both the Township and the County are in the private sector, representing 80 percent and 82.5 percent, respectively. Government is the second highest employee class for both the Township and the County. However, the Township at approximately 15 percent has a higher percentage of Government employees than the County at 12.8 percent. Clark Township has no unpaid family workers.

## Clark Township Housing Element and Fair Share Plan

Table 13 OCCUPATION CHARACTERISTICS Township of Clark and Union County				
Occupation	Township of Clark		Union County	
	Number	Percent	Number	Percent
Management, professional, & related	2,572	37.0	86,482	35.4
Service	749	10.8	32,436	13.3
Sales and office occupations	2,402	34.5	69,268	28.4
Farming, fishing, & forestry	0.0	0.0	141	0.1
Construction, extraction, & maintenance	596	8.6	18,555	7.6
Production, transportation, & material moving	636	9.1	37,315	15.3
<b>Class of Worker</b>				
Private wage and salary workers	5,564	80.0	201,538	82.5
Government workers	1,021	14.7	31,341	12.8
Self-employed workers	370	5.3	10,906	4.5
Unpaid family workers	0	0.0	412	0.2
<b>Commuting to Work</b>				
Drove alone	5,860	86.1	169,325	71.0
Carpooled	436	6.4	27,686	11.6
Public transportation	265	3.9	25,294	10.6
Walked	30	0.4	7,729	3.2
Other means	5	0.1	2,880	1.2
Worked at home	210	3.1	5,692	2.4
Mean travel time to work (minutes)	24.3		28.7	
Source: U.S. Bureau of the Census				

The Township of Clark's commutation patterns generally follow the same trend as Union County as a whole. Approximately 86 percent of the Township's labor force drives alone to work, 6.4 percent carpool and almost 4 percent use public transport. Nearly 3 percent of the Township's population work at home. In the County, 71 percent of the workforce drives to work, 11.6 percent carpool while approximately 10.6 percent use public transport. The County's labor force uses public transport at a much higher rate than the Township's labor force.

# Clark Township Housing Element and Fair Share Plan

## SECTION III – PROJECTIONS

The Third-Round affordable housing obligation introduces a new concept for calculating affordable housing obligations called "growth share" that is based on actual residential and nonresidential development. Development projections, therefore, are an essential component to adequately plan for this obligation. The Council on Affordable Housing provides household and employment projections for each municipality in Appendix F(2) of their regulations. COAH projections anticipate that an additional 377 housing units and 1103 jobs will be created in the Township between 2004 and 2018, as indicated in Table 14 below.

	Net Changes 2004 - 2018
Housing Units	377
Jobs	1103
Affordable Housing Obligation	144

A municipality with insufficient vacant land may request an adjustment to COAH's pursuant to N.J.A.C. 5:97-5.6. Clark Township received a Vacant Land Adjustment as part of its First Round Fair Share Plan which received substantive certification from COAH on September 4, 1991. Clark Township is requesting an adjustment to COAH's growth projections as part of the Third Round Housing Element and Fair Share Plan, based on a land capacity analysis prepared pursuant to the requirements in N.J.A.C. 5:97-5.2.

### ACTUAL GROWTH

Pursuant to N.J.A.C. 5:97-5.6, a municipality seeking an adjustment to its growth share projection must first measure its actual residential and non-residential growth from January 1, 2004 to the date of petitioning using the procedures in N.J.A.C. 5:97-2.5; then, the municipality subtracts housing units generated by actual residential growth from the household projection and jobs generated from actual non-residential growth from the employment projection per Appendix F(2).

Any development issued a certificate of occupancy after January 1, 2004 must be included within the Growth Share calculation. As shown in Table 15, a total of 79 new housing units were created between January 2004 and August 2008. Appendix A includes a letter from the Township's Construction Official certifying that the C.O. and demolition data for 2004, 2005 and 2006 used in this plan to calculate projections, are correct. There are several major development projects which account for the 79 CO's

## Clark Township Housing Element and Fair Share Plan

approved. New projects include, Century Estates, which contains twenty-six (26) apartments and Charlotte Estates, which includes seven (7) single-family homes.

<b>Table 15</b>						
<b>Residential COs Issued Since January 2004</b>						
<b>Clark Township, Union County</b>						
	2004	2005	2006	2007	2008	Total
COs Issued	4	6	7	45	17	79
Demolitions	11	13	5	3	1	33
Source: Clark Township Building Department						

Since 2004, the Township added office space and retail space. As shown in Table 16, a total of 85,378 square feet of non-residential space has received Certificates of Occupancy since January 2004. In 2004 and 2005, three certificates of occupancy were issued for a total of 25,478 square feet of office space and 360 square feet of assembly use. In 2006, one certificate of occupancy was issued for 6,238 square feet of office space. Finally, in 2007, a C.O. was issued in association with redevelopment of an existing retail use (A&P). The building, which measured, 52,812 square feet in size, was demolished and replaced with a new building measuring 60,000 square feet in size. This project represents a net increase of 7,188 square foot of retail space.

At the same time, there has been a demolition of an industrial building. As per the Construction Officer, 120,914 square feet of manufacturing space received a demolition permit in 2006. This is the demolition of the existing building on the Clark Developers site.

<b>Table 16</b>				
<b>Nonresidential COs Issue since January 2004</b>				
<b>Clark Township, Union County</b>				
<b>Non-Residential COs by Use Group</b>	<b>Square Feet Added</b>	<b>Square Feet Lost</b>	<b>Jobs/1,000 SF</b>	<b>Total Jobs</b>
	<b>(COs Issued)</b>	<b>(Dem. Permits Issued)</b>		
B - Business	31,036		2.8	86.90
M - Mercantile	60,000	52,812	1.7	12.22
F - Factory/Industrial		120,914	1.2	-145.10
S - Storage	1,170		1.0	1.17
H - Hazardous			1.6	0
A1 - Assembly			1.6	0
A2 - Assembly			3.2	0
A3 - Assembly	360		1.6	.58
E - Educational			0.0	0
I - Institutional			2.6	0
R1 - Hotels, Dorms, etc.			1.7	0
<b>Total</b>	<b>92,566</b>	<b>173,726</b>		<b>-44</b>

## Clark Township Housing Element and Fair Share Plan

Pursuant to a letter to all Mayors from COAH on October 30, 2008, COAH will permit any additional market-rate units that result from a rezoning to permit increased density to accommodate affordable housing to be exempted from the actual growth share obligation. In such circumstances, the increased density provided in an inclusionary zone would not generate a growth share obligation. Only the base density before the rezoning would generate a growth share obligation.

The Clark Developer's property was rezoned from IL Industrial Limited to an Age-Restricted Affordable Housing district. The building on the site has been demolished, the zoning has been adopted and site plan approval has been granted for this project by the Planning Board. The approved project includes 300 units, of which 60 units will be affordable, which is a set-aside of 20 percent. Of the 60 affordable units, five will be non-age-restricted rental units, six will be age-restricted rental units, and the remaining fifty (50) will be age-restricted units without the rental restrictions. The units resulting from this rezoning address a portion of the Township's prior round obligation and growth share obligation. As a result, the market rates units associated with this development are exempt from the Township's growth share calculation.

### Adjusted COAH Projection

Pursuant to N.J.A.C. 5:97-5.6, a municipality seeking an adjustment must first measure its actual residential and non-residential growth from January 1, 2004 to the date of petitioning using the procedures in N.J.A.C. 5:97-2.5; then, the municipality subtracts housing units generated by actual residential growth from the household projection and jobs generated from actual non-residential growth from the employment projection per Appendix F(2). An adjustment may only be sought against the remaining portion of the projections. Table 29 illustrates COAH's projections reduced to reflect actual growth. As indicated, the adjustment based on actual development reduces the Township's development projections to 299 new housing units and 1,147 jobs.

<b>Table 17</b>			
<b>COAH Projections - Reduced by Actual Development</b>			
<b>Clark Township, Union County</b>			
	<b>2018 Projection</b>	<b>Actual Development</b>	<b>Reduced Projection</b>
<b>Housing Units</b>	377	78	299
<b>Jobs</b>	1103	-44	1,147

## Clark Township Housing Element and Fair Share Plan

### Existing Land Use Inventory

Clark Township is a largely developed community. An Existing Land Use Map illustrating current land uses within the Township is provided. The 2003 Master Plan Update identifies several properties where future development may occur, including the U.S. Gypsum site and the former Felt Mill property as potential redevelopment areas. Over the years these parcels have become isolated from the main concentration of industry on the Township's western border. Also, demand for industrial space in Union County has declined because of market forces bringing into question the continued mobility of these properties for industrial use. The 2003 Clark Township Master Plan Update (pg. no. 23-25) proposes to develop a Downtown Village. Clark Township has recently amended its zoning ordinance to create a Downtown Village Zoning District. However, this would not create significant additional development within the Township.

CLARK



TOWNSHIP

UNION COUNTY, NEW JERSEY

# EXISTING LAND USE

FEBRUARY 23, 2009



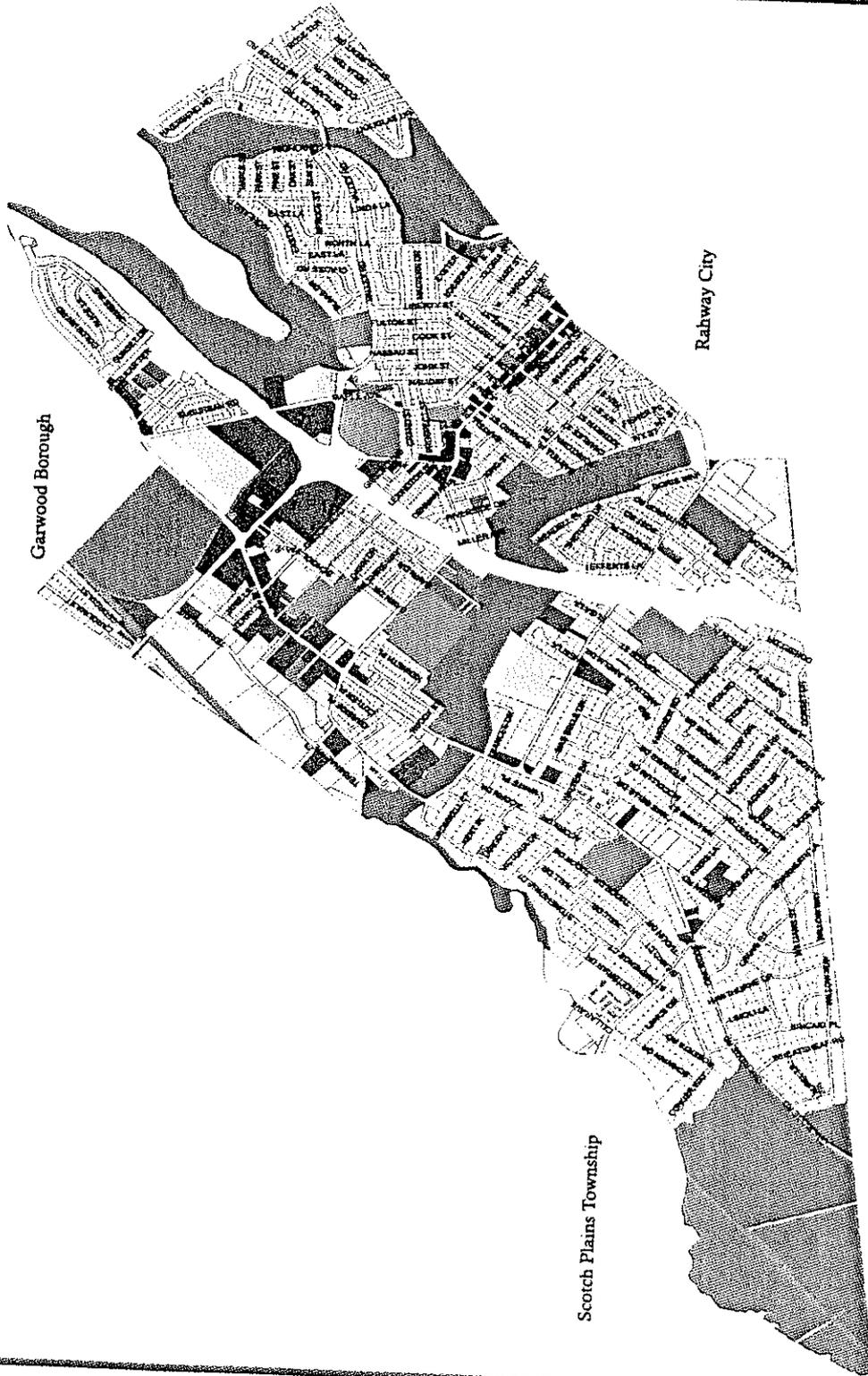
## Land Use Categories

- Vacant Land
- Parks / Open Space / Recreation
- Public Uses
- Semi - Public Uses
- Utility
- Commercial
- Industrial
- Residential - Single Family
- Residential - Multi-Family

Source:  
 -GIS Parcel Data - Clark Township  
 -Property Usage Data - Clark Township 2007 Tax Data



119 Cherry Hill Road, Suite 200, Parsippany, NJ 07054  
 T (862) 207-5900 / F (973) 334-0507





## Clark Township Housing Element and Fair Share Plan

### LAND CAPACITY ANALYSIS

The land capacity analysis is based on an evaluation of vacant and underdeveloped properties to provide the basis for an adjustment to COAH's household and employment projections. It includes a vacant land inventory based on the data and the procedures as specified in N.J.A.C. 5:97-5.2. It also includes an inventory of underutilized lands.

#### Vacant Land Inventory

Pursuant to COAH rules, a vacant land analysis must include the most recent inventory of all privately and municipally-owned vacant parcels from the tax assessor's office, which are classified as "Class 1 – Vacant" and "Class 15C – Public Property" on the tax records, respectively. The vacant land inventory is parcel-based, using the most current tax records, and identifies 1) privately-owned vacant lands and 2) municipally-owned vacant lands that could be used for affordable housing construction. Sites that are actually being used by adjoining uses (i.e. for parking or yard area), had no access because they were landlocked, were used for stormwater or common open space, or were of such unique shape that they could not be developed were excluded from the analysis. The vacant properties that remain are included in Workbook C, provided in Appendix B.

Properties that are currently vacant but are part of existing residential subdivisions or have existing development approvals are excluded from this analysis. In addition, pursuant to §5:97-5.6(c), properties that were used to calculate realistic development potential in a vacant land adjustment granted by COAH should be eliminated from the vacant land inventory. This situation applies to the Miele's Nursery and Schieferstein Farm properties. Both of these properties were used as the basis for the Realistic Development Potential in the Vacant Land Adjustment granted to the Township in its 1991 Housing Element and Fair Share Plan. As a result, these two properties are not included in the Land Capacity Analysis because development of these properties is addressed in the prior round obligation.

In approving the Township's first-round plan in 1991, COAH found that these properties met COAH's criteria for suitable, approvable, available and developable sites as they lie in the Planning Area 1 (PA-1) of the State Development and Redevelopment Plan and have access to sewer and water. However, due to market conditions, these properties have remained undeveloped for over seventeen years. The Township therefore, has rezoned these two properties to R-150 zone (this zone directly abuts the two properties on all sides). The R-150 zone permits single-family detached houses on lots with a minimum area of 15,000 square feet. The Schieferstein farm property is 3.25 acres and will support development of nine (9) single-family units. The Miele Nursery property is 5 acres and will generate 14 single-family homes

## Clark Township Housing Element and Fair Share Plan

As a result of mediation, the Township has created an overlay zone for two sites: the Schwarz farm site and the Clark development site. The Schwarz Farm site, however, has been acquired by Union County for open space, and is no longer available. Therefore, only the Clark development site is included in the Land Capacity Analysis.

The properties included in the Land Capacity Analysis are delineated on Map 1 and the constraints for each site are illustrated on Map 2. Both maps are included in Appendix C. The land capacity analysis indicates that vacant land within the Township can accommodate 47 dwelling units and 25 jobs. This analysis utilizes COAH's Workbook C, which includes a presumptive density of 8 dwelling units and 80 jobs per acre. A copy of Workbook C is provided in Appendix B.

### Inventory of Underutilized Sites

N.J.A.C. 5:97-5.2(c)3 requires that municipalities seeking an adjustment to their growth projection provide an inventory of sites that are devoted to a specific use which involves relatively low-density development and could create an opportunity for affordable housing if inclusionary zoning was in place. Such sites include, but are not limited to, a golf course not owned by its members, a farm in Planning Area 1; a driving range, a nursery and nonconforming uses. In addition, N.J.A.C. 5:97-5.2(c)6 requires that municipalities also provide an inventory of areas in the municipality that may develop or redevelop. Examples of such places include, but are not limited to: a private golf club owned by its members, publicly owned land, downtown mixed use areas, high density residential areas surrounding the downtown, areas with a large aging housing stock appropriate for accessory apartments, properties that may be subdivided and support additional development, and any parcels ripe for redevelopment. Pursuant to N.J.A.C. 5:97-5.6(g), these underutilized sites may provide additional opportunities to accommodate growth and corresponding affordable housing. The Fair Share Plan may include overlay zoning requiring inclusionary development of these properties in accordance with N.J.A.C. 5:97-6.4.

Clark Township contains two golf courses that meet the description of underutilized sites. Oak Ridge Golf Course, located on Oak Ridge Road at the southern end of the Township, is owned and operating by Union County. Hyatt Hills Golf Complex is a public nine-hole golf course located off of Central Avenue, near Terminal Avenue, at the northern end of the Township.

# Clark Township Housing Element and Fair Share Plan

## ADJUSTED HOUSEHOLD AND EMPLOYMENT PROJECTIONS

Table 18 shows Clark’s adjusted household and employment projections, which is comprised of 1) actual residential development since January 1, 2004, 2) actual non-residential development since January 1, 2004, and 3) projected development based on the vacant land analysis. The vacant land analysis indicates a build-out capacity of 47 dwelling units and 25 jobs. As a result, Clark’s projection is only 125 dwelling units, compared to COAH’s projection of 377 dwelling units. Similarly, Clark’s employment projection is 0 job growth, compared to COAH’s projection of 1,103 new jobs.

<b>Table 18</b> <b>Adjusted Household and Employment Projections</b> Clark Township, Union County				
	2018 Projection	Actual Development	Land Capacity Analysis	Adjusted Projection
Housing Units	377	78	47	125
Jobs	1103	-44	25	0

## Clark Township Housing Element and Fair Share Plan

### SECTION IV – FAIR SHARE OBLIGATION

The Third Round (2004 – 2018) affordable housing obligation consists of a rehabilitation share, a prior-round share and a growth share. Clark's affordable housing obligation for each component is summarized below.

- 1. Rehabilitation:** The Rehabilitation Component is the number of deficient housing units occupied by low and moderate-income household, which is referred to as rehabilitation share. **The Township has an eleven (11) unit rehabilitation obligation for the 2004 - 2018 period.**
- 2. Prior Round:** The Prior Round (1987 – 1999) obligation is the remaining affordable housing obligation assigned to a municipality by the Council or the court for the period 1987 through 1999. Clark Township received a vacant land adjustment from COAH in its first round substantive certification. Clark is entitled to retain this as a part of its second round plan and is presumed to have addressed its prior round obligation or Realistic Development Potential (RDP). Although Clark Township petitioned for certification of their second round plan, it was not certified because objections were filed by several interested parties. The plan was further reviewed through COAH's mediation process and a Mediation Report was issued on October 21, 2005. COAH required the Township to address its prior round obligation, which consists of a realistic development potential and unmet need, when it petitions for the third round obligation. **The Township's Realistic Development Potential is 23 new construction units and the unmet need is 69 units. COAH's Third Round regulations, however, require that municipalities address the growth share obligation first, then any remaining unmet need.**
- 3. Growth Share:** Growth Share is the share of affordable housing need generated by a municipality's actual growth (2004 – 2018) based upon the number of new housing units constructed and the number of new jobs created as a result of non-residential development. According to COAH's projection, Clark has a growth share obligation of 144 units. **However, a Land Capacity Analysis was conducted pursuant to §5:97-5.6, which adjusts the growth share obligation down to 25 units.**

## Clark Township Housing Element and Fair Share Plan

### PLANNING & ZONING ANALYSIS - MEETING THE NEED

Clark Township is fully developed, and any new development will result from redevelopment and reuse of existing properties. Residential uses in Clark are located within all sectors of the Township. The majority of existing residential development is single-family detached dwellings. The Township is served by a variety of commercial uses along Central Avenue and Raritan Road. The uses in these areas are national retailers and independent local businesses in the form of banks, fast food establishments, and others. The Township has one industrial zone on Terminal Avenue. The existing land use in the industrial zone is undergoing transformation. The Master Plan identified several industrial areas that may redevelop and a new downtown village area. The development potential of these areas is not included within the growth share projections because they are currently developed and the Township hasn't adopted or submitted any plans to indicate any pending changes.

### REHABILITATION COMPONENT

Rehabilitation share is an estimate of the total number of deficient housing units occupied by low and moderate-income households within the community. It is estimated through the use of 2000 census data. Three housing quality factors are used to determine housing deficiency as described below;

1. Crowding – 1.01 or more persons per room, in housing built 1939 or earlier, with complete plumbing
2. Plumbing – units lacking complete plumbing
3. Kitchen – units lacking complete or in-unit kitchen facilities

According to COAH's calculations, Clark Township's rehabilitation share is eleven (11) units.

## Clark Township Housing Element and Fair Share Plan

### PRIOR ROUND COMPONENT (1987 - 1999)

Clark Township received a vacant land adjustment from COAH in its first round substantive certification due to the lack of sufficient vacant and developable land. Pursuant to N.J.A.C. 5: 93-4.2(f), a municipality that received a vacant land adjustment in addressing its first round obligation is entitled to retain it as a part of its second round plan and is presumed to address its Realistic Development Potential (RDP) and unmet need. The vacant land adjustment established Clark's Realistic Development Potential (RDP), at 23 units and an unmet need at 40 units. COAH, however, recalculated each municipality's prior round obligation as part of the changes to the Third Round regulations. As a result, Clark's prior round obligation increased from 63 units to 92 units.

#### Realistic Development Potential (RDP) and Unmet Need

The Township's RDP of 23 units can be reduced to zero units through credits obtained from alternative living arrangement (group homes) and reductions received from the adopted inclusionary age restricted housing overlay zone on two parcels.

The Township's unmet need of 69 units can be reduced to 13 through prior-cycle credits and reductions received from the age-restricted housing overlay zoned sites. Table 19 summarizes the Township's prior round obligation.

Table 19 SUMMARY – PRIOR ROUND OBLIGATION Clark Township, Union County			
	Pre-credited Obligation	Credits	Reductions
Realistic Development Potential	23		
Group Homes		6	
Rental Bonus		6	
Clark Developer's site			
Age-restricted			6
Non age-restricted handicapped			5
Subtotal	23	12	11

#### Credits:

COAH offers credits, reductions, and adjustments for affordable housing activity undertaken by the municipalities.

## Clark Township Housing Element and Fair Share Plan

### Alternative Living Arrangements

COAH allows municipalities to claim credit for "alternative living arrangements," including transitional facilities for the homeless, residential health care facilities as regulated by the New Jersey Department of Senior Services or the New Jersey Department of Human Services. The unit of crediting for an alternative living arrangement is the bedroom that received certificates of occupancy after April 1, 1980. Table 20 lists the available alternative living arrangements in Clark Township. Clark has three group homes that are eligible for credits. These contain a total of 9 bedrooms and are funded by the Division of Developmental Disabilities. These homes are eligible for a total of 9 credits.

Table 20 ALTERNATIVE LIVING ARRANGEMENTS Township of Clark, Union County			
Facility Location	Provider	No. of Bedrooms	Date Opened
Union County Parkway	Arc of Union County	3	1995
Oak Ridge Road	Arc of Union County	3	Nov-01

### Rental Bonus

The Township can also receive additional 6 rental bonus credits for the alternative living arrangement units.

### Reductions:

The Township has been making diligent efforts through the implementation of more traditional zoning practices to provide its residents with a range of affordable housing options. The Township of Clark has adopted inclusionary overlay zone for age-restricted housing on two parcels and can receive reductions for the same. As a result of mediation, the Township developed an inclusionary overlay zone for two sites: the Schwarz farm site and the Clark development site. The Schwarz Farm site, however, has been purchased by Union County for open space, and is no longer available.

The Township has rezoned a 10.7 acre tract of land located on west side of Terminal Road (Block 58, Lot 4) to an Age-restricted Affordable Housing Overlay District. The overlay option will permit a maximum of 300 age-restricted residential units on the site, of which twenty (20) percent must be set aside for low and moderate income households. Sixty percent of the total units approved are to be age restricted to occupants 55 years and older and forty percent of the total units are to be senior units restricted to occupants 62 years and older. The senior citizens units will be located in one building with an additional 5,000 square feet dedicated to recreation/common space. The developer has agreed to provide five (5) non-age-restricted rental units and fifty-five (55) age-restricted affordable units. The zoning is in place for this site, and the

## Clark Township Housing Element and Fair Share Plan

developer has been granted site plan approval to build the project. The resolution granting site plan approval is provided in Appendix F.

### **Site Suitability**

Pursuant to State Statute 5:97-3.13, the Clark Developers site must conform to certain eligibility criteria. The Clark Developers site is particularly suitable for producing affordable housing. As per the requirements of the statute, the property lies in Planning Area 1 and is consistent with the State Development and Redevelopment Plan. The zoning overlay will allow the Township to revitalize this underutilized property and create more affordable units for its residents. The New Jersey Department of Environmental Protection's 2001 data has been used to indicate the existing Brownfield and Wetlands within the Township of Clark. As indicated on the Location Map and the Environmental Constraints Map provided in Appendix D, the property has no environmental constraints. The site has access to approved Terminal Road and is served by existing infrastructure including water and sewer with sufficient capacity to accommodate development of the property.

### **Prior Round Obligation Requirements**

#### **Minimum Rental Obligation**

State statute N. J. A. C. 5:93-5.15 requires that at least twenty-five (25) percent of the municipality's prior round obligation be addressed with rental housing units. When applied to the Township's prior round Obligation of 23 units, this creates a maximum of six (6) units ( $23 \times .25 = 5.75$ ). This requirement has been addressed since all six (6) bedroom available at the existing alternative living arrangement facility are rental units.

#### **Maximum age-restricted units**

Pursuant to N. J. A. C. 5:93-5.14, a municipality can address up to twenty-five (25) percent of its growth share obligation through age-restricted units. When applied to the Township's prior round Obligation of 23 units, this creates a maximum of 6 units ( $23 \times .25 = 5.75$ ). Clark proposes to use three (3) units from the Clark Developers site, to address the Township's prior round obligation.

### **Summary**

The Realistic Development Potential is reduced to zero units (23-6-6-11) through credits and reductions.

## Clark Township Housing Element and Fair Share Plan

### GROWTH SHARE COMPONENT (2004 - 2018)

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The "Growth Share" for the period January 1, 2004 through December 31, 2018 is calculated based on municipal growth projections pursuant to N.J.A.C. 5:97-2. Projections of population and employment growth are converted into the projected affordable housing obligation by applying a ratio of one affordable unit among every five residential units projected, plus one affordable unit for every 16 newly created jobs projected. The actual growth share obligation is based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed, reoccupied and expanded non-residential developments in accordance with COAH's Appendix D, incorporated in the revised Third Round Rules by reference. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth. However, if the actual growth share obligation is less than the projected growth share obligation, the municipality shall continue to provide a realistic opportunity for affordable housing to address the projected growth share through inclusionary zoning or any of the mechanisms permitted by N.J.A.C. 5:97-6.

According to Appendix F(2) in the revised Third Round Rules, Clark would have a net increase of 377 housing units and 1,103 jobs from 2004 to 2018. Applying the COAH ratios, the Township's growth share obligation is 144 units.

#### Clark's Adjusted Growth Share Obligation

If upon plan evaluation review pursuant to N.J.A.C. 5:96-10, the difference between the number of affordable units constructed or provided in a municipality and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the municipality may prepare a housing plan to address the reduced obligation, provided that additional mechanisms set forth in N.J.A.C.5:97-5.6(g) are put into effect.

As indicated in Table 21, the land capacity analysis resulted in a decrease in the projection of residential development from 299 (COAH projection (377) reduced by actual development (78)) units to 124 units. The projection for jobs decreased significantly, from COAH's projection of 1,147 jobs to an adjusted projection of 0 jobs. As a result, the projected affordable housing obligation decreases from 144 units to 25 units. This difference is more than 10 percent, and pursuant to N.J.A.C. 5:96-10, is the projected growth share obligation for the Township used for the Fair Share Plan.

## Clark Township Housing Element and Fair Share Plan

Table 21 Growth Share Projection Clark Township, Union County		
	COAH Projected Growth Share	Municipal Projection
Residential Growth (Actual + Land Capacity)	377	124
Approved/Anticipated Residential Development	300	300
Residential Exclusions	-300	-300
Net Residential Growth	377	124
Residential Growth Share	75.4	25
Non-Residential Growth (Actual + Land Capacity)	1103	-19
Approved/Anticipated Nonresidential Development	0	0
Non-Residential Exclusions	0	0
Net Non-Residential Growth	1103	-19
Non-Residential Growth Share	68.94	0
<b>Total Growth Share</b>	<b>144</b>	<b>25</b>

## Clark Township Housing Element and Fair Share Plan

### SECTION V – FAIR SHARE PLAN

The Fair Share Plan addresses the Township's Rehabilitation Obligation of 11 units, Prior Round Obligation of 23 units and Growth Share Obligation of 25 units. The Plan is summarized below in Table 22.

	Obligation	Family Housing		Age-Restricted Housing		Very Low-Income Housing	Group Home
		Rental	Sale	Rental	Sale	Rental	Bedrooms
<b>REHABILITATION OBLIGATION</b>	11						
<b>PRIOR ROUND OBLIGATION</b>						NA	
<b>RDP</b>	23					NA	
Inclusionary Development (Clark Developers)	11			11		NA	
Alternative Living Arrangements	6					NA	6
Bonus Credits	6						
<b>Subtotal</b>	23						
<b>Unmet Need</b>	69					NA	
Clark Developers Site	43			43		NA	
<b>GROWTH SHARE OBLIGATION</b>	25						
<b>Inclusionary Developments</b>	6						
Clark Developers				6		6	
<b>Supportive Housing</b>	3					3	
Market to Affordable Program	10	5	5			0	3
<b>Subtotal</b>	19	5	5	6	0	9	3
<b>Bonus Calculation</b>	6						
Eligible Bonus Rental Credits		7					
Eligible Supportive Housing Rental Credits							
<b>Total</b>	25						.75

#### **REHABILITATION OBLIGATION**

Clark Township will address its rehabilitation obligation of 11 units through participation in the Union County Home Improvement Program, averaging 1.1 units per year over the next ten years. The County receives Community Development Block Grants funds from the NJ Department of Community Affairs for its Home Improvement Program. The County program currently does not require the proper deed restriction in accordance with COAH and UHAC standards. This problem has been brought to the County's attention, and the County has expressed its receptivity to cooperating with the Township and other municipalities to rectify this problem. As a result of these efforts, the Township has every reason to believe that the County

# Clark Township Housing Element and Fair Share Plan

## SECTION V – FAIR SHARE PLAN

The Fair Share Plan addresses the Township's Rehabilitation Obligation of 11 units, Prior Round Obligation of 23 units and Growth Share Obligation of 25 units. The Plan is summarized below in Table 22.

**Table 22  
Fair Share Plan  
Clark Township**

	Obligation	Family Housing		Age-Restricted Housing		Very Low-Income Housing	Group Home
		Rental	Sale	Rental	Sale	Rental	Bedrooms
<b>REHABILITATION OBLIGATION</b>	11						
<b>PRIOR ROUND OBLIGATION</b>						NA	
<b>RDP</b>	23					NA	
Inclusionary Development (Clark Developers)	11			11		NA	
Alternative Living Arrangements	6					NA	6
Bonus Credits	6					NA	
<b>Subtotal</b>	23						
<b>Unmet Need</b>	69					NA	
Clark Developers Site	43					NA	
<b>GROWTH SHARE OBLIGATION</b>	25			43			
<b>Inclusionary Developments</b>	6						
Clark Developers	3			6		6	
<b>Supportive Housing</b>	10					3	3
Market to Affordable Program	19	5	5			0	
<b>Subtotal</b>	6	5	5	6	0	9	3
<b>Bonus Calculation</b>	6						
Eligible Bonus Rental Credits		7					
Eligible Supportive Housing Rental Credits							
<b>Total</b>	25						.75

### **REHABILITATION OBLIGATION**

Clark Township will address its rehabilitation obligation of 11 units through participation in the Union County Home Improvement Program, averaging 1.1 units per year over the next ten years. The County receives Community Development Block Grants funds from the NJ Department of Community Affairs for its Home Improvement Program. The County program currently does not require the proper deed restriction in accordance with COAH and UHAC standards. This problem has been brought to the County's attention, and the County has expressed its receptivity to cooperating with the Township and other municipalities to rectify this problem. As a result of these efforts, the Township has every reason to believe that the County

## Clark Township Housing Element and Fair Share Plan

will administer its rehabilitation program in such a manner that all Union County municipalities can secure credit for the units the County rehabilitates. In the event that the County, for any reason, fails to rectify this manner in which it implements this program, the Township shall implement its own rehabilitation program through funds collected from Development Fees. With this understanding, the Fair Share Plan anticipates that Union County will fully fund the rehabilitation of all 11 units.

### PRIOR ROUND OBLIGATION

As indicated in Section IV of this report, Clark Township has addressed its prior round obligation by satisfying its 23-unit obligation generated by its Realistic Development Potential. The remaining unmet need is met, in part, by 43-units from the Clark Developer's project, as indicated in Table 24.

### GROWTH SHARE OBLIGATION

Clark Township will address its Growth Share Obligation through credits from an existing group home, 6 age-restricted units from the Clark Developer's inclusionary development project, 10-units from a Market to Affordable Program, and 6 bonus credits. This plan addresses COAH requirements as illustrated in Table 23.

	Requirement	Number	Provided
Minimum Rental Obligation	A minimum of 25% must be rental. (Sect. 5:97-3.11(b)2).	7	14 units
Maximum Age Restricted Housing	A maximum of 25% may be age-restricted. (Sect. 5:97-3.10(c)2).	6	6 units – Clark Developers
Minimum Family Housing	A minimum of 50% of units within the municipality must be family housing. (Sect. 5:97-3.9)	10	10 market to affordable program
Minimum Family Rental Housing	A minimum of 50% of the total rental units must be non age-restricted. (Sect. 5:97-3.4b)	4	5 market to affordable program
Minimum Very Low Income Housing	A minimum of 13% of units built must be reserved for very low income households. (A500)	3	3 group homes
Maximum Bonus Credits	The maximum bonus credits permitted is 25% of the growth share obligation. (Sec. 5:97-3.20)	6	7 rental bonus credits

## Clark Township Housing Element and Fair Share Plan

### Pre Cycle Credits (3 credits)

Clark Township has three, 3-bedroom group homes. However, credits for two of these group homes have been used to address the Township's prior round obligation. The third group home is located at 279 Oak Ridge Road and was started in July 1986. This group home contains three (3) bedrooms. As mentioned earlier the unit for crediting for an alternative living arrangement is the bedroom that received certificates of occupancy after April 1, 1980. This home, therefore, is eligible for 3 credits.

### Inclusionary Development (6 credits)

Six affordable age-restricted rental units from the Clark Developers site are applied to the Township's Growth Share Obligation. The Clark Developers project received site plan approval on October 30, 2008. Details of the Clark Developers project is more fully described in Section IV of this report under Prior Round Obligation.

### Market to Affordable Program (10 credits)

N.J.A.C. 5:97-6.9 permits municipalities to address a portion of their affordable housing obligation through a market to affordable program. This program includes units that are purchased or subsidized through a written agreement with the property owner and sold or rented to low- and moderate-income households. Clark Township will be comprised of 10 moderate-income units, including 5 rental units and 5 for-sale units. The Township's low-income affordable housing obligation is addressed through the three group homes and the 6 age-restricted units included in the Clark Developers project.

The Township will provide a minimum of \$25,000 per unit, for a total of \$250,000, to subsidize the cost of creating these moderate-income units. Additional subsidy may be necessary depending on market prices or rents in the Township. In order for a sales unit to be considered affordable to moderate-income households in Clark, sales prices must range between \$130,954 and \$170,142. In order for a rental unit to be considered affordable to moderate-income households in Clark, rental prices must range between \$1,131 and \$1,307 a month. In order for a rental unit to be considered to low-income households in Clark, rental prices must range between \$550 for a 1 bedroom apartment to \$1,089 for a 3-bedroom apartment.

An analysis of existing housing units listed on the Multiple Listing Service as of February 20, 2009 indicated that a total of 56 units are available, including 54 units for sale and 2 units for rent. The asking sales price of the housing units ranged between \$230,000 and \$1,195,000, with an average asking price of \$516,550. The asking monthly rental prices included \$1050 for a 2 bedroom apartment to \$1,750 for a one-bedroom apartment.

## Clark Township Housing Element and Fair Share Plan

The subsidy required to make a unit selling at \$230,000 affordable to a moderate-income household ranges between \$60,000 and \$99,000. Therefore, the cost to provide five sales units for moderate-income households will range between \$300,000 and \$495,000. On the rental side, current rents are provided at levels affordable to moderate-income households. In order to provide rental units affordable to low-income households, funding of approximately \$10,000 per year must be provided.

Funding for the Market to Affordable program will be provided through a Development Fee Ordinance. The Township, when it petitioned for the second round obligation, adopted a development fee ordinance to address its growth share need. However, since the Township never received substantive certification for the second round, the ordinance never came into effect. The Township proposes to adopt a development fee ordinance that would apply to all residential and non-residential developments for the Third Round Obligation.

### Growth Share Bonus Credits (6 credits)

N.J.A.C. 5:97-3.2 establishes a bonus cap municipalities addressing their third round obligation. This requirement states that a municipality may not receive more than one type of bonus for each unit (for example, a very-low income bonus or a rental bonus for one unit). In addition, it caps the total credit from bonuses at 25 percent of the projected growth share obligation. In this case, the bonus cap for Clark Township is 6 units. Clark's Growth Share Fair Share Plan includes a total of 7 bonus credits, as indicated below.

### **Rental Bonus Credits**

Pursuant to N.J.A.C. 5:97-3.6, a municipality may receive rental bonuses for rental units in excess of its growth share rental obligation. The Township's rental obligation is 25 percent of its growth share obligation, or 7 units. Since the plan provides for 14 rental housing units, 7 units are available for bonus credit.

**APPENDIX A**  
**CERTIFICATE OF OCCUPANCY DATA**



TOWNSHIP OF

*Clark*

NEW JERSEY

MIKE KHODA  
Construction Code Official

430 Westfield Avenue  
Clark, New Jersey 07066-1704  
Tel.: (732) 388-3600  
Fax.: (732) 388-3501

October 2, 2006.

Lucy Voorhoeve,  
Executive Director,  
Council on Affordable Housing  
Department of Community Affairs  
P. O. Box 800, Trenton, NJ 08625-0800

Re: Certificate of Occupancy data and demolitions.

Dear Ms. Voorhoeve,

This letter has been prepared to certify that the certificate of occupancy and demolition data listed below has been researched by my office staff and reviewed by me based upon available office records and to the best of my knowledge, the information contained herein for the years 2004, 2005 and 2006 is correct.

Table 1			
RESIDENTIAL - Certificate of Occupancy and Demolition data			
Year	Number of CO's		
	Issued	Demolition	Net
2004	4	11	-7
2005	6	13	-7
2006*	7	-	-

\* From January 2006 to September 2006.

17  
OCT 06 2006

Clark is an Equal Opportunity Employer

Table 2 NON-RESIDENTIAL - Certificate of Occupancy and demolition <sup>1</sup>				
Year	Number of COs Issued	Demolition	Type of Use	Square footage of New Construction/Addition
2005	1		Office use	19,028 sq. ft.
2006	1	0	Office use	6,238 sq. ft.
2006		1	Manufacturing use	120,914 sq. ft.

Sincerely,



Michael Khoda  
Construction Official,  
430 Westfield Avenue,  
Clark, NJ 07066



**Summary of Adjusted Growth Share Projection Based On Land Capacity**  
**(Introduction to Workbook C)**

Municipality Name: Clark Township

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**

	<b>COAH Projected Growth Share (From Worksheet A)</b>	<b>Growth Share Based on Municipal Capacity (From Worksheet C)</b>
Residential Growth	377	125
Residential Exclusions	0	0
Net Residential Growth	377	125
Residential Growth Share	75.40	24.95
Non-Residential Growth	1,103	-19
Non-Residential Exclusions	0	0
Net Non- Residential Growth	1,103	-19
Non-Residential Growth Share	68.94	0.00
Total Growth Share	144	25

**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 24.95 plus a Non-residential Growth Share of 0 for a total Growth Share Obligation of 25 affordable units**

## Growth Projection Adjustment - Actual Growth

**Municipality Name:                      Clark Township**

		<b>Actual Growth 01/01/04 to Present</b>			
Residential COs Issued	78				
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		31036		2.8	86.90
M		7188		1.7	12.22
F			120914	1.2	-145.10
S		1170		1.0	1.17
H				1.6	0.00
A1				1.6	0.00
A2				3.2	0.00
A3		360		1.6	0.58
A4				3.4	0.00
A5				2.6	0.00
E				0.0	0.00
I				2.6	0.00
R1				1.7	0.00
<b>Total</b>		<b>39754</b>	<b>120914</b>		<b>-44</b>

[Return to Growth Projection Adjustment Summary Screen](#)

[Proceed to Inventory of Vacant Residential Land](#)

[Proceed to Inventory of Non-residential Land](#)

Clark Township Growth Projection Adjustment - Residential Parcel Inventory

Block	Lot	Address	Owner	SDRP 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)
104:	91	Harding Ave	Tarasak, John & Domonkos Richard	1		Y		0.05	0.05	Too Small	0.00	8.00	0.00
7	21	202 Lake Ave	Century Court LLC					0.18			0.18	8.00	1.44
88	73	187 Fan St	Pispecky Ladislav J - Dorothy A	1		Y		0.1837		Landlocked	0.00	8.00	0.00
97	3	Loesser Ave	Forth MPP/L Rit Co. A Corp of NJ	1		Y		0.1125			0.18	8.00	1.47
24	38	02 Rear Fairview Rd	Park Crest Inc.	1		Y		0.3153			0.00	8.00	0.00
59	17	Central Ave	Unknown	1		Y		0.0608			0.32	8.00	2.52
24	38	01 Rear Fairview Rd	Anatom Corp & Morris Barnett	1		Y		0.2296			0.00	8.00	0.00
179	44	47 Skyark Pl	Triple D Construction Inc.	1		Y		0.0775			0.23	8.00	1.84
38	02	1301 Ridge Road	Rebella Builders Inc.	1		Y		1			0.00	8.00	0.00
28	9	565 Rantian Road	Forth MPP/L Realty Co.	1		Y					1.00	8.00	8.00
88	01	53	23 Kalmyn St	RD-C Properties, LLC				0.0574			0.00	8.00	0.00
30	04	76	565 Oak Ridge Rd	Fradnicks, Wilfred & Rita	1			0.59			0.59	8.00	4.70
53	34	1868 Rantian Road	Deutscher Club of Clark, Inc.	1		Y		0.98			0.39	8.00	3.16
63	76	191 Lexington Blvd	Lexington Village, Inc.	1		Y		0.143	0.59	Wetlands	0.14	8.00	2.29
7	01	3 Lake Ave	Tussel, RJ & Tussel, JF	1		Y		0.8			0.80	8.00	6.40
63	79	177 Lexington Blvd	Lexington Village Inc.	1		Y		0.3943			0.39	8.00	3.15
38	81	Madison Hill Rd	A Z Holding Co.	1		Y		1.188			1.19	8.00	9.50
<p>Click Here to Return to Workbook C Summary</p> <p>Click Here to Proceed to Non-residential Parcel Inventory and Capacity Analysis</p>													
<p>Add More sheets</p>													
Subtotal This Page												45.61	
Subtotal Page 2												1.16	
Subtotal Page 3												0.00	
Subtotal Page 4												0.00	
Subtotal Add'l Pages												0.00	
Grand Total												46.77	

\* 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: Clark Township**

Enter the COAH generated growth projections from 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)*	377	1,103
2 Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab	<a href="#">Click Here to enter Prior Round Exclusions</a>	
COs for prior round affordable units built or projected to be built post 1/1/04	0	
Inclusionary Development	0	
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	0	
3 Subtract the following Non-Residential Exclusions (5:97-2.4(b))	0	
Affordable units		
Associated Jobs		
4 <b>Net Growth Projection</b>	<b>377</b>	<b>1,103</b>
5 <b>Projected Growth Share (Conversion to Affordable Units)</b> Divide HH by 5 and Jobs by 16)	<b>75.40 Affordable Units</b>	<b>68.94 Affordable Units</b>
6 <b>Total Projected Growth Share Obligation</b>		<b>144 Affordable Units</b>

[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: Clark Township

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

<b>Development Type</b>	<b>Number of COs Issued and/or Projected</b>
-------------------------	--

Supportive/Special Needs Housing	
Accessory Apartments	
Municipally Sponsored and 100% Affordable	
Assisted Living	
Other	
<b>Total</b>	<b>0</b>

### 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
		0			0
		0	0	0	0
		0			0
		0			0
		0			0
<b>Total</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

### 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
<b>Total</b>	<b>0</b>	<b>0</b>

[When finished, click here to return to Worksheet A](#)

Clark Township Growth Projection Adjustment - Residential Parcel Inventory Page 2

Block	Lot	Address	Owner	SDRP 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)
88.01	49	Harrison St	Marmor Inc	1		Y		0.0287	0.0287	Landlocked	0.00	8.00	0.00
59	14	Terminal Ave	Dvorken, H	1		Y		1	1.00	Landlocked	0.00	8.00	0.00
191	9	Stockton Rd - Gorczyca,	Bristol, Fra	1		Y		0.2864	0.29	Landlocked	0.00	8.00	0.00
81	82	22 Kathryn St	Bristol, Fra	1		Y		0.1245			0.00	8.00	0.00
164	46	Valley Road	Township c	1		Y		0.4476	0.4476	Right of Way	0.00	8.00	0.00
152	16	Walnut Ave	Township c	1		Y		0.1228			0.00	8.00	0.00
75	10	King St	Township c	1		Y		0.2146	0.2146	drainage	0.00	8.00	0.00
49	12.13	Westfield Ave	Township c	1		Y		0.1014			0.00	8.00	0.00
94	11	Lionel St	Township c	1		Y		0.0987			0.00	8.00	0.00
118	2	Broadway	Township c	1		Y		0.0918			0.00	8.00	0.00
118	18	Fulton St	Township c	1		Y		0.01	0.01	Too Small	0.00	8.00	0.00
173	22	Riverside Dr	Township c	1		Y		0.23	0.23	drainage	0.00	8.00	0.00
156	14	Riverside Dr	Township c	1		Y		0.07	0.00		0.00	8.00	0.00
129	11	Broadway	Township c	1		Y		0.06	0.00		0.00	8.00	0.00
76	4	275 Westfield	Township c	1		Y		0.23	0.23	drainage	0.00	8.00	0.00
125	11	Haliday St	Township c	1		Y		0.1445	0		0.14	8.00	1.16
128.01	23	Prospect St	Township c	1		Y		0.0918	0		0.00	8.00	0.00
128.01	25	Broadway	Township c	1		Y		0.0918	0		0.00	8.00	0.00
115	22	Fulton St	Township c	1		Y		0.0765	0.0765	Landlocked	0.00	8.00	0.00
24	29.01	Hillcrest Dr	Township c	1		Y		0.0633	0		0.00	8.00	0.00
Add More Sheets													
Residential Inventory Main Page													
Total Page 2											0.00	8.00	1.16

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



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**APPENDIX C**  
**LAND CAPACITY ANALYSIS MAPS**

**MAP 1:  
VACANT LAND  
INVENTORY**  
MARCH 12, 2009

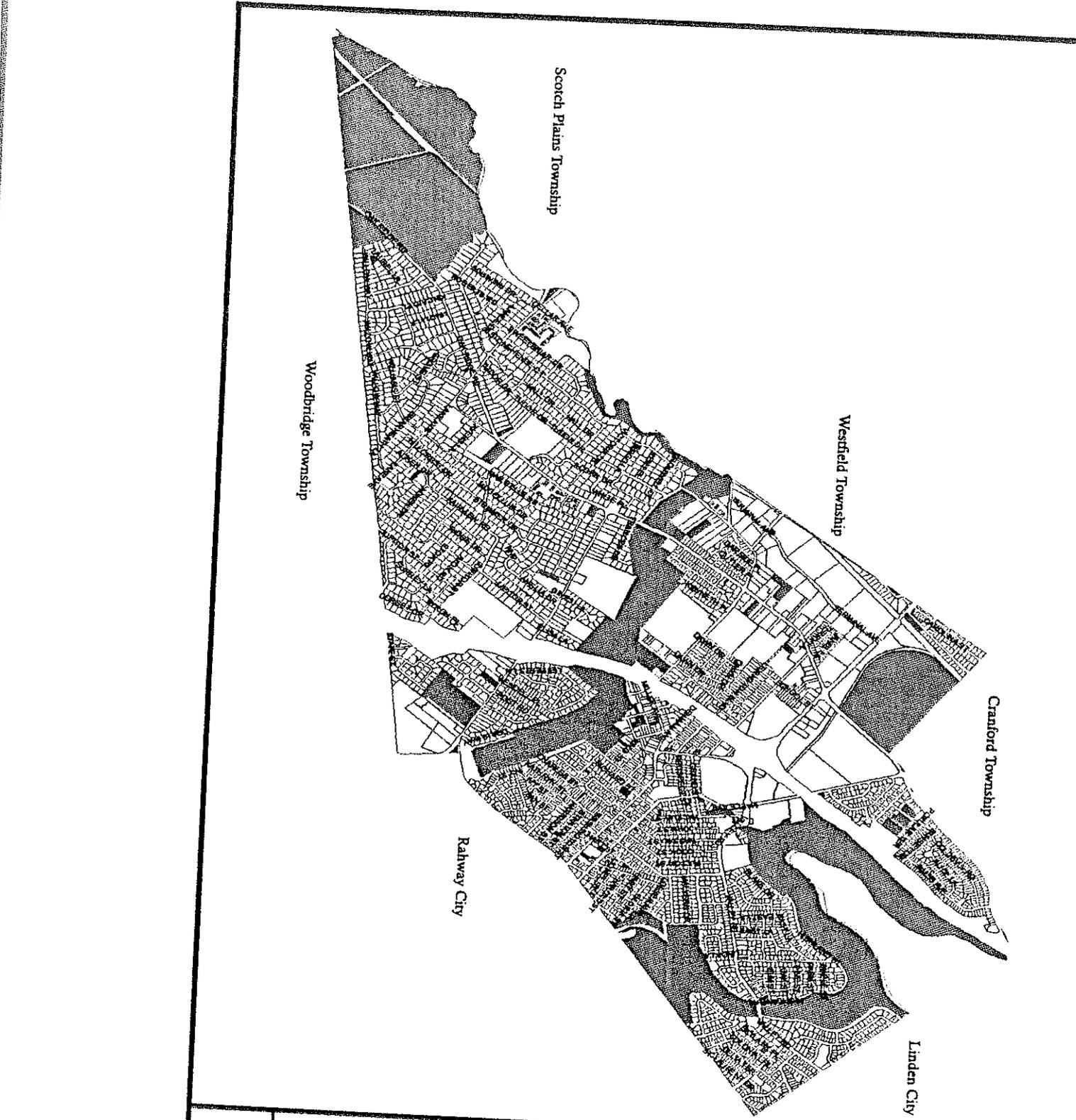


- Vacant Properties**
  - Public Vacant Land (Class 15c)
  - Private Vacant Land (Class 1)
- Properties Not Available**  
(Tax Classification: 15C & 1)
  - Other Developed
  - Park and Recreation
  - Parking
  - Public Use
  - Right of Way

Source:  
- GIS Parcel Data - Clark Township  
- Vacant Properties Data - Clark 2007 Tax Data



118 Cherry Hill Road, Suite 200, Parsippany, NJ 07054  
T: (852) 207-5900 / F: (973) 334-0507



**MAP 2: VACANT LAND INVENTORY & CONSTRAINTS**  
MARCH 12, 2009



- 1) Vacant Properties (Tax Classification 15c and Public Vacant Land (Tax Classification 15c))
- Private Vacant Land (Tax Classification 1)

- Properties Not Available
- Other Developed
  - Park and Recreation
  - Parking
  - Public Use / Developed
  - Right of Way

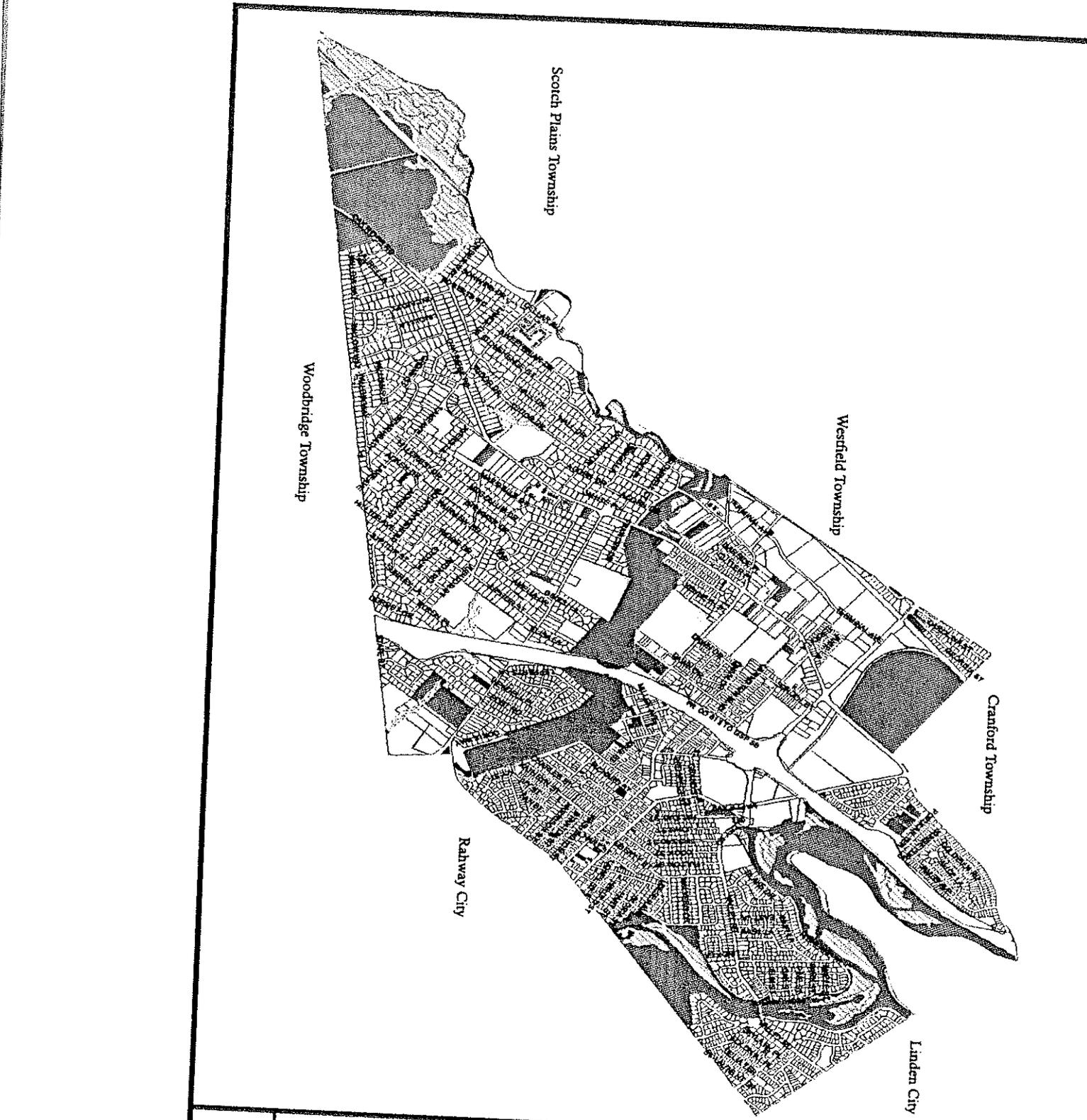
- Environmental/Cultural Constraints
- Wetlands
  - Sleep Slopes 10% - 15%
  - Sleep Slopes >15%
  - Historic Sites (Designated and Potential)
  - Floodprone Areas

Source:

- GIS Parcel Datasets/Slope Data - Clark Township
- Sleep Slope Data - New Jersey Department of Environmental Protection
- Vacant Properties Data - Clark Township 2007 Tax Data
- Historic Sites - Clark Township
- Wetlands - Wetlands Buffer\* data developed by COAHT's son.



119 Cherry Hill Road, Suite 200, Parsippany, NJ 07054  
T (862) 207-8900 / F (973) 334-0507

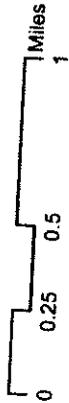


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**APPENDIX D**  
**AH ZONE MAPS**

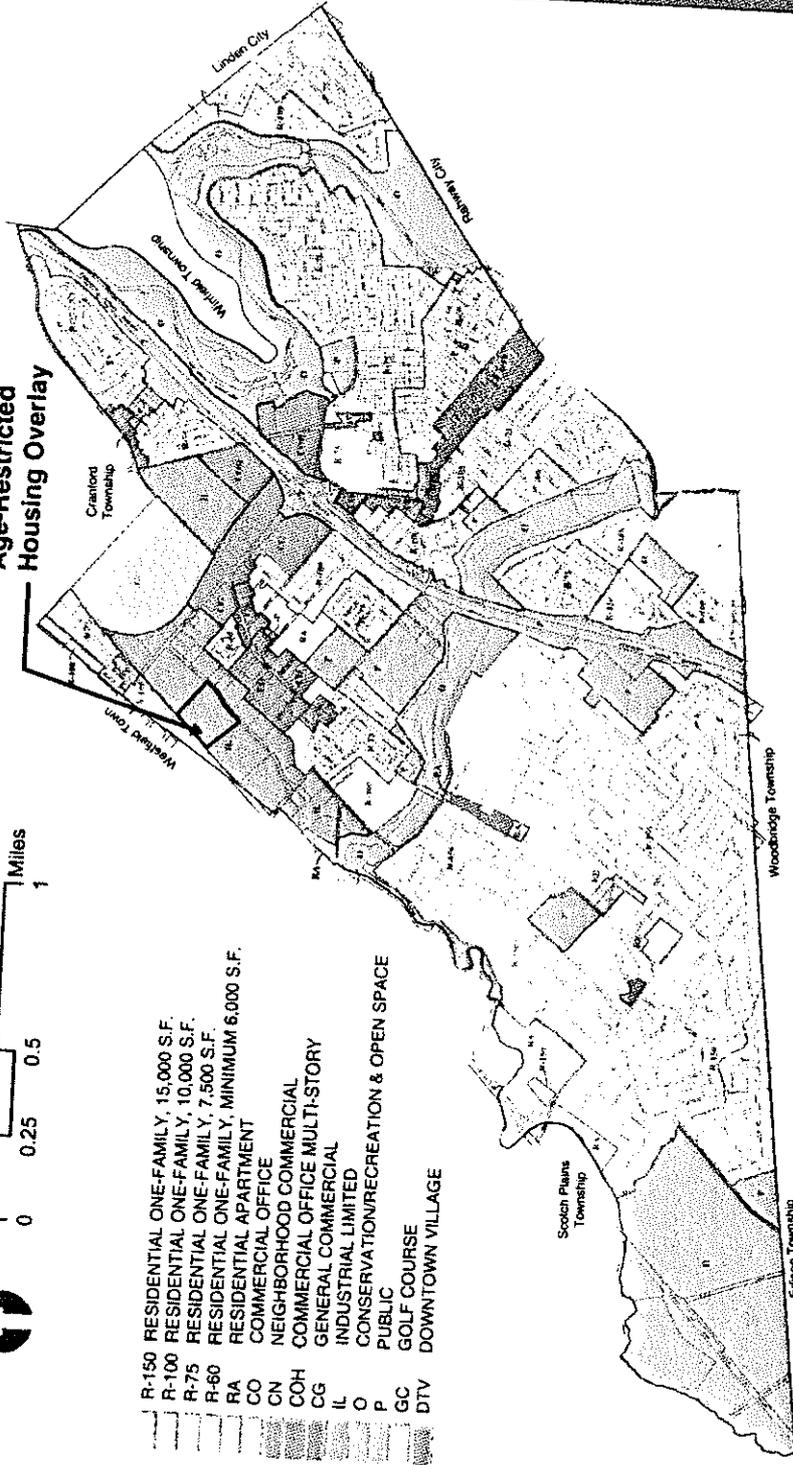
# ZONING AND DESIGNATED DISTRICTS FOR LOW- AND MODERATE- INCOME HOUSING

Township of Clark Union County, New Jersey



Age-Restricted  
Housing Overlay

- R-150 RESIDENTIAL ONE-FAMILY, 15,000 S.F.
- R-100 RESIDENTIAL ONE-FAMILY, 10,000 S.F.
- R-75 RESIDENTIAL ONE-FAMILY, 7,500 S.F.
- R-60 RESIDENTIAL ONE-FAMILY, MINIMUM 6,000 S.F.
- RA RESIDENTIAL APARTMENT
- CO COMMERCIAL OFFICE
- CN NEIGHBORHOOD COMMERCIAL
- COH COMMERCIAL OFFICE MULTI-STORY
- CG GENERAL COMMERCIAL
- IL INDUSTRIAL LIMITED
- O CONSERVATION/RECREATION & OPEN SPACE
- P PUBLIC
- GC GOLF COURSE
- DTV DOWNTOWN VILLAGE



March 12, 2009

Source: Township of Clark Zoning Map, prepared by Grotto Engineering Associates, LLC, dated May 2, 2005  
Colored by H2M Group (November 17, 2005)

---

**APPENDIX E**  
**AH ZONE ORDINANCE**

**TOWNSHIP OF CLARK**  
**Ordinance No. 04-20**  
**Adopted: December 20, 2004**

Introduced: December 6, 2004 Public Hearing: December 20, 2004  
Motion: Albanese Motion: Ulrich  
Seconded: Ulrich Seconded: Albanese

**AN ORDINANCE TO SUPPLEMENT CHAPTER 34 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CLARK TO PROVIDE FOR THE ESTABLISHMENT OF AN AGE-RESTRICTED AFFORDABLE HOUSING OVERLAY DISTRICT AT BLOCK 57 LOT 1 IN ACCORDANCE WITH THE ADOPTED HOUSING ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF CLARK**

**BE IT ORDAINED** by the Governing Body of the Township of Clark that it does hereby supplement and amend Chapter 34 of the Revised General Ordinances of the Township of Clark as follows:

**Section 1**

Section 34-4 is hereby amended to include the following new definitions:

*Dwelling, age-restricted* shall mean a housing unit that is restricted to occupancy by at least one person that is at least 55 years of age or older.

*Age-restricted multi-family residential development* shall mean a residential development containing age-restricted dwellings and providing facilities and services specifically designed to meet the needs of older persons consistent with the guidelines and requirements of the United States Department of Housing and Urban Development (HUD). Affordable housing units in an age-restricted multi-family residential development shall meet all necessary standards and requirements for low and moderate income housing units in accordance with the rules and regulations of the New Jersey Council on Affordable Housing (COAH).

**Section 2**

Section 34-5.1 is hereby amended to include the following new zoning district:

AHO Age-restricted Affordable Housing Overlay

**Section 3**

Section 34-5.2 is hereby amended to include the following new paragraph "f":

- f. The Zoning District Map is amended and supplemented to provide that the AHO, Age-restricted Affordable Housing Overlay District shall apply to Lot 1 in Block 57, which fronts on Old Raritan Road in the Township of Clark. Lot 1 in Block 57 shall also retain its underlying IL, Limited Industrial District zoning designation.

#### Section 4

Chapter 34 of the Revised General Ordinances of the Township of Clark is hereby amended to include the following new Section 34-15:

### **34-15. AGE-RESTRICTED AFFORDABLE HOUSING OVERLAY DISTRICT WITH LOW AND MODERATE INCOME HOUSING SETASIDES**

#### **34-15.1 Purpose of District**

The purpose of the Age-Restricted Affordable Housing Overlay District is to permit the construction of an age-restricted multi-family residential development, with a twenty (20) percent affordable housing setaside in accordance with the Township's adopted Housing Element and Fair Share plan, the requirements of the New Jersey Council on Affordable Housing (COAH) and the terms and conditions of the Township's substantive certification. The development of the age-restricted multi-family development shall be an option available to the developer or property owner in addition to that permitted pursuant to the requirements of the underlying zoning district.

#### **34-15.2 Permitted Uses**

Age-restricted multi-family residential development containing a twenty (20) percent setaside for low and moderate income households. The development may be constructed as multi-family dwellings, multiple group dwellings, or garden apartments, townhouses, or townhouse/flat combinations.

#### **34-15.3 Development Standards**

- (a) **Minimum Tract Area.** 1.9 acres.
- (b) **Minimum Frontage.** A minimum of 250 feet on a paved public street.
- (c) **Density.** The maximum density shall be thirty (30) units per acre for multi-family dwellings, multiple group dwellings, or garden apartments, and fifteen (15) units per acre of gross site area for townhouses and townhouse/apartment flat combinations.
- (d) **Low and Moderate Income Housing Requirements.** A minimum of twenty percent of the age-restricted dwelling units shall be affordable to low and moderate income households in accordance with the standards and requirements specified in Section 34-14.4.
- (e) **Building Height.** Maximum building height shall be two and one-half stories and thirty-five feet for townhouse developments, three and one-half stories and forty-five feet for townhouse/apartment flats combinations and all other permitted forms of residential development.

- (f) Setbacks. The following setback standards shall apply:
- |             |   |
|-------------|---|
| Front Yard: | 50 feet or the height of the principal building, whichever is greater |
| Side Yard:  | 25 feet   |
| Rear Yard:  | 50 feet   |
- (h) Lot Coverage. Not more than 25 percent of the lot or parcel area shall be covered by buildings and accessory structures.
- (i) Total Lot Coverage. Not more than 65 percent of the lot or parcel area shall be covered by a combination of buildings, accessory structures, parking areas, driveways, and other impervious surfaces.
- (j) Minimum Open Space. Not less than 35 percent of the parcel area shall be open space as defined in section 34-4.
- (k) Parking. Off-street parking shall be provided in accordance with the Residential Site Improvement Standards. No off-street parking shall be located less than twenty (20) feet from the front property line and fifteen (15) feet from side and rear property lines. With the exception of garages in townhouse and townhouse flat developments, no parking shall be located under a building.
- (l) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped, and shall be arranged such that appropriate active and passive recreation opportunities will be provided on-site for the residents of the development (e.g. walking paths, benches, gazebos, or ponds or water features). A suitable landscape buffer strip of at least ten (10) feet in width shall be provided to the side and rear property boundaries to form a visual screen.
- (m) Parking Lot Setback and Landscaping. Parking areas shall be attractively landscaped in accordance with the following standards:
- (1) Parking lots shall be setback a minimum of fifteen (15) feet from the right-of-way of a public street. The setback area shall be landscaped with shade trees and shrubs adaptable to the location and able to provide low level screening of the view of the parking lot. At least one shade tree for each forty (40) feet of frontage shall be provided
  - (2) In addition to landscaping required along public streets, the interior of the parking lot shall be landscaped with at least one (1) tree for every twenty (20) parking spaces which shall be planted in suitably prepared and protected landscaped islands.

- (n) **Townhouse and Townhouse/Apartment Combination Building Spacing.** The minimum spacing between buildings shall be fifty (50) feet between front and back and twenty-five (25) feet end to end. The minimum setbacks from driveways and parking areas shall be twenty (20) feet from building fronts, twenty-five feet from building rears, and twenty (20) feet on building ends.

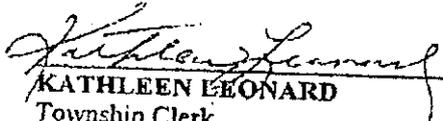
**Section 5**

**Effective Date**

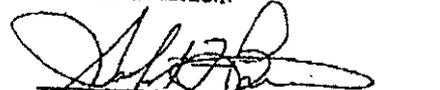
This Ordinance shall be effective only upon the approval by COAH of the Township's application for approval of its Amended Housing Element and Fair Share Plan and the subsequent publication of same according to law.

**ATTEST:**

**APPROVED:**

  
 KATHLEEN LEONARD  
 Township Clerk

  
 ALVIN BARR  
 Council President

  
 SALVATORE BONACCORSO  
 Mayor

Ord01AffordHousingOverlay L1 B57

	Aye	Nay	Abstain	Absent
Albanese	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bothe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mazzarella	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ulrich	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

TOWNSHIP OF CLARK  
Ordinance No. 04-21  
Adopted: December 20, 2004

Introduced: December 6, 2004 Public Hearing: December 20, 2004  
Motion: Mazzarella Motion: Ulrich  
Seconded: Albanese Seconded: Albanese

**AN ORDINANCE TO SUPPLEMENT CHAPTER 34 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CLARK TO PROVIDE FOR THE ESTABLISHMENT OF AN AGE-RESTRICTED AFFORDABLE HOUSING OVERLAY DISTRICT AT BLOCK 58 LOT 4 IN ACCORDANCE WITH THE ADOPTED HOUSING ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF CLARK**

**BE IT ORDAINED** by the Governing Body of the Township of Clark that it does hereby supplement and amend Chapter 34 of the Revised General Ordinances of the Township of Clark as follows:

**Section 1**

Section 34-4 is hereby amended to include the following new definitions:

*Dwelling, age-restricted* shall mean a housing unit that is restricted to occupancy by at least one person that is at least 55 years of age or older.

*Senior age-restricted* shall mean a housing unit that is restricted to occupancy by Persons that are at least 62 years of age or older.

*Age-restricted multi-family residential development* shall mean a residential development containing age-restricted and senior age-restricted dwellings and providing facilities and services specifically designed to meet the needs of older persons consistent with the guidelines and requirements of the United States Department of Housing and Urban Development (HUD). Affordable housing units in age-restricted multi-family residential development meet all necessary standards and requirements for low and moderate income housing units in accordance with the rules and regulations of the New Jersey Council on Affordable Housing (COAH).

**Section 2**

Section 34-5.1 is hereby amended to include the following new zoning district:

**AHO** *Age-restricted* Affordable Housing Overlay

**Section 3**

Section 34-5.2 is hereby amended to include the following new paragraph "f":

- f The Zoning District Map is amended and supplemented to provide that the AHO, Age-Restricted Affordable Housing Overlay District shall apply to Lot 4 in Block 58, which fronts on Terminal Avenue in the Township of Clark. Lot 4 in Block 58 shall also retain its underlying IL, Limited Industrial District zoning designation.

**Section 4**

Chapter 34 of the Revised General Ordinances of the Township of Clark is hereby amended to include the following new Section 34-15:

**34-15. AGE-RESTRICTED AFFORDABLE HOUSING OVERLAY DISTRICT WITH LOW AND MODERATE INCOME HOUSING SETASIDES**

**34-15.1 Purpose of District**

The purpose of the Age-Restricted Affordable Housing Overlay District is to permit construction of an age-restricted multi-family residential development, with a twenty (20) percent affordable housing setaside in accordance with the Township's adopted Housing Element and Fair Share Plan, the requirements of the New Jersey Council on Affordable Housing (COAH) and the terms and conditions of the Township's substantive certification. The development of the age-restricted multi-family development shall be an option available to the developer or property owner in addition to that permitted pursuant to the requirements of the underlying zoning district.

**34-15.2 Permitted Uses**

Age-restricted multi-family residential development containing a twenty (20) percent setaside for low and moderate income households age 62 years and older. The development may be constructed as multi-family dwellings, multiple group dwellings, or garden apartments, townhouses, or townhouse/flat combinations.

**34-15.3 Development Standards**

- (a) Minimum Tract Area. 10.7 acres.

- (b) **Minimum Frontage.** A minimum of 250 feet on a paved public street
- (c) **Density.** The maximum density shall be thirty (30) units per acre for multi-family dwellings, multiple group dwellings, or garden apartments, and fifteen (15) units per acre of gross site area for townhouses and townhouse/apartment flat combinations. **Notwithstanding the foregoing, the total unit count cannot exceed 300 dwellings.**

Sixty (60%) percent of the total units approved shall be restricted to occupants 55 years and older in accordance with all applicable laws and regulations.

Forty (40%) percent of the total units approved shall be restricted to occupants 62 years and older in accordance with all applicable laws and regulations. These units shall be located in one building with an additional 5000 square feet dedicated to recreation/common space.

- (d) **Low and Moderate Income Housing Requirements.** A minimum of twenty percent of the total age-restricted dwelling units shall be affordable to low and moderate income households (senior age-restricted) ages 62 years or older in accordance with the standards and requirements specified in Section 34-14.4. **But excluding paragraphs B3 and B4.**
- (e) **Building Height.** Maximum building height shall be 45 feet, and 4 stories. The architectural design of the buildings must include the use of design techniques such as hip and cable roof or mansard roof with dormers for the fourth floor to avoid the appearance of a straight block or mid-rise building.
- (f) **Setbacks.** The following setback standards shall apply:

**Buildings:**

- Front Yard:** 50 feet or the height of the principal building, whichever is greater
- Side Yard:** 100 feet
- Rear Yard:** 100 feet

**Accessory Building:**

- Front Yard:** 50 feet
- Side Yard:** 25 feet
- Rear Yard:** 25 feet

- (h) **Building Coverage.** Buildings and accessory structures shall cover not more than 30 percent of the lot or parcel area. Accessory structures devoted to parking shall count towards total lot coverage.
- (i) **Total Lot Coverage.** Not more than 70 percent of the lot or parcel area shall be covered by a combination of buildings, accessory structures, parking areas, driveways, and other impervious surfaces.
- (j) **Minimum Open Space.** Not less than 30 percent of the parcel area shall be open space as defined in section 34-4.
- (k) **Parking.** Off-street parking shall be provided in accordance with the Residential Site Improvement Standards. But in no event shall the parking ratio for one and two bedroom units be greater than 1.5 spaces per unit. No off-street parking shall be located less than twenty-five (25) feet from any property line. With the exceptions of garages/carports in townhouses and townhouse flat developments, no parking shall be located under a building. A carport and adjacent driveway space shall be counted as two spaces.
- (l) **Landscaped areas, buffer areas, and recreation facilities.** All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped, and be arranged such that appropriate active and passive recreation opportunities will be provided on-site for the residents of the development (e.g. walking paths, benches, gazebos, or ponds or water features); a suitable landscaped buffer strip of at least twenty-five (25) feet in width shall be provided to the property boundaries to form a visual screen.
- (m) **Parking lot Setback and Landscaping.** Parking areas shall be attractively landscaped in accordance with the following standards:
  - (1) Parking lots shall be setback a minimum of twenty-five (25) feet from the right-of-way of a public street. The setback area shall be landscaped with shade trees and shrubs adaptable to the location and able to provide low level screening of the view of the parking lot. At least one shade tree for each forty (40) feet of frontage shall be provided.
  - (2) In addition to landscaping required along public streets, the interior of the parking lot shall be landscaped with at least

one (1) tree for every twenty (20) parking spaces, which shall be planted in suitably prepared and protected landscaping islands.

- (n) Townhouse and Townhouse/Apartment Combination Building Spacing. The minimum spacing between buildings shall be fifty (50) feet between front and front/back, thirty-five (35) feet front/back to side and twenty-five (25) feet end to end. The minimum set backs from driveways and parking areas shall be fifteen (15) feet from primary buildings unless a garage is attached.

Section 5

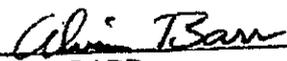
Effective Date

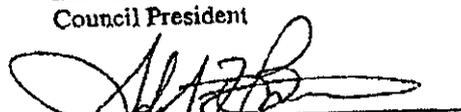
This Ordinance shall be effective only upon the approval by COAH of the Township's application for approval of its Amended Housing Element and Fair Share Plan and the subsequent publication of same according to law.

ATTEST:

APPROVED:

  
**KATHLEEN LEONARD**  
 Township Clerk

  
**ALVIN BARR**  
 Council President

  
**SALVATORE BONACCORSO**  
 Mayor

Ord04A/TordHousingOverlay L1 B58

	Aye	Nay	Abstain	Absent
Albanese	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bothe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mezzarella	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ulrich	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**TOWNSHIP OF CLARK**  
**Ordinance No. 06-19**  
**Adopted: November 20, 2006**

Introduced: November 8, 2006 Public Hearing: November 20, 2006  
Motion: Barr Motion: Barr  
Seconded: Whiting Seconded: Whiting

**AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS SECTIONS OF ORDINANCE 04-21 OF THE REVISED ORDINANCES OF THE TOWNSHIP OF CLARK ADOPTED DECEMBER 20, 2004**

**BE IT ORDAINED** by the governing body of the Township of Clark that the following sections of Ordinance 04-21 of the Revised Ordinances of the Township of Clark be amended and supplemented as follows:

**SECTION 1:** Section 34-15.3(d) is hereby amended and supplemented as follows:

(d) Low and Moderate Income Housing Requirements. A minimum of twenty percent of the total age-restricted dwelling units shall be affordable to low and moderate income households (senior age-restricted) ages 62 years or older in accordance with the standards and requirements specified in Section 34-14.4, but excluding paragraphs B3 and B4. However, the characteristics of the affordable units may be modified, at the Township's request, to satisfy the regulations of COAH and to facilitate COAH granting the Township a third round substantive certification.

**SECTION 2:** Section 34-15.3(k) is hereby amended and supplemented as follows:

(k) Parking. Off-street parking shall be provided in accordance with the Residential Site Improvement Standards. But in no event shall the parking ratio for one and two bedroom units be greater than 1.5 spaces per unit. No off-street parking shall be located less than twenty-five (25) feet from any property line. No parking shall be located underground. Parking may be located within a building provided that such parking is no more than two (2) feet below exterior building grade and provided that the height of the building shall be measured from the finished floor of the parking area. A carport and adjacent driveway space shall be counted as two spaces.

**SECTION 3:** Section 5 of Ordinance No. 04-21 adopted December 20, 2004 is deleted and replaced as follows:

**Effective Date:** Ordinance No. 04-21 adopted on December 20, 2004 shall become effective immediately upon the adoption and publication of this Ordinance.

one (1) tree for every twenty (20) parking spaces, which shall be planted in suitably prepared and protected landscaping islands.

- (n) Townhouse and Townhouse/Apartment Combination Building Spacing. The minimum spacing between buildings shall be fifty (50) feet between front and front/back, thirty-five (35) feet front/back to side and twenty-five (25) feet end to end. The minimum set backs from driveways and parking areas shall be fifteen (15) feet from primary buildings unless a garage is attached.

Section 5

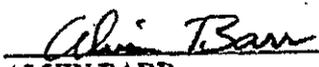
Effective Date

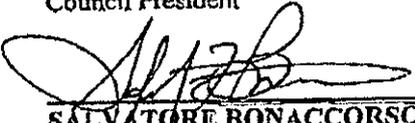
This Ordinance shall be effective only upon the approval by COAH of the Township's application for approval of its Amended Housing Element and Fair Share Plan and the subsequent publication of same according to law.

ATTEST:

APPROVED:

  
**KATHLEEN LEONARD**  
 Township Clerk

  
**ALVIN BARR**  
 Council President

  
**SALVATORE BONACCORSO**  
 Mayor

Ord04\AffordHousingOverlay L4 B58

	Aye	Nay	Abstain	Absent
Albanese	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bothe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mazzarella	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ulrich	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**APPENDIX F**  
**CLARK DEVELOPERS RESOLUTION**

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**TOWNSHIP OF CLARK PLANNING BOARD**

**RESOLUTION**

**CLARK DEVELOPERS, LLC  
PRELIMINARY MAJOR SITE PLAN APPROVAL,  
FINAL MAJOR SITE PLAN APPROVAL,  
BULK VARIANCE AND DESIGN WAIVERS**

PB-08-01

**MEETING DATE: MARCH 6, 2008**

**MOTION BY:**

**SECONDED:**

**VOTE:**      6 Ayes      1 Nays  
                 3 Absent      1 Abstained

**WHEREAS**, pursuant to the applicable provisions of the Ordinance (herein defined as "Revised General Ordinances of the Township of Clark Land Development Volume" commonly known as the Township of Clark Land Development Ordinance), Clark Developers, LLC (the "Applicant"), has made application to the Planning Board of the Township of Clark (the "Board") for Preliminary Major Site Plan Approval, Final Major Site Plan Approval, Bulk Variances and Design Waivers on lands known and designated as Lot 4, Block 58 on the Township of Clark Tax Map which lands are commonly known as 100 Terminal Avenue, Clark, New Jersey (the "Property"); and

**WHEREAS**, several public hearings on the application were conducted by the Planning Board from September 6, 2007 to January 10, 2008; and

**WHEREAS**, the Board has made the following Findings of Fact and Conclusions of Law:

**BACKGROUND:**

1. The Applicant, the Board and the Township of Clark, et als. entered into a "COAH Mediation Agreement", dated April 19, 2004 which addressed, inter alla, the rezoning of the Property by the Township of Clark and the processing of a land development application by the Board to allow the Property to be developed with 300 age-restricted units of which twenty (20%) percent shall be affordable to low and moderate income households pursuant to COAH rules and regulations.
2. The COAH Mediation Agreement was reviewed and approved by the Council on Affordable Housing ("COAH").
3. The COAH Mediation Agreement provides for "fast tracking" by the Board of Applicants' land development application.
4. The COAH Mediation Agreement and COAH's rules and regulations contemplate the granting of reasonable variances, waivers and relief to promote the construction of affordable housing units.
5. Pursuant to the COAH Mediation Agreement, the Township of Clark adopted, on December 20, 2004, Ordinance No. 04-21 entitled "An Ordinance to Supplement Chapter 34 of the Revised General Ordinances of the Township of Clark to Provide for the Establishment of an Age-Restricted Affordable Housing Overlay District at Block 58, Lot 4 in Accordance with the Adopted Housing Element and Fair Share Plan of the Township of Clark" which created the AHO Zone District (Age-Restricted Affordable Housing Overlay District) which zone district applied only to the Property.

6. Pursuant to the COAH Mediation Agreement, the Township of Clark adopted, on November 20, 2006, Ordinance No. 06-19 entitled "An Ordinance to Amend and Supplement Various Sections of Ordinance 04-21 of the Revised Ordinances of the Township of Clark adopted December 20, 2004", which Ordinance amended Ordinance No. 04-21. Ordinance No. 04-21 as amended by Ordinance No. 06-19 are collectively referred to in this Resolution as the "Affordable Housing Overlay Ordinance".

**THE PROPERTY:**

7. The Property is designated as Lot 4, Block 58 on the Tax Map of the Township of Clark and is commonly known as 100 Terminal Avenue, Clark, New Jersey.

8. The Property is approximately 10.676 acres (or 10.7 acres rounded to the first decimal point) in size.

9. The Property on its southerly boundary has frontage on Terminal Road. The Property is bounded to the north by the railroad tracks of Conrail (formerly Lehigh Valley Railroad) and single family homes located in the Town of Westfield. To the east and west of the Property are existing light industrial uses.

10. The property is currently undeveloped and is the site of the recently demolished Tycom building. The Property is generally flat with existing parking areas which served as parking lots for the former Tycom building.

**THE SUBJECT APPLICATION:**

11. On or about July 26, 2007 the Applicant filed an application to the Board for Preliminary Major Site Plan approval and Final Major Site Plan Approval.

12. The July 26, 2007 application submission included, among other application documents, the following plans:

(a) Plan entitled "Site Plan Issued for Preliminary and Final Site Plan Approval, Date Issued: May 2, 2005, Latest Issue: July 25, 2007, Proposed Residential Development, Terminal Avenue, Clark Township, Union County, New Jersey", prepared by Michael W. Junghans, dated February 24, 2006, revised to July 25, 2007, consisting of the following sheets:

<u>No.</u>	<u>Drawing Title</u>	<u>Latest Issue</u>
C-1	Legend and General Notes	7/25/2007
C-2	Township Notes	7/25/2007
C-3	Existing Conditions Plan	7/25/2007
C-4	Layout and Materials Plan	7/25/2007
C-5	Grading and Drainage Plan	7/25/2007
C-6	Utility Plan	7/25/2007
C-7	Soil Erosion and Sediment Control Plan	7/25/2007
C-8	Landscape Plan	7/25/2007
C-9	Lighting Plan and Details	7/25/2007
C-10	Soil Erosion and Sediment Control Details and Notes	7/25/2007
C-11	Landscape Site Detail	7/25/2007
C-12	Site Details	7/25/2007
C-13	Utility Site Details	7/25/2007
C-14	Utility Site Details	7/25/2007
C-15	Site Details	7/25/2007
Reference Drawings		
P-01	Storm Sewer Profiles	7/25/2007
P-02	Storm Sewer Profiles	7/25/2007
P-03	Sanitary Storm Sewer Profiles	7/25/2007
Sv-1	Boundary and Topographic Survey	4/28/05

13. By letter dated August 27, 2007 from Township Engineer Richard O'Connor, the application was deemed complete and ready to be scheduled for a public hearing before the Board.

14. During the course of the public hearing, the Applicant amended the application to include, if deemed required by the Board, a request for the following additional relief:

a) Variance, if required, from Section 34-15.3(a) Minimum Tract Area standard of 10.7 acres whereas 10.676 acres are provided. The Applicant argued that such variance is not necessary if tract area is calculated to tenths of an acre in which event the site comprises 10.7 acres in conformity to the Ordinance and the Affordable Housing Overlay Ordinance.

b) Variance, if required, from Section 34-15.3(h) Building coverage maximum of 30% whereas approximately 32.67% is provided. The Applicant argued that such variance is not necessary if accessory structures devoted to parking count only toward Total Lot Coverage and not toward Building Coverage.

c) Design waivers, if required, from Section 30-11(b) and Section 30-11(d) regarding design of garages. Applicant sought design waivers, if necessary, from maximum number of parking spaces in a garage; from maximum number of parking spaces in a garage which is an integral part of a unit; from minimum garage space area; and from prohibition on access from a garage to another garage.

15. The Application was reviewed by the Township Engineer, Richard O'Connor, P.E., P.P., C.M.E. who issued review letters to the Board with the following dates:

- a) August 20, 2007
- b) September 26, 2007
- c) November 30, 2007
- d) January 4, 2008

16. The Application was reviewed by Frank J. Cerasa, Fire Official/Deputy Chief of the Clark Fire Department who issued a letter dated December 5, 2007 regarding fire safety issues.

17. The Application was reviewed by Det. Sgt. Michael Pollock of the Clark Police Department – Traffic Safety Bureau who issued a letter dated January 16, 2008 stating that the Clark Police Department has no issue with the Application and that concerns with emergency entry have been satisfied.

18. The Applicant submitted Architectural Plans to the Board.

19. During the course of the public hearings and in response to Board comments, public comments and the review letters, the Applicant submitted revised plans as follows:

- a) 9/15/07, address Township Engineer comment letter.
- b) 11/16/07 address Planning Board comments
- c) 12/24/07 address Fire Official comments.

**THE DEVELOPMENT PROPOSAL:**

20. Applicant's development proposal includes a total of 300 age-restricted multi-family units. Sixty (60%) percent of the total units shall be age-restricted units for at least one person 55 years of age or older and forty (40%) percent of the total units shall be age-restricted for persons 62 years of age and older. Of the total 300 age-restricted multi-family units, 240 units shall be age-restricted market units and of which 60 units shall be age-restricted (62 years and older) affordable units. Pursuant to the Affordable Housing Overlay Ordinance, the characteristics of the affordable units may be modified, at the Township's request, to satisfy the regulations of COAH and to facilitate COAH granting the Township a Third Round Substantive Certification.

21. The proposed site plan includes four multi-family buildings as follows: Building A – four stories/120 units; Building B – four stories/67 units; Building C – four stories/63 units; and Building D – four stories/50 units. The site plan further proposes a gated full access boulevard main entry road on Terminal Avenue between buildings A and C, a second access road to the east on Terminal Avenue, and a third gated emergency access to the west along Terminal Avenue. An entry guardhouse is proposed at the boulevard main entrance. Applicant proposes a total of 585 parking spaces including outdoor surface parking, parking spaces within the proposed multi-family buildings and parking in detached garages. The site plan includes a proposed emergency access sidewalk, landscaped areas, benches, sitting areas and dumpster locations.

22. For fire safety, fire truck pull off areas have been provided between buildings A and C, buildings B and D and buildings A and B.

**PUBLIC HEARING:**

23. The Applicant has twice given personal and public notice in satisfaction of the notice requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-12. Such notice was given of the original application and of the amended relief sought.

24. Public Hearings were conducted by the Board on:

- a) September 6, 2007
- b) October 4, 2007
- c) December 6, 2007
- d) January 10, 2008

25. During the course of the public hearing, the Applicant submitted the following supplemental documents:

- a) Traffic Evaluation Memo (9/15/07),
- (b) Environmental Impact Statement (9/15/07).
- (c) Sanitary Sewer Pump Evaluation (10/24/07).
- (d) NJDEP Jurisdictional Determination (11/15/07).
- (e) Site Plan was revised to incorporate the following plan changes

(11/16/07 Submission):

- (i) Additional exterior unassigned parking to address concerns about visitor parking. Increased from 133 to 151.

(ii) Perimeter garages reduced to a maximum of 10 parking spaces.

(iii) Underbuilding garages reduced to a maximum of 50 spaces.

(iv) Total parking increased from 569 to 585.

(v) Revised drainage to improve performance.

(f) Site Plan was revised to incorporate the following plan changes

(12/24/07 submission):

(i) Improved fire truck building access and parking.

(ii) Revised Terminal Avenue access driveway configuration to improve fire truck site access and circulation.

(iii) West emergency access revised from grass pavers to asphalt paving.

26. The Applicant was represented by Ronald L. Shimanowitz, Esq. of the law firm of Hutt & Shimanowitz, PC at the public hearing.

27. The Board was represented by Michael Cresitello, Esq. of the law firm of DiFrancesco, Bateman, Coley, Yospin, Kunzman, Davis and Lehrer, PC, at the public hearing.

28. Villa Contracting Company ("Objector Villa") was represented by Thomas F. Carroll, Esq. of the firm of Hill Wallack at the public hearing.

29. The Township Engineer, Richard O'Connor, who also serves as the Planning Board engineer, was present and participated in the public hearing.

30. Various members of the Clark Fire Department and Police Department were present and participated in the public hearing:
31. The Applicant presented four (4) witnesses as follows:
- a) Michael W. Junghans, P.E., P.P., VHB Engineering, Inc. (Site Engineer and Planner).
  - b) Anthony DiGiovanni (Principal of Applicant).
  - c) William Murphy, AIA (Murphy Group) (Architect)
  - d) Gerard J. Naylis, Technical Fire Services, Inc.
32. Objector Villa presented two (2) witnesses as follows:
- a) George Ritter, P.P., Ritter and Plante Associates (Planner).
  - b) David Plante, P.E., Ritter and Plante Associates (Site Engineer)
33. Several members of the public spoke at the public hearing, some being in favor of the application and some being opposed to the Application.
34. The Applicant presented Exhibits which were marked into evidence as follows:

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
A-1	Landscape Plan (Sheet C-8) prepared by VHB Engineering dated 2/24/06, revised to 9/15/07.
A-2	Typical/Cross-Section of building locations prepared by VHB Engineering (undated)
A-3	Engineering Plan set prepared by VHB Engineering comprising Sheets C-1 through C-16 dated 2/24/06, revised to 9/15/07; Sheets P-01 through P-03 dated 2/24/06, revised to 7/25/07; and Sheet SV-1 dated 12/20/04 revised to 7/25/07.

- A-4 Architectural Plan – Building C Elevation (colored), prepared by Murphy Group, undated.
- A-5 Architectural Plan – Typical garage structure – prepared by Murphy Group, undated.
- A-6 Layout and Materials Plan prepared by VHB Engineering dated 2/24/06, revised to 11/16/07.
- A-7 Layout and Materials Plan prepared by VHB Engineering dated 2/24/06, revised to 12/24/07.
- A-8 Truck Maneuverability Plan prepared by VHB Engineering dated 2/24/06, revised to 12/24/07.
- A-9 Architectural Plan – Parapet on Center of Building (Front Elevation) prepared by Murphy Group. (NOTE: Exhibit withdrawn from evidence by Applicant in response to Objector Villas' objection to same).
- A-10 Architectural Plan – Blow-up of Parapet prepared by Murphy Group, dated 1/9/08. (NOTE: Exhibit withdrawn from evidence by Applicant in response to Objector Villas' objection to same).
- A-11 Architectural Plan – Walls in Buildings (Sound Values/Partition Types) prepared by Murphy Group. (NOTE: Exhibit withdrawn from evidence by Applicant in response to Objector Villas' objection to same).

35. Objector Villa presented an Exhibit which was marked into evidence as follows:

EXHIBIT NO.

DESCRIPTION

O-1

COAH Mediation Agreement, dated April 19, 2004

36. Michael W. Junghans, P.E. & P.P. was accepted by the Board as an expert in engineering and planning and testified on behalf of the Applicant that the development proposal satisfies the requirements of the Ordinance and the Affordable Housing Overlay Ordinance, that the development proposal includes provision for appropriate and satisfactory potable water, sanitary sewer, drainage facilities and utilities generally to serve the proposed development in accordance with all applicable laws, ordinances, rules and regulations and sound engineering practice. Michael W. Junghans further testified that the development proposal includes safe and efficient access to and from the Property as well as internal circulation on the Property in accordance with sound engineering design and the proposed parking satisfies the Residential Site Improvement Standards (RSIS). The Board finds the testimony of Michael Junghans credible and accepts same. The Board further finds and adopts the review letters prepared by Township Engineer, Richard O'Connor, which confirm the finding herein.

37. Anthony DiGiovanni, a principal of the Applicant, testified on behalf of the Applicant that the gated entry to the proposed development will have "card access" or an equivalent safety feature. The Board finds that a gated entry with "card access" or equivalent safety feature is desirable for the safety and general welfare of the future

residents of the proposed development who will be at least 55 years and older with some future residents being at least 62 years and older. Anthony DiGiovanni further testified that the Property is the subject of an ongoing environmental investigation under the review of USEPA and/or NJDEP and that any and all environmental conditions on the Property shall be remediated to residential standards in accordance with all federal, state and local laws, ordinances, rules and regulations. The Board finds the testimony of Anthony DiGiovanni credible and is satisfied that environmental conditions at the Property do not affect the granting of the relief sought by the Applicant, subject to the condition of the Applicant obtaining all necessary approvals from any and all outside agencies having jurisdiction over the Property.

38. William Murphy, AIA, of the Murphy Group, was accepted by the Board as an expert in architecture and gave architectural testimony on behalf of the Applicant. The Board finds the testimony of William Murphy to be credible and that the architecture of the buildings proposed by the Applicant is an appropriate design for the proposed community and that the buildings comply with the requirements of the Ordinance and the Overlay Ordinance. Specifically, William Murphy testified that all of the proposed buildings satisfy the height requirement of the Affordable Housing Overlay Ordinance and that any exceedances of such height requirement are excluded from height controls pursuant to Ordinance Section 34-6.3(b). The Board finds the testimony of William Murphy credible and finds that the proposed buildings do not violate the height limitation of the Ordinance and the Affordable Housing Overlay Ordinance. The Board further finds that the Applicant has proposed construction techniques which will

provide sound attenuation for the dwelling units near the railroad tracks and that the Applicant is willing to work with the Township in employing such other reasonable sound attenuating construction techniques for the benefit of the future residents.

39. Objector Villa presented a case in opposition to the application. Objector Villa presented the planning testimony of George Ritter, P.P. who was accepted by the Board as an expert in planning and David Plante, PE who was accepted by the Board as an expert in site engineering.

40. The testimony of David Plante, P.E. on behalf of Objector Villa raised concerns about the Applicant's compliance with stormwater quality regulations, the capacity of a sixty (60") inch diameter off-tract stormwater drainage pipe and compliance with stream encroachment regulations. The Board finds that the testimony of the Board's Engineer Richard O'Connor and the testimony of the applicant's engineer, Michael Junghans satisfactorily addresses each of the concerns raised by David Plante and the Board is further satisfied by the requirement that the Applicant comply with all applicable laws, ordinances, rules and regulations regarding water quality, stormwater drainage and stream encroachment. The Board accepts the testimony of the Board engineer, Richard O'Connor that no stream encroachment permit is necessitated by the application.

41. The testimony of George Ritter, P.P. on behalf of objector Villa raised the following issues:

a) That the Zoning Board and not the Planning Board, has jurisdiction over the Application because the size of the Property, the building coverage and the

height of the proposed buildings do not meet, respectively, the Minimum Tract Area requirement, the building coverage requirement and the building height requirement of the Affordable Housing Overlay Zone. That the proposed use is a conditional use and failure to meet the conditions requires a use variance pursuant to N.J.S.A. 40:55D-70(d)(3).

b) That the Minimum Tract Area in AHO Section 34-15.3(a) is 10.7 acres; whereas the Property is 10.676 acres, thereby requiring a variance.

c) That the Building Coverage Maximum in AHO Section 34-15.3(h) is 30%; whereas 32.67% is proposed, thereby requiring a variance.

d) That the garage design proposed by Applicant does not conform to the design standards of Ordinance Section 30-11(b) and Ordinance Section 30-11(d), thereby requiring design waivers.

e) That the height of the proposed buildings exceed the height requirement.

f) That the Applicant's proposed plan does not match the Concept Plan attached as Exhibit B to the COAH Mediation Agreement (Exhibit O-1).

42. The Board carefully considered the concerns and issues raised by the Villa Objector. Based upon the Board's knowledge of the COAH Mediation Agreement, the testimony of the Board's Engineer, Richard O'Connor, the review letters prepared by the Board's Engineer, the planning testimony of the Applicant's engineer, Michael Junghans, and based upon the fact that the development proposal will provide a substantial set aside of needed affordable age-restricted housing and market rate multi-family senior

housing in Clark, the Board finds that the objections raised by the Villa Objector do not warrant the denial of the Applicant.

43. In addition to the foregoing findings of fact and conclusions of law regarding the objections raised by the Villa Objector, the Board makes the following findings of fact and conclusion of law:

a) The Board finds that the AHO does not establish a conditional use for the Property as the plain language of the AHO does not mention conditional use and the COAH Mediation Agreement intended "as of right" zoning. Therefore, even if the Minimum Tract Area, Maximum Building Coverage, height requirements and/or any other AHO standard were violated, such violation is not a deviation from a condition of a conditional use. Therefore, the Planning Board has jurisdiction to hear the Application.

b) The Board finds that the Applicant has met the Minimum Tract Area standard of AHO Section 34-15.3(a) because:

(i) the 10.676 acres provided by the Property is for all reasonable intents and purposes equal to the 10.7 acre Minimum Tract Area. The COAH Mediation Agreement specifically references the Property as being 10.67 acres.

(ii) the AHO was written for the Property (i.e. Lot 4, Block 58) therefore by definition the Minimum Tract Area is the Property size.

(iii) The AHO requires Minimum Tract Area to one decimal point. Rounding 10.676 acres to one decimal point brings the Property size to a conforming 10.7 acres.

If a variance were required for Minimum Tract Area, the Board for the foregoing reasons finds the positive and negative criteria of the variance proofs by Applicant's planner, Michael Junghans to be credible and persuasive. The Board voted to grant such a variance in case same is determined to be needed.

c) The Board finds that the Applicant has met the Building's Coverage Maximum in AHO Section 34-15.3(h). The Board finds that accessory structures are to be counted toward Total Lot coverage and not toward Building Coverage. Therefore, Applicant's proposal has a Building Coverage of less than 30%. Even if accessory structures are counted toward Building Coverage, the violation is de minimus and the benefits of promoting the construction of affordable senior housing outweighs any detriments.

If a variance were required for Building Coverage, the Board for the foregoing reasons finds the positive and negative criteria of the variance proofs by Applicant's planner, Michael Junghans, to be credible and persuasive. The Board voted to grant such a variance in case same is determined to be needed.

d) The Board finds that the Applicant has met the ordinance requirements regarding the design of the garages.

e) The height of the proposed buildings comply with the Ordinance and the AHO. No variance or relief is required. The Board is satisfied with the testimony of Applicant's architect, William Murphy, that the proposed buildings comply with all height standards. Further, the Board finds that the Applicant has agreed to

modify the building roof, if necessary, to assure compliance with the height limitation of the Ordinance and the AHO.

f) The Board finds Applicant's development proposal is not identical to the Concept Plan attached as Exhibit B to the COAH Mediation Agreement and further finds this to be reasonable. Pursuant to the COAH Mediation Agreement, the development plan before the Planning Board was to follow generally the Concept Plan. The Board finds that the subject development plans do follow generally the Concept Plan. The Board recognizes that the Concept Plan has evolved for the better and that the differences are welcomed changes. The development plan meets the intent and spirit of the COAH Mediation Agreement and, importantly, satisfies the standards of the Affordable Housing Overlay Ordinance which Affordable Housing Overlay Ordinance is also an attachment to the COAH Mediation Agreement. The Board is satisfied that the deviations from the Concept Plan are inconsequential.

44. The Clark Fire Official, Frank Cerasa, issued a letter dated December 5, 2007 wherein certain fire safety issues were raised. During the December 6, 2007 public hearing, the Clark Fire Official, Chris Buccarelli, testified that the proposed development should not have an entry gate or guardhouse, should have traditional pavement instead of grass pavers at entry points and should have 18 foot wide sidewalks instead of the 10 foot wide sidewalks proposed. The Board carefully reviewed these design concerns and finds fire safety issues to be of the utmost concern to the Board. The Board immediately adjourned the December 6, 2007 public hearing to have the fire safety issues further reviewed.

2. The Applicant shall revise the development plan to provide a fifteen (15') foot area around each building where no parking shall be provided.
3. The Applicant shall provide architectural building elevations for each building which demonstrate compliance with the height limitation.
4. The Applicant shall install heat sensors in the garages located under the buildings.
5. The Applicant shall comply with the Report of Township Engineer Richard O'Connor dated January 4, 2008.
6. The Applicant shall comply with the requirements of the Nuclear Regulatory Commission and/or the NJDEP with respect to environmental remediation on the Property.
7. Applicant shall pay all taxes, fees and required escrow deposits which may be due and owing.
8. Applicant shall continue to comply with the provisions of the COAH Mediation Agreement.
9. Applicant shall enter a Developers Agreement with the Township of Clark addressing the issues hereinabove set forth.
10. Applicant shall apply for Title 39 authority for the Township of Clark prior to occupancy of the first dwelling unit.
11. Applicant shall provide all Homeowner's Association documents for the development. The Planning Board attorney shall review and approve the documents prior to the issuance of the first certificate of occupancy.

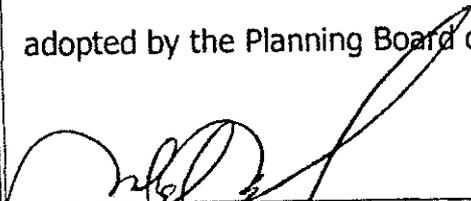
12. The applicant shall revise the plans as follows:
  - a) The proposed Lot and Block numbers shall be approved by the Township.
  - b) Street names shall be submitted to review by the Township.
13. The affordable units shall comply with all COAH requirements.
14. The following permits and approvals are required, if deemed necessary:
  - (a) Union County Preliminary Site Approval
  - (b) Union County Final Site Plan Approval
  - (c) Soil Erosion and Sediment Control Certification
  - (d) NJDEP Sewer Extension permit
  - (e) NJDEP Water Main Extension permit.
15. This approval does not in any way relieve the Application from constructing all improvements, as herein approved, in accordance with good and acceptable engineering requirements of the Township.
16. The Applicant will publish notice of this approval.
17. The Applicant shall comply with all Ordinances of the Township of Clark as pertaining to affordable housing fees or "growth share" fees, if applicable.

**BE IT FURTHER RESOLVED** that all representations, commitments and agreements made by the Applicant or the representatives at the hearing in this matter or contained in any document, plat, sketch or submission submitted to the Board at anytime prior to this approval, including notes contained in original or revised submissions, will be considered as conditions of approval of this

application for development and are hereby incorporated into this Resolution by reference.

**BE AND THE SAME IS HEREBY GRANTED**

I hereby certify that the above Resolution is a true copy of the Resolution adopted by the Planning Board of the Township of Clark on March 6, 2008.



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Michael Kurzawski  
Planning Board Chairman



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Lisa McCabe  
Planning Board Secretary

# Talley Planning Associates, LLC

October 19, 2009

Lucy Vandenberg, Executive Director  
New Jersey Council on Affordable Housing  
101 South Broad Street  
P.O. Box 813  
Trenton, New Jersey 08625

**RE: CLARK TOWNSHIP**

Dear Ms. Vandenberg:

This letter has been prepared in response to the objections to Clark Township's petition for substantive certification filed on behalf of the Fair Share Housing Center and Clark Developers, LLC. In particular, this letter addresses the objections submitted by David Kinsey on behalf of Clark Developers in a letter dated July 30, 2009. We also address the objections submitted by the Fair Share Housing Center in a letter from Adam Gordon dated August 3, 2009. These objections are listed below, with our comments indicated in *italics*.

There have been some changes in Clark Township since the Housing Element and Fair Share Plan was adopted on March 12, 2009. The majority of the properties on Terminal Avenue formerly owned by Villa Contracting, who was an objector to the Township's Housing Element and Fair Share Plan in 2006, were sold to a new entity (Feil Terminal Associates). Feil Terminal Associates intends to retrofit the light industrial park along Terminal Avenue to create a modern, mixed-use commercial district. This change would require expanding the uses permitted within the Industrial Limited zone district to include a variety of commercial uses, including retail stores.

Township representatives met with Clark Developers and Feil Terminal Associates in June and July to discuss potential zoning changes. In order to maintain a cohesive district, all parties agreed that the 300-units of senior citizen housing approved for the Clark Developers site should be relocated to a 14-acre site owned by Feil Terminal Associates located south of Westfield Avenue. This site is a more appropriate location because it is adjacent to residential development and open space and is more isolated from the industrial activities along Terminal Road.

## **Clark Developer's Objections**

**1. The Plan claims three (3) upfront Third Round rental bonuses from the Clark Developer's project, but the claim does not comply with applicable rules.**

*The Township of Clark has worked closely with Clark Developers to develop and implement the Senior Citizen Affordable Housing overlay zone that was created exclusively for their property. The Township participated in good faith in mediation with Clark Developers since 2001, which led to an agreement to rezone their property for age-restricted affordable housing permitting 300 units with a 20 percent set aside for affordable housing. The Township rezoned the Clark Developers site and Clark Developers*

44 Godfrey Road  
Montclair, NJ 07043

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*submitted a site plan application to develop their site consistent with the new zoning and received preliminary and final site plan approval on October 30, 2008. The Township relied upon their agreement with Clark Developers and the site plan approval for 300 age-restricted units, including 60 affordable units, in developing their Third-Round Housing Element and Fair Share Plan, which was adopted on March 12, 2009. It is reasonable for the Township to rely on this history with Clark Developers to include their site and its rental units in the Third Round Housing Plan. The Township has in fact worked very hard to create a realistic opportunity for the construction of affordable housing.*

*In July 2009, Clark Developers requested that the Township eliminate the age-restrictions from their site. The State of New Jersey has established procedures for developers to request this type of conversion pursuant to P.L. 2009, c. 82. Clark Developers, however, has not submitted an application to change the age-restricted development to a converted development approval. This conversion would permit family housing with children in an existing light industrial area, which has serious planning implications. This conversion would introduce children into an active industrial zone, which includes truck traffic and associated industrial equipment. This creates a public safety concern as the children would be traversing these areas while walking to school and other activities. The Clark Developers site is not appropriate for a converted development.*

*The Township is willing to work with Clark Developers and Feil Terminal Associates, the owners of the majority of the land along Terminal Avenue, to create an opportunity to build the 300 age-restricted units on a new site in a better location on the south side of Westfield Avenue.*

**2. The Plan fails to establish realistic compliance mechanisms to strive to satisfy Clark's full COAH-Allocated Projected Growth Share Obligation of 144 units, as required by COAH rules.**

*The Township has limited resources available to address COAH's projected growth share obligation, as evidenced by the fact that the Township has had a vacant land adjustment since the first Housing Element and Fair Share Plan was adopted in 1991. COAH's projected growth share obligation is not based on a concise assessment of the existing land development pattern in Clark. COAH regulations, in fact, include provisions permitting municipalities to adjust their growth share projections based on local data (N.J.A.C. 5:97-5.6). In fact, when the NJLOM challenged the use of DEP's Land Use/Land Cover data in developing their Growth Share Projections, COAH responded that "that municipalities with this type of data may bring discrepancies to the attention of COAH and have available land calculations adjusted, where appropriate."<sup>1</sup>*

*Clark's Housing Element and Fair Share Plan included a parcel-based evaluation of all vacant and developable land within the Township. This evaluation was the basis of the Township's adjustment to COAH's growth share projections, as permitted under COAH regulations. COAH recommends that municipalities that request an adjustment to the growth share projections identify additional opportunities to accommodate growth and affordable housing. Options include zoning amendments permitting accessory apartments, establishing a market to affordable program, overlay zoning, redevelopment and establishing a development fee ordinance. Clark Township has included a market to affordable program and a development fee ordinance to address part of the growth share obligation.*

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<sup>1</sup> Letter to Bill Dressel of the New Jersey League of Municipalities from Lucy Vandenberg, dated February 6, 2009.

*Both programs can also be used to create additional affordable units beyond those included in the Fair Share Plan.*

3. The Plan misstates and understates Clark's Unmet Need at 40 units, instead of 69 units, as calculated by COAH.

*The Fair Share Plan consistently states that the unmet need is 69 units. This is reduced to 26 because 43 of the 60 credits from the Clark Developers site are used to address unmet need. The petition application, however, erroneously indicates that the unmet need is 40 units. The petition application will be corrected.*

4. The Plan fails to satisfy the Township's full Unmet Need of 69, as required by applicable COAH rules.

*The plan addresses the majority of the unmet need with excess units from the Clark Developers site, leaving a shortage of 26 units. The regulations for unmet need exclude age-restricted units that address unmet need from the cap on age-restricted housing, as long as the age-restricted units were included in the municipality's prior round certification or judgment and are constructed or have preliminary or final approvals at the time of the municipality's petition. The Township has been working to get its prior round certification since 1999, but has been delayed because of objections. The Township has been working with Clark Developers since 2002 to design an age-restricted housing project for their site. In 2004, the Township adopted an amended Housing Element and Fair Share Plan that included the Clark Developers site. The Township has petitioned COAH for substantive certification of this plan in 2004 and 2005.*

*The Township is requesting that the Clark Developers site be considered as a site in a second round substantive certification pursuant to N.J.A.C. 5:97-5.3(b)6. This request is based on the Township's history in attempting to get second round certification, and particularly to include the Clark Developers site as a mechanism to address the RDP for the second-round obligation. The Township has in good faith adopted the necessary zoning for this to happen, and granted preliminary and final site plan approval to the applicant. Based on these facts, it is only fair to treat the units in the Clark Developers site as a site addressing the RDP as part of a prior round certification.*

5. The Plan claims 10 credits from a proposed Market to Affordable Program, but fails to comply with applicable COAH rules.

*The details of the proposed Market to Affordable Program in Clark will be provided by the Township, including a draft operating manual, an affirmative marketing plan and designation of an administrative agent. An assessment of the market was provided in the Fair Share Plan reflecting available units and prices in January 2009. In the meantime, the Township will amend the Spending Plan and the Checklist to correct these deficiencies. The five rental units will be funded through the Township's annual affordability assistance program, which is projected to average \$17,000 each year. The \$100,000 assigned to the rental units will be redistributed to the sales units, thereby providing \$294,000 to make five sales units affordable. This averages to \$58,800 per unit, which is the estimated subsidy necessary to support one moderate-income sales unit.*

### **Fair Share Housing Center Objection**

#### **1. Clark has not considered sites with significant growth potential as part of its request for a Third Round growth projection adjustment.**

1.1. *With the exception of the U.S. Gypsum site, which was vacated in August of this year, the Township's industrial properties are occupied by a variety of industrial and commercial uses. While the Master Plan accurately indicates that the manufacturing sector is declining, the Township is not looking to replace its employment base with residential development. The Township is currently evaluating its industrial and commercial zones to ensure that it is in line with current economic realities. Since these properties are currently occupied, and it is not clear at this point what types of changes will take place in these properties in the future, there is no reason to include them in the non-residential growth projections.*

*The Township is considering rezoning a property on Westfield Avenue from R-75 to a new townhouse residential zone district with an affordable housing set aside, which will create some affordable units.*

1.2. *The Downtown Village area is comprised of small, relatively shallow lots located along Westfield Avenue east of the Garden State Parkway. This property was rezoned from neighborhood commercial in 2005 to a new zone that expanded permitted uses in the area, including two floors of residential use over first-floor retail. Despite the rezoning of these properties in 2005, there has been no development in the Downtown Village area to date. Since there has been no growth in this area over the past four years, there is no reason to assign a growth factor for this area moving forward.*

1.3. *Both the Oak Ridge Golf Course and the Hyatt Hills Golf Course are excluded from the analysis because they are designated for Recreation and Open Space in the 2003 Clark Township Master Plan. The Oak Ridge Golf Course is not available for development because it is active recreational land owned by Union County. The Hyatt Hills Golf Complex is privately owned, but it is built on a site that has an ongoing groundwater contamination problem. The site has been cleaned up, but not to residential standards, and is not feasible for residential development.*

1.4. *The most recent date of occupancy for the Tyco building is 2002 and the building was demolished in 2006. Since the building was occupied after the start of Round Three (1999), then the jobs lost through the demolition of this building should be incorporated into the Third-Round Growth Share projections.*

#### **2. Clark has improperly treated the Clark Developer's site as fulfilling both unmet need and the growth share obligation.**

*The Township of Clark is consistent in its application for COAH regulations towards unmet need. The regulations clearly allow municipalities to apply credits for previous housing activity to either unmet need or growth share, once the RDP has been addressed. The units from the Clark Developers project are used first to address the Township's RDP of 23 units. The remaining units are used to address both the growth share obligation and unmet need, as permitted in N.J.A.C 5:97-4.1 which states the following:*

*"At the time of petition, credits and corresponding bonuses for previous housing activity shall be applied toward the prior round obligation before the credits may be applied toward the growth share obligation, provided such activity complies with the applicable criteria in this subchapter and the applicable formulas set forth in N.J.A.C. 5:97-3. If the municipality's second round substantive certification included a vacant land adjustment,*

*the credits shall be applied toward the realistic development potential (RDP) before the credits may be applied toward unmet need or the growth share obligation."*

*In addition, the regulations for unmet need exclude age-restricted units that address unmet need from the cap on age-restricted housing, as long as the age-restricted units were included in the municipality's prior round certification or judgment and are constructed or have preliminary or final approvals at the time of the municipality's petition. See detailed discussion in response #4 to Clark Developers Objection.*

*The Township is requesting that the Clark Developers site be classified as a "previous housing activity" pursuant to N.J.A.C. 5:97-4.1 based on the Township's history in attempting to get second round certification, particularly to include the Clark Developers site as a mechanism to address the RDP included in the second-round obligation. The Township has adopted the necessary zoning for this to happen, and granted preliminary and final site plan approval to the applicant. Based on these facts, it is logical to classify the units for the Clark Developers site as a "previous housing activity."*

**3. Clark has not included any options for addressing its remaining Second Round unmet need.**

*Clark Township has included a market to affordable program and a development fee ordinance to address part of the growth share obligation. Both programs can also be used to create additional affordable units beyond those included in the Fair Share Plan.*

**4. The market-to-affordable program proposed by Clark does not provide a realistic opportunity.**

*See detailed response to item #5 under Clark Developers Objection.*

**5. Clark claims an excessive number of rental bonus credits.**

*N.J.A.C. 5:97-3.6(a) states that a municipality may receive bonuses for rental units in excess of its growth share rental obligation. Clark Township's rental obligation is 25% of its growth share obligation, or 6.25 units (rounded up to 7). The Fair Share Plan provides for a total of 14 rental units, including five family rental units, six age-restricted rental units, and three group home bedrooms. This provides seven units in excess of the rental obligation. Of this seven, the two group home bedrooms create a rental bonus of .50 and the five family rental units provide a rental bonus of 5 units, for a rental bonus of 5.5 units (rounded up to 6).*

**6. Clark has improperly downzoned two inclusionary prior round sites.**

*The two sites that were downzoned are no longer available for inclusionary development. One site was developed for market-rate housing, while the second site was acquired by Union County for open space. Since neither site is available for development, the Plan could no longer rely on these sites as a valid mechanism to provide affordable housing.*

**7. Clark has not met the family very-low income requirement.**

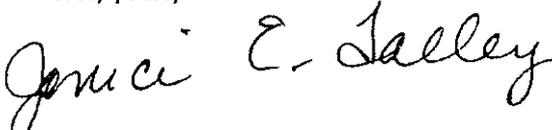
*Senate Bill A-500 only requires that 13 percent of the affordable units built within a municipality address the growth share obligation be affordable to very-low income households. There is no written requirement that 50 percent family housing requirement be extended to apply to the very-low income units. The plan was developed pursuant to the requirements in Senate Bill A-500 and addresses its requirement of 3 very low-income affordable units through supportive housing.*

Ms. Lucy Vandenberg  
Re: Clark Township

October 19, 2009  
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Please do not hesitate to contact me if you have any questions or need additional information on these comments. We look forward to working with you and your staff to resolve these issues in a timely manner.

Sincerely yours,



Janice E. Talley, P.P., AICP

cc: John Laezza, Township Administrator

# EXHIBIT F

**TOWNSHIP OF CLARK**  
**Ordinance No. 09-11**  
**Adopted May 4, 2009**

Introduced: April 20, 2009 Public Hearing: May 4, 2009  
Motion: Whiting Motion: Whiting  
Seconded: Mazzarella Seconded: Mazzarella

**AN ORDINANCE AMENDING AND SUPPLEMENTING THE PREVIOUSLY ADOPTED ORDINANCE NO. 02-05 AND NO. 06-20, ENTITLED "AN ORDINANCE TO ESTABLISH COLLECTION, RETENTION AND USE OF DEVELOPMENT FEES IN, BY AND FOR THE TOWNSHIP OF CLARK, COUNTY OF UNION AND STATE OF NEW JERSEY"**

**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 (the 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 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 Township of Clark 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 all residential zoning district(s), 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-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-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and one-half percent (1.5%) of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-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. The owner of a residential unit who rebuilds when the owner's existing dwelling unit was destroyed due to fire, flood or other natural disaster shall be exempt from paying a development fee.
- iv. The owner of a residential unit who rebuilds following a total or substantial demolition shall be exempt from paying a development fee, provided that the owner has been the owner/occupier of that unit for at least a year prior to the issuance of demolition permits and submits such documentation as necessary to establish that fact at the time of issuance of the demolition permits.
- v. Additions to existing residential units that do not increase the number of residential units 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 a half (2.5) percent development fee, unless otherwise exempted below.
- ii. The 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 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Clark 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 local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal 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 local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal 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 Township of Clark fail to determine or notify the developer of the amount of the development fee within 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 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 Township of Clark. 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 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 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Clark. 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 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:
  - 1. payments in lieu of on-site construction of affordable units;

2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
  3. rental income from municipally operated units;
  4. repayments from affordable housing program loans;
  5. recapture funds;
  6. proceeds from the sale of affordable units; and
  7. any other funds collected in connection with the Township of Clark's affordable housing program.
- c) Within seven days from the opening of the trust fund account, the Township of Clark shall provide COAH with written authorization, in the form of a three-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 Township of Clark'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 Township of Clark for past housing activities.
- c) At least 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 of the affordability assistance portion of development fees collected shall be used to

provide affordability assistance to those households earning 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 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 30 percent or less of median income. The use of development fees in this manner shall entitle the Township of Clark 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 Township of Clark 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 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 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 the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

## 9. Monitoring

- a) The Township of Clark 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 Township of Clark'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

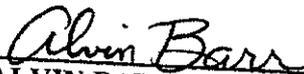
- a) The ability for the Township of Clark to impose, collect and expend development fees shall expire with its substantive certification unless the Township of Clark has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Township of Clark 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 Township of Clark 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 or judgment of compliance, nor shall the Township of Clark retroactively impose a development fee on such a development. The Township of Clark shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

Effective Date: May 27, 2009

ATTEST:

APPROVED:

  
 EDITH L. MERKEL, RMC  
 Township Clerk

  
 ALVIN BARR  
 Council Vice President

  
 SALVATORE BONACCORSO  
 Mayor

Ord09/COAHDevelopmentFeeOrdinance-Apr20May4

	Aye	Nay	Abstain	Absent
Barr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kazanowski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mazzarella	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whiting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Albanese	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

