

**BOROUGH OF RED BANK,
MONMOUTH COUNTY, NEW JERSEY**

Housing Plan Element & Fair Share Plan

Fourth Round (2025 – 2035)



June 9, 2025

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The original document was appropriately signed and sealed in accordance with the Chapter 41 Title 13 of the State Board of Professional Planners.

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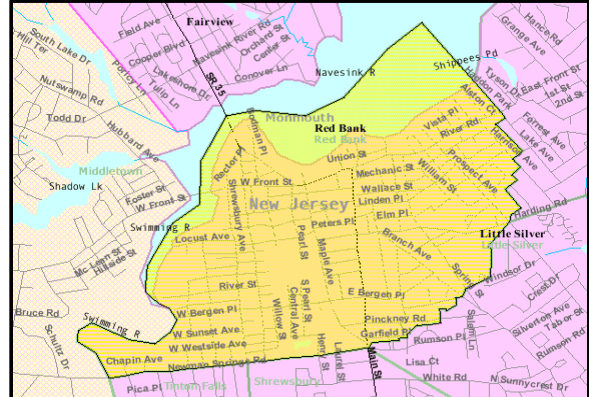
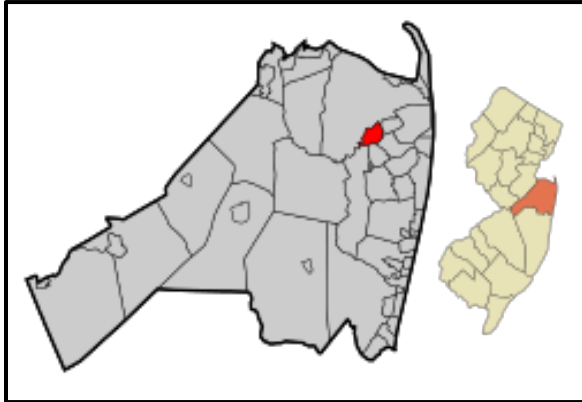
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INTRODUCTION

Location and Context

Red Bank Borough is a borough of approximately 2 square miles, located in northern Monmouth County along the Navesink River. The Borough is surrounded by the municipalities of Fair Haven, Little Silver, Middletown, Shrewsbury and Tinton Falls, all within Monmouth County. The Borough is within the New York City metropolitan region, just 24 miles south of the tip of Manhattan Borough in New York City.



Red Bank Borough was initially inhabited by the Lenape Indians, and the area was first settled by the English in the beginning of the 17th century. The historic borough of Red Bank was originally part of Shrewsbury Towne. Red Bank developed quickly and became a center for shipbuilding. Following the growth of this industry, the Borough's population grew rapidly after 1809, when a passenger ship route was established to Manhattan. By the mid-1840's, Red Bank had become a commercial and manufacturing center, focused on textiles, tanning, furs, and other goods for sale in Manhattan and the local region. With the dredging of the Navesink River, Red Bank became a port from which steamboats transported commuters to work in Manhattan. Red Bank became a desirable destination, and as a result the population grew, and because the Raritan and Delaware Bay Railroad constructed a railway in the town in 1860. This growth continued into the 20th century, as Red Bank continued to be a strong cultural, economic, and political center in Monmouth County until the economy, based on retail commerce, declined due to the economic recession in 1987. In response to this economic decline, the borough authorized the creation of the Red Bank RiverCenter in 1991, to manage redevelopment within the special improvement district. Red Bank RiverCenter has been critical in Red Bank's redevelopment efforts, which has attracted a variety of local and large businesses.

The Borough now has a population of 12,936 people according to 2020 Census population data. This is an increase from the 2010 Census count of 12,206, but the rate of increase is now much smaller than was the case when the population increased on average by 33.50% each decade from 1880 to 1930. Since 1930, the population has increased on average by 7.90% each decade. Population growth is projected to decline for the next several decades. Population projections from the North Jersey Transportation Planning Authority (NJTPA) show that the Borough will remain to just under 13,000 people at 13,033 by 2050.

Of the approximately 13,000 people in Red Bank, census data indicates that about 53 percent identify as white, 8 percent identify as African American or black, 2 percent as Asian, 23 percent as “other” and 12 percent two or more races. Approximately 38 percent of the population of any race is considered Hispanic.

Census data also indicates a median household income of approximately \$102,000 (2023 ACS 5-Year estimate) for the Borough. This is a comparable household income given that the median income for the state of New Jersey is approximately \$100,000

Affordable Housing

In 1975 the New Jersey Supreme Court determined, in *So. Monmouth County. NAACP v. Borough of Mount Laurel* (“Mount Laurel I”) that every developing municipality in New Jersey had an affirmative obligation to provide a “realistic opportunity” for its fair share of low- and moderate-income housing. In 1983, frustrated with the lack of voluntary compliance, the Supreme Court sought to create an incentive for voluntary compliance in its “Mount Laurel II” decision. In this decision, the Court exposed municipalities that refused to comply voluntarily to the possibility of builder’s remedy relief. The Court also called for the state legislature to enact legislation that would save municipalities from the inefficiency of having the courts determine their affordable housing needs.

First and Second Rounds

In 1985 the Legislature adopted the Fair Housing Act (N.J.S.A. 52:27D-301 et. seq.) (“FHA”). The FHA created the New Jersey Council on Affordable Housing (COAH) and charged COAH with the responsibility of adopting regulations by which municipalities could determine their fair share responsibilities and the means by which they could satisfy those responsibilities. The Legislature also sought to promote voluntary compliance and empowered municipalities to submit to COAH’s jurisdiction and voluntarily comply under the protections of the COAH process.

Pursuant to the FHA, COAH adopted regulations for the first housing cycle in 1986; which covered the years 1987 through 1993 (“First Round”) and for the second housing cycle in 1994; which covered the years 1993 through 1999 (“Second Round”). Under both the First and Second Rounds, COAH utilized what is commonly referred to as the “fair share” methodology. COAH utilized a different methodology, known as “growth share,” beginning with its efforts to prepare Third Round housing-need numbers.

Third Round

COAH first adopted the Third Round rules in 2004; which were to cover the years 1999 through 2014. The “growth share” approach created a nexus between the production of affordable housing and future residential and non-residential development within a municipality, based on the principle that municipalities should provide affordable housing opportunities proportionate to their market rate residential growth, and that along with employment opportunities there should be proportionate opportunities for affordable housing. Each municipality was required to project the amount of residential and nonresidential growth that would occur during the period 2004 through 2014 and prepare a plan to provide proportionate affordable housing opportunities. The regulations were

challenged and in January 2007, the New Jersey Appellate Division invalidated key aspects of COAH's third round rules and ordered COAH to propose and adopt amendments to its rules to address the deficiencies it had identified.

COAH adopted new Third Round rules in May of 2008 and subsequently adopted amendments that became effective on October 20, 2008. Changes to the Fair Housing Act were also adopted in July of 2008 (P.L. 2008 c. 46 on July 17, 2008). The COAH rules and regulations adopted in 2008 were subsequently challenged, and in an October 2010 decision the Appellate Division invalidated the "Growth Share" methodology, and also indicated that COAH should adopt regulations pursuant to the "Fair Share" methodology utilized in the First and Second Rounds. The Supreme Court affirmed this decision in September 2013, invalidating the third iteration of the Third Round regulations and sustaining the invalidation of growth share, and directing COAH to adopt new regulations pursuant to the methodology utilized in the First and Second Rounds. In October of 2014 COAH was deadlocked and failed to adopt their newly revised Third Round regulations. Fair Share Housing Center, who was a party in the earlier cases, responded by filing a motion in aid of litigants' rights with the New Jersey Supreme Court. On March 20, 2015, the Court ruled that COAH was effectively dysfunctional, and consequently returned jurisdiction of affordable housing issues back to the trial courts as it had been prior to the creation of COAH in 1986.

Since the 2015 Mt. Laurel IV decision, municipalities turned to the courts to seek a declaratory judgement of their Third Round housing plans to determine whether they met their constitutional affordable housing obligations, and were granted immunity from any "builder's remedy" lawsuits. With no COAH functioning and providing guidance to municipalities to determine their municipal fair share of statewide and regional obligations, a number of independent groups produced their own reports to determine individual obligations across the state. In several court decisions in 2016 and 2018, judges in Middlesex and Mercer County developed a methodology following closely one proposed by Fair Share Housing Center to determine municipal obligations. In the 2018 decision by Judge Jacobson, it was further determined that the initial period of the Third Round which had not been addressed (1999 – 2015) known as the "gap period" is to be included in each municipality's Third Round fair share calculations.

To achieve Third Round Compliance, municipalities addressed the obligations of the period from 1999 – 2015 through the courts, and through private settlement agreements with Fair Share Housing Center, ultimately leading to a judgement of compliance and repose from the courts for municipalities that could demonstrate full compliance with the requirements of the Fair Housing Act. Due to the ongoing litigation throughout the Third Round, many municipalities achieved this substantive certification from the courts well into the period.

Fourth Round

In March of 2024, P.L. 2024, c.2 was signed into law establishing new procedures for determining statewide needs and municipal obligations for low- and moderate-income housing. This new law formally abolished COAH and established a new "Program" for resolving affordable housing disputes, as well as the authority to review and certify municipal fair share housing plans. The law required municipalities to determine their own fair share obligations by applying the methodology of the

Jacobsen decision in Mercer County as it related to the Third Round, and adopt a binding resolution setting those obligation numbers. The law also provided revisions to the crediting structures for affordable units, with changes to the types of affordable units that are permitted to be granted bonus credits. The law established timelines for submission of documents to demonstrate compliance with the Fair Housing Act.

In addition to the revisions to low- and moderate-income housing crediting, the amended law established a new Affordable Housing Alternative Dispute Resolution Program. The Program is intended adjudicate any disputes in affordable housing, and function as the administrative body responsible for reviewing and certifying municipal compliance with the Fair Housing Act. Through the Program and the Administrative Office of the Courts, municipalities seeking a judgment of compliance with Affordable Housing regulations must submit a motion for a declaratory judgment from the Program to retain immunity from any potential builder's remedy lawsuits.

Red Bank's Compliance History

The Borough of Red Bank first received substantive certification from COAH in 1987, and again in 1997, through which a Realistic Development Potential (RDP) of zero (0) units was established, based on lack of availability of vacant, developable land, for the 1987-1999 Prior Round obligation.

Subsequent to the adoption of Growth Share regulations, the Borough adopted a Housing Element and Fair Share Plan to demonstrate its compliance with these regulations on December 15, 2008. The Borough's petition to COAH for substantive certification was deemed complete on March 9, 2009, but was never certified. A revised Housing Element and Fair Share Plan was prepared in September 2010 but was not certified.

Following COAH's dissolution and the Court's assumption of affordable housing judgments, on July 8, 2015, the Borough filed a Declaratory Judgment action seeking a declaration of compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. In response to the Court's Omnibus Order #4, dated December 2, 2015, a draft Housing Element and Fair Share Plan was prepared. The Court also appointed Francis J. Banisch III, P.P., F.A.I.C.P. as the local Special Master, and Richard B. Reading as a regional Court Master, who subsequently produced a report containing preliminary fair share numbers for all of the municipalities in Monmouth County, including Red Bank Borough.

On March 13, 2019 a settlement agreement was reached with Fair Share Housing Center on Third Round obligations and compliance mechanisms. Through the Borough's Third Round Housing Plan Element and Fair Share Plan, the Borough satisfied its Third Round obligations. A final judgment of compliance was granted to Red Bank on August 9, 2019.

A copy of the Borough's Settlement Agreement with Fair Share Housing Center can be found in Appendix A-1.

A copy of the Third Round Judgment of Compliance can be found in Appendix A-2.

In January of 2025, the Borough Council adopted Resolution 25-23 establishing its Fourth Round obligation numbers in accordance with the amended Fair Housing Act adopted by the Legislature and signed by the Governor in March of 2024. The resolution establishing Fourth Round obligation numbers was submitted to the Program through a declaratory judgment action, beginning the process of demonstrating and certifying the Borough's compliance with the Fourth Round of affordable housing obligations.

A copy of Resolution 25-23 establishing the Borough's Fourth Round obligations can be found in Appendix B-1.

The Borough has prepared this Housing Plan Element and Fair Share Plan in accordance with all requirements of the Municipal Land Use Law, and the Amended Fair Housing Act.

HOUSING PLAN ELEMENT

According to the Municipal Land Use Law (MLUL) (40:55D-28.b(3)), a municipality is required to adopt a Housing Plan Element of the Master Plan, as well as a Fair Share Plan for addressing its low and moderate income housing obligations in accordance with the Fair Housing Act (FHA).

The Amended Fair Housing Act defines a “Housing Element” as:

“that portion of a municipality’s master plan consisting of reports, statements, proposals, maps, diagrams, and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to low- and moderate-income housing, and which shall contain the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. of section 3 of P.L.2024, c. 2.”

[N.J.S.A.52:27D-304.1]

Pursuant to the Fair Housing Act, Section 10 of P.L. 1985, c. 222 (C. 52:27D-310), a municipality’s housing plan element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with attention to low- and moderate-income housing. This updated Housing Plan Element and Fair Share Plan for the Borough of Red Bank has been prepared in a manner that is consistent with the FHA and MLUL requirements, and contains the following, as spelled out in the FHA:

- a. *An inventory of the municipality’s housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor’s office, including but not limited to the property record cards;*
- b. *A projection of the municipality’s housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;*
- c. *An analysis of the municipality’s demographic characteristics, including but not necessarily limited to, household size, income level and age;*
- d. *An analysis of the existing and probable future employment characteristics of the municipality;*
- e. *A determination of the municipality’s present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1);*
- f. *A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;*

- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c. 273 (C.52:27D-329.20);*
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c. 120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and*
- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.*

[N.J.S.A.52:27D-310]

This Housing Plan Element and Fair Share Plan will address the Borough's obligations to provide a realistic opportunity for the construction of low- and moderate-income housing in accordance with the Fair Housing Act, and the MLUL for the Fourth Round period of 2025 – 2035. The preparation of a Housing Plan Element and Fair Share Plan is the first step in petitioning the court for Substantive Certification and Judgement of Repose.

Demographics

Population Trends

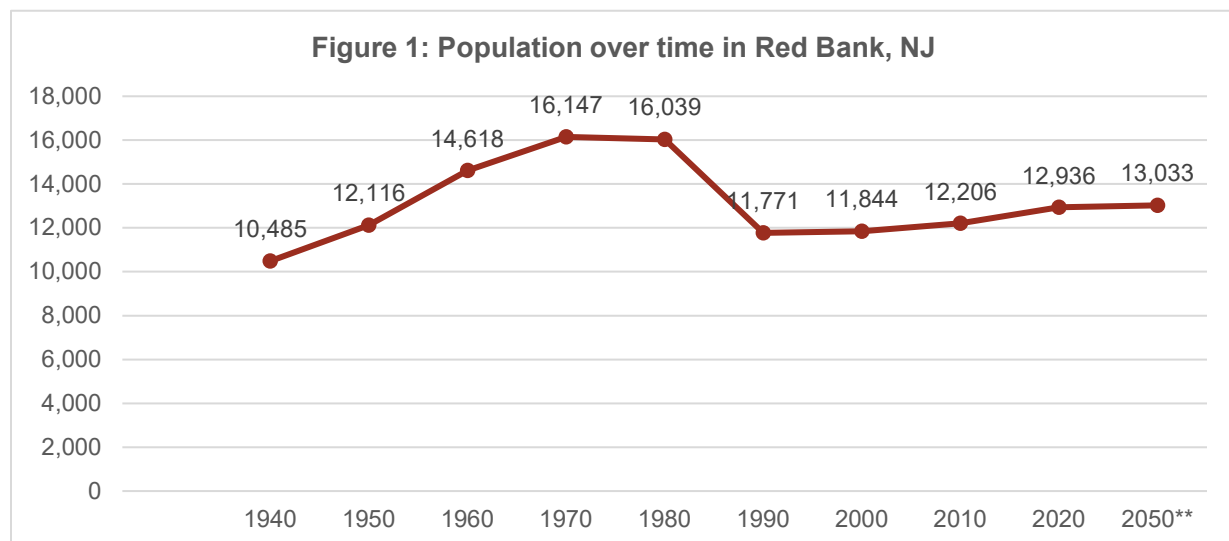
The Borough of Red Bank has experienced steady growth in recent decades, following a significant decline between 1980 and 1990, when the population dropped from 16,039 to 11,771 residents, respectively. According to the 2020 U.S. Census, the population of the Borough reached 12,936 residents, reflecting a 5.98% increase from the 12,206 residents recorded in 2010. This follows a 3.05% growth from the 2000 U.S. Census, which reported 11,844 residents. In comparison, Monmouth County's population grew at a slower rate, with a 2.45% increase from 2000 to 2010, and a 2.09% increase from 2010 to 2020. Table 1 below illustrates the population growth trends for both the Borough and Monmouth County from 2000 to 2020.

Table 1: Population Trends, 2000 - 2020

	2000	2010	2020	% Change 2000-2010	% Change 2010-2020
Red Bank	11,844	12,206	12,936	3.05	5.98
Monmouth County	615,301	630,380	643,615	2.45	2.09

Source: US Census Bureau Decennial Census (Table DP-1)

**Projections from North Jersey Transportation Planning Authority (2050)



Population Composition by Age

The age composition of Red Bank has undergone significant shifts since 2000. According to the U.S. Census Bureau's Decennial Census Estimates, various age groups have experienced notable changes. The number of preschool-aged children has decreased from 5.9% (695) to 5.3% (684). Similarly, there has been a decline in the adult population within the 20 to 34-year age group, as well as in the 85 and older cohort. The most substantial decrease occurred in the 70 to 84-year age group, which fell from 8% (945) to 4.4% (564).

In contrast, Red Bank has seen growth in its school-aged population. The percentage of residents aged 5 to 9 years increased from 4.3% (515) to 5.8% (746), those aged 10 to 14 years grew from 5.4% (642) to 6.4% (830), and those aged 15 to 19 years rose from 4.5% (536) to 5.8% (748). The most significant increases were seen in the 55 to 59-year age group, which grew from 4.4% (522) to 6.6% (860), and in the 60 to 64-year group, which rose from 3.7% (433) to 6.1% (746).

Table 2: Population by Age Cohort, Red Bank, 2000 - 2020

	2000		2020		Percent Change 2000-2020
	Number	Percent	Number	Percent	
Total population	11,844	100%	12,936	100%	9.21%
Under 5 years	695	5.9%	684	5.3%	-1.58%
5 to 9 years	515	4.3%	746	5.8%	44.85%
10 to 14 years	642	5.4%	830	6.4%	29.28%
15 to 19 years	536	4.5%	748	5.8%	39.55%
20 to 24 years	719	6.1%	670	5.2%	-6.81%
25 to 34 years	2,214	18.7%	2,108	16.3%	-4.78%
35 to 44 years	1,903	16.1%	1,913	14.8%	0.52%
45 to 54 years	1,440	12.2%	1,550	12.0%	7.63%
55 to 59 years	522	4.4%	860	6.6%	64.75%
60 to 64 years	433	3.7%	1,411	6.1%	225.86%
65 to 74 years	883	7.5%	1,084	8.4%	22.76%
75 to 84 years	945	8.0%	564	4.4%	-40.31%
85 years and over	397	3.4%	384	3.0%	-3.27%

Source: US Census Bureau, Decennial Census (Table DP-1)

Monmouth County has also seen significant changes in its population's age composition over the past two decades. The number of elementary and middle school-aged children, as well as individuals in the 25 to 35 and 35 to 44 age groups, has notably declined, in contrast to Red Bank, where the population of elementary and middle school-aged children has increased. Meanwhile, the percentage of the county's older population, particularly those aged 55 to 64 and 65 and older has steadily grown between 2000 and 2020. This shift mirrors the trends observed in Red Bank, suggesting that, like the Borough, Monmouth County is experiencing a broader demographic shift toward an aging population.

Table 3: Population by Age Cohort, Monmouth County, 2000 - 2020

	2000		2020		% Change 2000-2020
	Number	Percent	Number	Percent	
Total population	615,301	100%	643,615	100%	4.60%

Under 5 years	41,998	6.8%	29,562	4.6%	-29.61%
5 to 9 years	47,924	7.8%	34,713	5.4%	-27.56%
10 to 14 years	45,951	7.5%	41,010	6.4%	-10.75%
15 to 19 years	37,334	6.1%	42,053	6.5%	12.64%
20 to 24 years	29,036	4.7%	37,764	5.9%	30.05%
25 to 34 years	74,522	12.1%	72,466	11.2%	-2.75%
35 to 44 years	113,871	18.5%	75,549	11.7%	-33.65%
45 to 54 years	91,477	14.9%	89,310	13.8%	-2.36%
55 to 59 years	32,619	5.3%	53,121	8.3%	62.85%
60 to 64 years	23,320	3.8%	49,235	7.6%	111.12%
65 to 74 years	40,847	6.6%	69,315	10.8%	69.69%
75 to 84 years	27,159	4.4%	33,894	5.3%	24.79%
85 years and over	9,243	1.5%	15,623	2.4%	69.02%
<i>Source: US Census Bureau, Decennial Census (Table DP-1)</i>					

The median age of Red Bank Borough residents has risen steadily from 37.5 years in 2000 to 38.1 years in 2020. This is lower than the county average of 43.5 years in 2020, which grew from 37.8 years in 2000, and the state average of 39.9 years, which increased from 36.9 years in 2000. While Red Bank Borough, Monmouth County, and the state have all seen increases in median age over this period, Red Bank Borough experienced the least rise. As a result, the Borough now has the lowest median age among these three populations.

Table 4: Median Age, 2000 – 2020

	2000	2020	Percent Change
Red Bank	37.5	38.1	1.6%
Monmouth County	37.8	43.5	15.07%
New Jersey	36.9	39.9	8.13%
<i>Source: US Census Bureau, Decennial Census (Table DP-1)</i>			

Households

Associated with the Boroughs population growth is an increase in the number of households. A household is defined as one or more individuals, related or not, living together in a single housing unit. According to the 2023 ACS 5-Year estimates, there were approximately 5,902 households in the Borough. Of these, the largest proportion (44.1%) were one-person households, followed by 30.5% with two people, 18.6% with four or more people, and 6.9% with three people.

In comparison, Monmouth County recorded 32.5% two-person households, 26.6% one-person households, 24.5% four-person households, and 16.4% three-person households. The Borough's average

household size was 2.49 people, slightly less than the County's average of 2.55 and New Jersey's average of 2.61, according to the ACS estimates.

Table 5: Household Characteristics, Red Bank and Monmouth County

	Red Bank		Monmouth County	
	Number	Percent	Number	Percent
Total Households	5,902	100%	250,195	100%
1-person	2,600	44.1%	66,589	26.6%
2-persons	1,799	30.5%	81,289	32.5%
3-persons	406	6.9%	40,929	16.4%
4 or more persons	1,097	18.6%	61,388	24.5%
Average Household Size	2.49 people		2.55 people	
Source: US Census Bureau, ACS 5-year Estimates 2019 to 2023 (Table S2501& B25010)				

Family households are defined as two or more individuals living together in the same residence, related by blood, marriage, or adoption. Of the 5,902 households in Red Bank Borough, 2,969 (50.3%) are family households, while 2,933 (49.6%) are non-family households. In contrast, Monmouth County has a higher proportion of family households, with 67.8%, compared to 32.1% non-family households.

In Red Bank, approximately 73.6% of family households are comprised of married couples, compared to 80.8% in the County. Among the remaining family households, 9.8% are headed by single male householders, and 16.5% are headed by single female householders. The average family size in the Borough is 2.15 people, which is lower than the County's average of 2.55 people.

In comparison, Monmouth County has a higher percentage of married couple households at 80.8%, with 5.6% headed by males and 13.4% headed by females. Additionally, 21.1% of Red Bank's households are headed by individuals aged 65 or older, totaling 1,245 households. This is significantly higher than Monmouth County, where only 13.3% of households are headed by individuals aged 65 or older.

Table 6: Household by Type, Red Bank and Monmouth County

	Red Bank		Monmouth County	
	Number	Percent	Number	Percent
Total Households	5,902	100%	250,195	100%
Average Family Size	2.15 people		2.55 people	
Total Families	2,969	50.3%	169,816	67.8%
Married Couple Family	2,187	73.6%	137,379	80.8%
With own children under 18 years	782	64.2%	68,896	50.1%
No children under 18 years	1,405	52.9%	68,483	49.8%
Male householder, no wife present	292	9.8%	9,534	5.6%

With own children under 18 years	164	56.1%	4,061	42.6%
No own children under 18 years	128	43.8%	5,473	57.4%
Female householder, no husband present	490	16.5%	22,903	13.4%
With own children under 18 years	328	66.9%	12,092	52.8%
No own children under 18 years	162	33.0%	10,811	47.2%
Nonfamily Households	2,933	49.6%	80,379	32.1%
65 years and over	1,245	21.1%	33,275	13.3%
<i>Source: US Census Bureau, American Community Survey 5-year Estimates 2019 to 2023 (Table S1101)</i>				

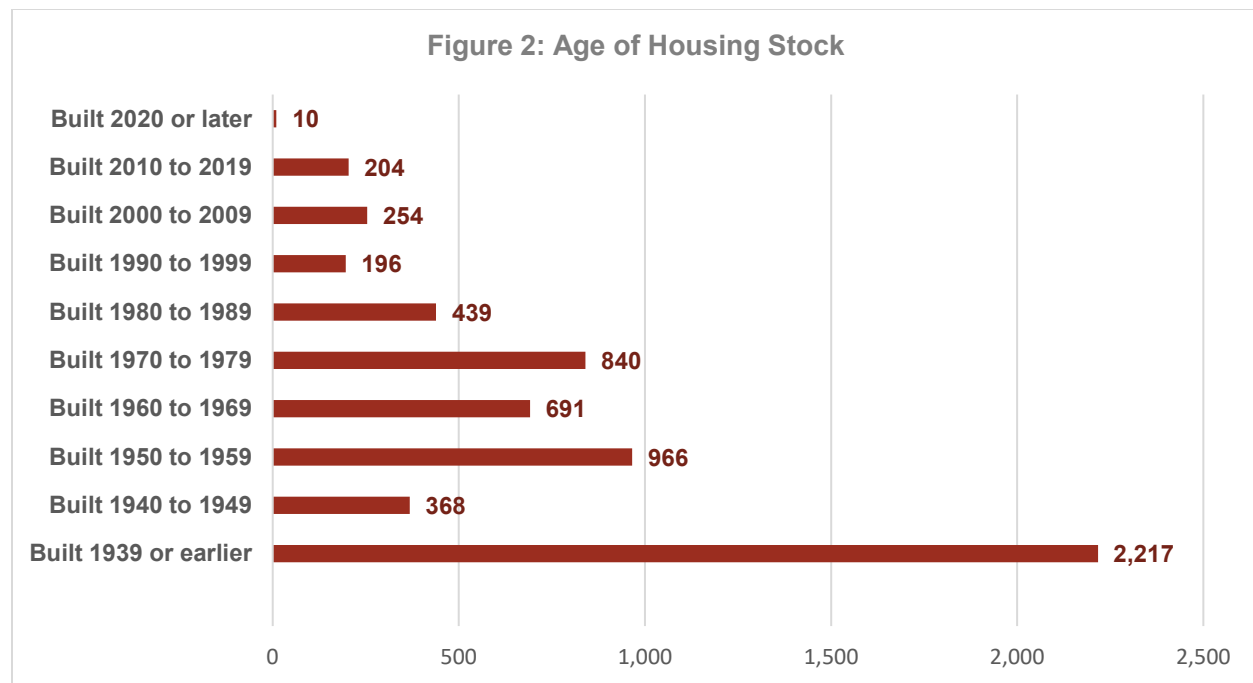
Housing Conditions

Existing Housing Units

According to the 2023 ACS, Red Bank's housing stock is split almost evenly between owner-occupied and renter-occupied units, with a significant portion of the housing being relatively old. Out of the Borough's total 6,184 housing units, 5,902 (95.4%) are occupied, while 282 (4.6%) are vacant. Of the occupied units, 2,957 (50.1%) are owner-occupied, and 2,945 (49.9%) are renter-occupied.

Building activity in Red Bank spiked during certain periods, particularly before 1939, in the 1950s, and during the 1970s. However, construction has slowed significantly since 2009, likely due to the housing market's slower recovery after the recession. This trend continues, with only 10 new units constructed since 2020. The median year of construction for the Borough's housing stock is 1955.

Table 7: Housing Units in Red Bank	Number	Percent
Total Housing Units	6,184	100%
Occupied Housing Units	5,902	95.4%
Owner Occupied	2,957	50.1%
Renter Occupied	2,945	49.9%
Vacant Housing Units	282	4.6%
For Rent/Rented Not Occupied	0	0.0%
For Sale Only	0	0.0%
Sold, not occupied	80	28.3%
For Seasonal, Recreational or Occasional use	49	17.4%
Other Vacant	84	29.8%
<i>Source: US Census Bureau, ACS 5-year Estimates 2019 to 2023 (Tables DP04 and B25004)</i>		



Housing Type and Size

Red Bank's housing stock is predominantly composed of single-family detached homes, which account for approximately 41% of the Borough's total housing units. Duplexes and low-density multi-family units make up the majority of the Borough's multi-family housing, representing 35% of all units, while high-density housing with 20 or more units comprises 22.7% of the total housing stock. The Borough's housing inventory is primarily made up of 2-bedroom homes, which represent 31.3% of all units, followed by 3-bedroom homes at 27.4%, and 1-bedroom homes at 25.2%. Additionally, approximately 12.8% of the housing inventory consists of homes with 5 or more bedrooms.

Table 8: Housing Units by Type	Number	Percent
Total Housing Units	6,184	100.0%
1-unit detached	2,616	42.3%
1-unit, attached	539	8.7%
2 units	376	6.1%
3 or 4 units	523	8.5%
5 to 9 units	326	5.3%
10 to 19 units	398	6.4%
20 or more units	1,406	22.7%
Mobile home	0	0.0%
Boat, RV, Van etc	0	0.0%
Bedrooms		

No bedroom	145	2.3%
1 bedroom	1,560	25.2%
2 bedrooms	1,935	31.3%
3 bedrooms	1,692	27.4%
4 bedrooms	811	13.1%
5 bedrooms or more	41	12.8%
<i>Source: US Census Bureau, ACS 5-year Estimates 2019 to 2023 (Tables DP04)</i>		

Housing Values and Contract Rents

According to the ACS 5-Year Estimates, nearly half of Red Bank’s housing units (47.8%) were valued at over \$500,000, which is slightly lower than the County average of 58.4%. A detailed breakdown of home values for owner-occupied units in the Borough can be found in Table 9. Only 5.1% of Red Bank’s owner-occupied homes were valued at less than \$100,000. The median value of an owner-occupied home in the Borough is \$477,000, which is lower than the County’s median of \$566,500.

Table 9: Value of Owner-Occupied Housing Units				
	Red Bank		Monmouth County	
	Number	Percent	Number	Percent
Total	2,957	100.0%	188,578	100.0%
Less than \$50,000	96	3.2%	3,202	1.7%
\$50,000 to \$99,999	57	1.9%	2,703	1.4%
\$100,000 to \$149,999	161	5.4%	1,760	0.9%
\$150,000 to \$199,999	170	5.7%	2,797	1.5%
\$200,000 to \$299,999	181	6.1%	12,780	6.8%
\$300,000 to \$499,999	880	29.8%	55,119	29.2%
\$500,000 to \$999,999	1,342	45.4%	88,909	47.1%
\$1,000,000 and greater	70	2.4%	21,308	11.3%
Median Value	\$477,000		\$566,500	
Source: US Census Bureau, ACS 5-year Estimates 2019 to 2023 (Tables DP04)				

Rental prices in Red Bank varied significantly, with the majority of rents falling within two main ranges: \$1,500 to \$1,999 and \$3,000 or more per month. According to the ACS 5-Year Estimates, the median gross rent in Red Bank was \$1,985, notably higher than the county median of \$1,771. The largest share of renter-occupied units in Red Bank (27.7%) had rents between \$1,500 and \$1,999, which aligns with the county’s most common rent range. In contrast, Red Bank had 9.9% of units with rents under \$500 per month, while the county reported that approximately 6.8% of rental units fell below this threshold. Additionally, none of Red Bank’s rental units were classified as not requiring cash rent payments,

whereas there were 2,394 such units across the county. Table 10 provides a comparison of Red Bank's gross rent to the county's gross rent, according to the 2023 ACS 5-Year Estimates.

Table 10: Gross Rent Paid				
	Red Bank		Monmouth County	
	Number	Percent	Number	Percent
Total	2,945	100%	59,223	100.0%
Less than \$500	293	9.9%	4,045	6.8%
\$500 to \$999	63	2.1%	3,453	5.8%
\$1,000 to \$1,499	325	11.0%	13,711	23.2%
\$1,500 to \$1,999	816	27.7%	15,499	26.2%
\$2,000 to \$2,499	573	19.5%	10,920	18.4%
\$2,500 to \$2,999	250	8.5%	6,150	10.4%
\$3,000 or more	625	21.2%	5,445	9.2%
No rent paid	0		2,394	
Median Contract Rent	\$1,985		\$1,771	
Source: US Census Bureau, ACS 5-year Estimates 2019 to 2023 (Tables DP04)				

Housing Conditions

According to the 2023 ACS, overcrowding in Red Bank is minimal, with only 0.3% (18 units) of owner-occupied units and 4.42% (261 units) of renter-occupied units exceeding one person per room. The data also shows that none of the units in the Borough lack complete plumbing or kitchen facilities. Housing deficiencies play a crucial role in assessing overall housing conditions and determining the need for municipal rehabilitation efforts. A detailed breakdown of housing deficiency characteristics based on the 5-year ACS data is provided in Table 11.

Table 11: Housing Deficiency Characteristics, 2023		
Housing Units with 1.01 or More Persons Per Room		
	Count	Percent
Total Occupied Housing Units	5,902	100.0%
Owner-Occupied	18	0.30%
Renter-Occupied	261	4.42%
Plumbing Facilities		
Total Occupied Housing Units	14,247	100.0%
Lacking complete plumbing facilities	0	0.0%
Kitchen Equipment		
Total Occupied Housing Units	14,247	100%

Lacking complete kitchen facilities	0	0.0%
Source: US Census Bureau, ACS 5-year Estimates 2019 to 2023 (Tables B25014, S2504)		

Housing Stock

According to the New Jersey Department of Community Affairs (DCA), Red Bank Borough issued permits for the construction of 281 new residential units between January 2013 and December 2023. During the same period, the Borough approved 18 demolition permits for residential properties. After accounting for these demolitions, this results in a net increase of 263 residential units.

A closer look at the trends reveals significant growth in the Borough's housing stock, particularly in 1- and 2-family homes. Permits for these types of units surged from just 2 in 2022 to 15 in 2023, marking a nearly fourfold increase. Similarly, permits for multifamily housing rose from 22 in 2022 to 64 in 2023. These trends highlight a dynamic and expanding housing market in Red Bank.

Table 12: Building Permits and Demolition Permits Issued, 2013 - 2023						
Year	1&2 Family	Multi Family	Mixed Use	Total New Construction	Total Residential Demolitions	Net Units Added
2013	7	134	1	142	8	134
2014	4	0	0	4	3	1
2015	1	0	0	1	1	0
2016	1	12	0	13	1	12
2017	1	1	0	2	1	1
2018	1	0	0	1	0	1
2019	2	0	0	2	2	0
2020	7	4	0	11	1	10
2021	2	0	0	2	0	0
2022	2	22	0	24	1	23
2023	15	64	0	79	0	79
Total	43	237	1	281	18	263
Source: NJ DCA, Construction Reporter 2013 to 2023						

Economic Conditions

Employment Status

The 5-year ACS estimates provide insights into the work activity of residents aged 16 and older. Red Bank Borough's working-age population stood at 10,482, with approximately 7,320 individuals actively participating in the labor force. About 30.2% of the Borough's working-age residents were not engaged in the labor force at the time of the estimates, a rate slightly lower than the county's 33.5%. All

individuals in the Borough's labor force were employed in civilian jobs, with no residents reported as being part of the armed forces. The unemployment rate in Red Bank was approximately 3.1%, which is slightly better than the county's rate of 3.5%.

Table 13: Employment Status, 2023				
	Red Bank		Monmouth County	
	Number	Percent	Number	Percent
Population 16 years and over	10,482	100.0%	526,352	100.0%
In labor force	7,320	69.8%	349,815	66.5%
Civilian Labor Force	7,320	69.8%	349,355	66.4%
Employed	7,090	67.6%	331,018	62.9%
Unemployed	230	2.2%	18,337	3.5%
Armed Forces	0	0.0%	460	0.1%
Not in Labor Force	3,162	30.2%	176,537	33.5%
Unemployment Rate	3.1%		3.5%	
Source: US Census Bureau, ACS 5-year Estimates 2019-2023 (Table DP03)				

Worker Classification

Approximately 82% of Red Bank Borough's workforce were employed in private wage and salary positions, while 7.6% were self-employed. Government employees accounted for 9.9% of the workforce, and unpaid family workers represented around 0.4%. A detailed breakdown of worker classifications is provided in Table 14.

Table 14: Classification of Workers in Red Bank, 2023		
	Number	Percent
Total	7,090	100.0%
Private Wage and Salary Worker	5,821	82.1%
Government Worker	701	9.9%
Self-Employed Worker	537	7.6%
Unpaid Family Worker	31	0.4%
<i>Source: US Census Bureau, ACS 5-year Estimates 2019-2023 (Table DP03)</i>		

Workforce by Sector

An analysis of employed individuals over the age of 16 by economic sector highlights the diverse range of industries in which Red Bank's working-age population is engaged. The largest sector, comprising 23.5% of the workforce (1,667 employees), is in educational services, healthcare, and social assistance. Close behind, the professional, scientific, management, administrative, and waste management services sectors employed 21.3% of residents (1,508 employees). The retail trade, arts, entertainment,

recreation, and accommodation and food services sectors, as well as the finance, insurance, and real estate and rental and leasing sectors, each represented approximately 13.6% (965 employees), 10.2% (724 employees), and 9.2% (653 employees) of the Borough's workforce, respectively.

Table 15: Workforce by Sector, 2023

Industry	Number	Percent
Civilian employed population 16 years and over	7,090	100.0%
Agriculture, forestry, fishing and hunting and mining	34	0.5%
Construction	373	5.3%
Manufacturing	279	3.9%
Wholesale trade	23	0.3%
Retail trade	965	13.6%
Transportation and warehousing, and utilities	163	2.3%
Information	297	4.2%
Finance and insurance, and real estate and rental and leasing	653	9.2%
Professional, scientific, and management, and administration and waste management services	1,508	21.3%
Educational services, health care and social assistance	1,667	23.5%
Arts, entertainment, and recreation, and accommodation and food services	724	10.2%
Other services, except public administration	329	4.6%
Public administration	75	1.1%
<i>Source: US Census Bureau, ACS 5-year Estimates 2019-2023 (Table DP03)</i>		

Occupations by Type

Table 16 provides a breakdown of occupations within the Borough's employed civilian labor force. The largest segment, comprising over half of the workforce (3,875 employees), is engaged in management, business, science, and arts occupations. Service occupations follow, employing nearly one-fifth of the labor force (1,270 employees). Sales and office occupations account for approximately 16.7% of the workforce (1,186 employees). The smallest sector is natural resources, construction, and maintenance occupations, which make up just 5.2% of the labor force (367 employees).

Table 16: Occupations by Type, 2023

	Number	Percent
Employed Civilian population 16 years and over	7,090	100.0%
Management, business, science, and arts occupations	3,875	54.7%
Service occupations	1,270	17.9%
Sales and office occupations	1,186	16.7%

Natural resources, construction, and maintenance occupations	367	5.2%
Production, transportation, and material moving occupations	392	5.5%
<i>Source: US Census Bureau, ACS 5-year Estimates 2019-2023 (Table DP03)</i>		

Commuting to Work

As shown in Table 17, the majority of Red Bank residents (64.3%) commute to work by private automobile, slightly below the county's 66.8%. Approximately 13% of residents work from home, while public transportation (excluding taxicabs) is the least common commuting method, used by just 4.8% of residents, compared to 5.5% in the county. Notably, around 5.2% of Borough residents walk to work, a much higher proportion than the county's 1.5%.

Table 17: Means of Commute, 2023				
	Red Bank		Monmouth County	
	Number	Percent	Number	Percent
Workers 16 years and over	7,030	100.0%	325,092	100.0%
Car, truck, van -Drove Alone	4,521	64.3%	217,077	66.8%
Car, truck, van - Carpooled	473	6.7%	23,553	7.2%
Public transportation (excluding taxicab)	336	4.8%	17,981	5.5%
Walked	365	5.2%	4,775	1.5%
Other means	387	5.5%	6,996	2.2%
Worked from home	948	13.5%	54,710	16.8%
<i>Source: US Census Bureau, ACS 5-year Estimates 2019-2023 (Table DP03)</i>				

According to ACS data, the majority of Red Bank residents (58.7%) have a commute of more than 30 minutes, which is similar to the county's 63.9%. In contrast, 42.6% of Borough residents have a commute of less than 20 minutes, higher than the county's 35.7%. Table 18 provides a comparison of travel times to work between the Borough and the county.

Table 18: Travel Time to Work, 2023				
	Red Bank		Monmouth County	
	Number	Percent	Number	Percent
Total Workers	6,082	100.0%	280,005	100.0%
Less than 10 minutes	776	12.7%	28,427	10.1%
10 to 19 minutes	1,822	29.9%	71,878	25.6%
20 to 29 minutes	981	16.1%	50,714	18.1%
30 to 44 minutes	2,945	19.3%	52,340	18.6%
45 to 59 minutes	759	48.4%	24,162	8.6%

Borough of Red Bank – Fourth Round Housing Plan Element & Fair Share Plan

60 to 89 minutes	700	11.5%	30,162	10.7%
90 or more minutes	340	5.5%	22,322	7.9%
Mean travel time to work (minutes)	30.9		33.4	
Source: US Census Bureau, ACS 5-year Estimates 2019-2023 (Table DP03, B08303)				

FAIR SHARE PLAN

A Fair Share Plan has been defined by the Amended Fair Housing Act at N.J.A.C. 52:27D-304 as:

“Fair Share Plan” means the plan or proposal that is in a form which may readily be adopted, with accompanying ordinances and resolutions, pursuant to subsection f. of section 3 of P.L.2024, c.2 (C.52:27D-304.1), by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

The Fair Share Plan for the Borough of Red Bank is broken up into four sections;

- a Present Need or Rehabilitation Obligation,
- the Prior Round / First and Second Round (1987-1999) Prospective Need Obligation,
- the Third Round (1999-2025) Prospective Need Obligation, and
- the Fourth Round (2025-2035) Prospective Need Obligation.

The Borough’s Fair Share Plan specifically describes the completed and proposed mechanisms to address the present need (rehabilitation) obligation, First and Second Round (Prior Round) obligation, Third Round obligation, and Fourth Round obligation.

The Borough’s Prior Round obligations were determined by COAH, and the Third Round obligation was a negotiated settlement with Fair Share Housing Center which was approved by the Court. The Borough’s Fourth Round obligation numbers were determined using calculations provided by the NJ Department of Community Affairs in a report dated October 2024, and adopted by the Borough Council through a binding resolution in accordance with the requirements of the Fair Housing Act.

Consideration of Lands Suitable for Affordable Housing

The New Jersey Fair Housing Act (N.J.S.A. 52:27D-310(f)) requires that the Housing Element provide a narrative that includes “a consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.”

Red Bank’s current land use and development patterns show several clusters of dense development around the Red Bank train station, regional and local bus routes, and Route 35 or Riverfront Avenue and Maple Avenue, and the access points to those transportation services/routes. The Borough is entirely built-out with development concentrating on the historic downtown of the Borough, which is developed with a mix of commercial, residential, civic, and medical uses. The rest of the Borough comprises of single family residences, apartments, and townhouse residential developments.

Within Red Bank, the lands most suitable for development are those within the historic downtown area. This primarily consists of tracts of land within proximity to public transportation, commercial and civic services, and recreational amenities.

As a nearly fully built-out suburban community, there is very limited vacant and available land that could accommodate any new development. As a result, the Borough has reviewed and analyzed many sites for their potential for revitalization of existing developed lands that may be underutilized or are seeing patterns of vacancy. These include office buildings, tracts of small-scale commercial uses, and other lands that are ripe for redevelopment or new uses.

The New Jersey State Development and Redevelopment Plan places the majority of the Township into Planning Area 1 – the Metropolitan Planning Area, where development and redevelopment is encouraged. However, the northern and western boundaries of the town along the Navesink River, are subject to Flood Hazards, are noted as the Environmentally Sensitive areas of Planning Area 5, where state policy is to discourage any new development. In order to ensure consistency with past planning and zoning of the Township, and consistency with State policy objectives, the Borough has focused its efforts on identifying tracts for development located within the Metropolitan Planning Area rather than the Environmentally Sensitive Area, and within the sewer service area and proximity to existing infrastructure, public transportation, commercial services, civic services.

All properties in the Borough where a developer has approached staff or officials and expressed an interest in building affordable housing have been considered in the preparation of this Plan.

The Borough remains open to all additional opportunities for providing housing in the event that any new developers or property owners express interest in any particular property or tract of land.

Site Suitability

As per previous COAH regulations, the Fair Share Plan must demonstrate site suitability for proposed new units that are not yet fully approved, as required by N.J.A.C. 5:93 -5.3.

- A. An “available site” is a site with clear title, and that is free of encumbrances which preclude development for low- and moderate-income housing.
 - All unbuilt sites in the compliance plan are “available”.
- B. A “developable site” is a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable area-wide water quality management plan and wastewater management plan.
 - All unbuilt sites in the compliance plan are “developable”. All sites are within the sewer service area and will be served by the Municipal Utilities Authority (MUA).
- C. A “suitable site” is a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4 (not in wetlands, flood hazard areas, steep slopes).

- All unbuilt sites in the compliance plan are “suitable”.
- D. An “approvable site” is a site that may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing.
- All sites in the compliance plan are “approvable”. All projects noted in the Prior Round and Third Round plans are either completed, have been approved, or have appropriate zoning regulations in place to make them completely approvable should a developer seek to build affordable housing on those parcels.
 - Projects included for the Fourth Round are proposed at this time, and appropriate zoning regulations will be adopted to implement the recommendations of this Housing Plan.

Fair Share Obligation

The Borough has the following cumulative affordable housing obligations:

- Rehabilitation / Present Need = 54 Units
- Prior Round / First and Second Round (1987-1999) Prospective Need = 427 Units
 - Realistic Development Potential of 0 units
- Third Round (1999-2025) Prospective Need = 313 Units
 - Realistic Development Potential of 92 units
- Fourth Round (2025-2035) Prospective Need = 154 Units
 - Realistic Development Potential of 1 unit

Resolution 25-23 of the Borough Council, establishing the Fourth Round obligations, can be found in Appendix B-1.

Present Need (Rehabilitation) Obligation

The Borough has a rehabilitation obligation, or present need, of 54 units.

The Borough currently participates in Monmouth County’s Emergency Repair and Home Improvement rehabilitation program, and will continue to participate in the program, making all Borough residents who are income qualified eligible for home improvements through the County’s CDBG funded program.

The Borough has been operating a municipal rehabilitation program since 2019 as a part of its Third Round compliance mechanisms. Since 2021, the Borough has spent approximately \$150,000 from the Affordable Housing Trust Fund in order to rehabilitate homes in Red Bank. The Borough will continue to fund and operate its rehabilitation program, and along with the County home improvement program, Red Bank will satisfy its 54 unit present need obligation.

Prior Round Obligation (1987-1999)

The Borough has a Prior Round obligation of 427 units. This obligation was adjusted to a Realistic Development Potential of 0 through a Vacant Land Adjustment. This RDP of 0 was approved by COAH as a part of the Borough's Substantive Certification granted in 1987. With a RDP of 0, this left all 427 units of its Prior Round obligation as unmet need.

Prior Round Compliance Mechanisms

Per the Borough's Third Round Settlement Agreement with Fair Share Housing Center, affordable housing projects that were located in a previously established affordable housing overlay, or were developed prior to 2008, were applied towards the Borough's unmet need.

The following affordable housing projects were credited to the Borough's Prior Round obligations:

Prior Round Compliance Mechanisms				
Project	Type	Credits	Bonus	Total
Locust Landing	Family Rental	6	0	6
MW Red Bank / West Side Lofts	Family Rental	10	0	10
The Standard	Family Rental	2	0	2
Denholtz / The Rail	Family Rental	9	0	9
Tudor Village Apartments	Family Rental	1	0	1
Oakland Square	Family Rental / Special Needs	12	0	12
River Street School	Senior Rental	51	0	51
Wesleyan Arms	Senior Rental	60	0	60
RW Rivers Edge	Family for Sale	2	0	2
Bergen Square	Family for Sale	10	0	10
Totals		163	0	163

With 163 units applied to the Prior Round, this leaves a Prior Round unmet need of 264.

Descriptions of each prior round project and mechanism are included below:

FAMILY RENTAL

Locust Landing: 6 credits

Block 71, Lot 1.01

Locust Lane

Status: Completed

Locust Landing is a 100% affordable townhouse project located on Locust Avenue in the westerly portion of the Borough. Fully built and occupied, Middletown Borough received credit for 34 of the 40 family rental units as part of a Regional Contribution Agreement (RCA). The Borough is applying six (6) family rental credits for this site to the Prior Round unmet need obligation. The development is constructed and occupied.

All units are priced at 50% of AMI, making them all low income rental units.

MW at Red Bank / Westside Lofts: 10 credits

Blocks 35; 37; 62; 99/Lots 7; 6.01, 7, 8.01, 10, 10.01; 8; 7

West Front Street / Bridge Street

Status: Completed

The MW at Red Bank, LLC/Westside Lofts project is located at the intersection of W. Front Street and Bridge Avenue. Approved in 2006 and constructed between 2013 and 2014, the development is fully occupied and includes ground-floor retail with 92 total residential units on upper floors. Ten (10) affordable family rental units are provided by this project. Four (4) units are located on site, and the remainder are offsite, including four (4) units at 47 Oakland Street and two (2) units at 205-207 Bergen Place. These ten (10) units are being applied to the Borough's Prior Round unmet need obligation. The development is constructed and occupied.

Popkin / The Standard: 2 credits

Block 36, Lot 8, 23.01 – 23.06

Monmouth Street

Status: Completed

This project received bifurcated use variance approval in 2017, and site plan approval from the Zoning Board of Adjustment memorialized on January 3, 2019. The project included the conversion of a previous office use into multi-family apartments, including two (2) affordable family rental units on site. The development is constructed and occupied.

Denholtz / The Rail: 9 credits

Block 63, Lot 1.01, 3, 4, 8, 9, 10, 10.01

Chestnut Street / Oakland Street

Status: Completed

This development received site plan approval from the Planning Board on November 5, 2018 for the construction of a mixed use project with 57 total units between Chestnut Street and Oakland Street, proximate to the NJ Transit train station. Nine (9) affordable units were provided in this inclusionary project. The project has been completed and the development is constructed and occupied.

Oakland Square: 12 credits

Block 42, Lot 19.01

Oakland Street / Monmouth Street

Status: Completed

This development is located between Monmouth Street and Oakland Street, approximately 350 feet from the NJ Transit rail station. The project contains 57 units, of which 12 will be affordable. Eight (8) of these 12 units will be provided as family rental units, and four (4) will be provided as supportive/special needs housing units, to be applied to the Borough's Prior Round unmet need obligation. The development is constructed and occupied.

Tudor Village: 1 credits

Block 103, Lot 13.20

Broad Street

Status: Completed

This project is an existing 12 unit market rate apartment complex built in the 1920s/1930s, located on Broad Street. In 2016, the project received site plan approval for the construction of five (5) additional units, of which one (1) is an affordable family rental unit, and is applied towards the Prior Round unmet need obligation. The development is constructed and occupied.

FAMILY FOR SALE

RW Rivers Edge: 2 credits

Block 82, Lots 17; Block 83, Lots 5, 6.01, 6.02

Bank Street

Status: Completed

Approved in 2010 and built in 2016, this project includes 15 total family-for-sale townhome units, of which two (2) are affordable to low and moderate income families. Located on Bank Street in the westerly portion of the Borough, this site contributes two (2) units to the Prior Round unmet need obligation. This project is completed and occupied

Bergen Square: 10 credits

Block 75.01, Lot 82.01

Drs James Parker Boulevard

Status: Completed

Bergen Square is a family-for-sale townhouse project containing 20 total units, of which ten (10) are affordable to low and moderate income families. Constructed in the early 2000s and located on Drs. James Parker Boulevard, the site contributes ten (10) units to the Prior Round unmet need obligation.

SENIOR RENTAL

River Street School: 51 credits

Block 74, Lot 5.02

River Street

Status: Completed

This project was a 100% affordable gut rehabilitation project completed in connection with an RCA with Middletown Borough. Located on River Street between Shrewsbury Avenue and South Bridge

Avenue, the project, which is built and occupied, contains 62 age-restricted rental units. Middletown Borough received credit for 11 units, therefore the Borough is applying 51 age-restricted rental units towards its Prior Round unmet need obligation. This project is completed and occupied.

Wesleyan Arms: 60 credits

Block 33, Lot 6.01

Pearl Street / Wall Street

Status: Completed

Wesleyan Arms is an existing 100% affordable apartment project, built in 1998, providing 60 rental units to very low income seniors. These credits contribute to the Borough's Prior Round unmet need obligation. This project is completed and occupied.

Third Round Obligation

The Borough has a Third Round prospective need obligation of 313 affordable housing units. This obligation was reduced to a 92 unit Realistic Development Potential through a Vacant Land Adjustment. With a RDP of 92 and up to 23 bonus credits permissible, the Borough has an obligation for the establishment of at least 69 actual housing units. The Borough must meet the following minimum and maximum requirements in satisfying the 92 unit RDP for the Third Round:

- **Low/Moderate Income Split:** at least fifty percent (50%) of the units addressing the Third Round RDP shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - $92 \text{ units} \times 0.5 = 46$
 - A minimum of 46 units must be affordable to low income households.
- **Very Low Income Units:** Thirteen percent (13%) of all affordable units referenced in the Third Round Settlement Agreement, except for those units constructed or approved prior to July 1, 2008, shall be affordable for very low income households, with half of the very-low-income units being available to families.
 - The Borough has an obligation to provide at least 9 units for very-low-income households, with at least 5 of those units being available to families.
- **Family Units:** A minimum of fifty percent (50%) of the units addressing the Third Round RDP must be non-age restricted affordable units available to families.
 - $92 \times 0.5 = 46$
 - A minimum of 46 units must be available to families.
- **Rental Units:** At least twenty-five percent (25%) of the units addressing the Third Round RDP shall be met through rental units, including at least half in non-age-restricted rental units available to families.
 - $92 \times 0.25 = 23$
 - A minimum of 23 units must be rental units, and at least 12 of those units must be non-age-restricted units that are available to families.
- **Age Restricted Units:** A maximum of 25 percent (25%) of the Borough's units addressing the RDP can be from age-restricted senior units.
 - $92 \times 0.25 = 23$
 - The Borough may claim a maximum of 23 credits from senior units.
- **Rental Bonus Credits:** The Borough may claim bonus credits for rental units in accordance with N.J.A.C. 5:93-5.15(d), which states that a municipality shall receive two units (2.0) of credit for

rental units available to the public, but no rental bonuses shall be granted for rental units in excess of the rental obligation. A municipality shall receive one and one-third 1.33 units of credit for age restricted rental units. However no more than 50 percent of the rental obligation shall receive a bonus for age restricted rental units. The rental bonus claimed shall not exceed the minimum rental obligation.

- Rental obligation = 23
- The Borough may claim bonus credits for rental units up to 23 bonus credit units.

Third Round Compliance Mechanisms

The Borough was previously approved by the Courts to satisfy its 92 unit Third Round Realistic Development Potential through the following mechanisms:

Third Round Credits				
Project	Type of Unit	Units	Bonus	Total
176 Riverside Redevelopment	Family Rental	28	18	46
Riverwalk Commons	Family Rental	2	2	4
Fortune Square	Family Rental	3	3	6
Brownstones / Yellowbrook	Family for Sale	2	0	2
Azalea Gardens	Family for Sale	2	0	2
Cedar Crossing	Family for Sale	36	0	36
Collaborative Support	Special Needs	3	0	3
Overall Totals		76	23	99

A copy of the Borough's Third Round Final Judgment of Compliance, approving of the Prior Round and Third Round Fair Share Plans can be found in Appendix A-2.

FAMILY RENTAL PROJECTS

176 Riverside Redevelopment: 28 credits + 18 rental bonus credits

Block 3, Lots 2.01, 4.01, 6, 7.01, 9.01

176 Riverside Avenue

Status: Under construction

A Redevelopment Plan for the properties located between Bodman Place, Riverside Avenue, and NJ State Route 35 in the northernmost portion of the Borough, was approved by the Borough Council on December 12, 2018, and a site plan application was approved by the Planning Board in December of 2019. This Plan permits a residential development above ground floor commercial space at a maximum density of 70 dwelling units per acre, with the potential for bonuses to generate a maximum density of 90 dwelling units per acre. As per the Settlement Agreement with Fair Share Housing Center, this site will provide a minimum of 189 total units, with at least 28 affordable family rental units or 15 percent of the total number of units provided, whichever is greater. A minimum of 13 percent of the affordable units will be affordable to very low-income households.

The project is currently under construction. 28 family rental credits are applied to the Third Round RDP.

Riverwalk Commons: 2 credits + 2 bonus credits

Block 29, Lot 5.01

Mechanic Street

Status: Completed

The Riverwalk Commons project was approved in 2012 and is presently under construction at 24 Mechanic Street for the development of an apartment building with 24 rental units, of which two (2) will be affordable to low and moderate income families. These units are applied to the Borough's RDP obligation.

Fortune Square: 3 credits + 3 bonus credits

Block 75.01, Lot 86

Drs James Parker Boulevard

Status: Completed

This project consists of 32 rental units, inclusive of three (3) affordable family rental units, on Drs. James Parker Boulevard. These units are applied to the Borough's RDP obligation. The project is completed and occupied.

FAMILY FOR SALE

Brownstones / Yellowbrook

Block 75.03, Lots 46, 47, 48.01, 53, 54.01, 56

Catherine Street

Status: Completed

This project received site plan approval on September 7, 2017 for the construction of 22 townhouses, including two (2) affordable units. Located between Catherine Street and River Street, the project will contribute two (2) family-for-sale units to the RDP.

Azalea Gardens

Block 58, Lots 1, 2, 3, 4, 5, 6

Clay Street

Status: Under Construction

This project received site plan approval on September 7, 2017 for the construction of 22 townhouses, including two (2) affordable units. Located between Catherine Street and River Street, the project will contribute two (2) family-for-sale units to the RDP. The project is currently under construction.

A copy of the Affordable Housing Plan for this project can be found Appendix E.1

Cedar Crossing

Block 75.01, Lots 83-85; Block 75.03, Lots 50.01, 69

Cedar Street

Status: Completed

This project is a 100% affordable family for sale project of 36 townhouse units that was completed on Cedar Street and occupied in 2013.

SUPPORTIVE / SPECIAL NEEDS HOUSING

Collaborative Support Programs of NJ

Block 23, Lot 2

Spring Street

Status: Completed

This group home, located on Spring Street, has existed since 1998 and provides three (3) bedrooms for very low-income special needs individuals. These units are applied to the Borough's RDP obligation.

ADDITIONAL COMPLIANCE MECHANISMS

Mandatory Set-Aside Ordinance

As a mechanism to address unmet need and in accordance with the Settlement Agreement with Fair Share Housing Center, the Borough adopted a mandatory affordable housing set-aside ordinance for all new construction of multifamily residential developments as set forth below:

Total Number of Units	Minimum Percentage of Affordable Units
10 and under	None
11-25	10%
26-150	15%
151-215	17.5%
216 and over	20%

Developers of ten (10) units and under will be required to pay the Borough's development fee. Developers of 11 units and above will be required to provide at least 70% of the units required, on site and will have the option to satisfy the remaining obligation with either (a) off-site affordable units OR (b) a Payment In Lieu of such units in accordance with N.J.A.C. 5:93-8.10(c) and N.J.A.C 5:97-6.4(c)3, provided that the Borough will only accept a Payment in Lieu if at the time of application the applicant can demonstrate that the Payment in Lieu will create an equivalent number of new construction or gut rehabilitation affordable units to those that would have been provided on site, which off-site or payment in lieu units, when combined with the on-site units, shall be consistent with the bedroom distribution, very-low-/low-/moderate-income split and all other terms of the Settlement Agreement.

The Borough also agreed as a part of the Settlement Agreement in tandem with the sliding scale mandatory set aside ordinance described above, that the former affordable housing overlay districts would not be "down-zoned" in anyway. Under this requirement the Borough would not reduce the permitted residential density or the maximum building height on any properties that are located in what was previously the affordable housing overlay districts, to ensure that appropriate incentives are in place for encouraging inclusionary multi-family construction in the Borough.

Fourth Round Obligation

Red Bank has a Fourth Round prospective need (new construction) obligation of 154 affordable housing units. Through another Vacant Land Adjustment, the Borough has identified that it has virtually no vacant or publicly owned lands of a size sufficient to realistically produce affordable housing. A Realistic Development Potential of 1 has been determined. However, the Borough does propose sufficient affordable housing units to satisfy nearly its entire 154 unit obligation through proposed redevelopment projects even though it may be entitled to a Vacant Land Adjustment to a Realistic Development of just one unit based on vacant and available land. 143 total affordable units are proposed for the Fourth Round.

The Borough must meet the following minimum and maximum requirements in addressing the 1 unit obligation, in accordance with N.J.A.C.52:27D-311.I., for the purposes of this Plan, the requirements are being applied to the total number of actual units proposed rather than only the 1 unit RDP.

- **Low/Moderate Income Split:** at least fifty percent (50%) of the actual units shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - $143 \text{ total units} \times 0.5 = 71.5 \text{ (72)}$
 - A minimum of 72 units must be affordable to low income households.
- **Very Low Income Units:** Thirteen percent (13%) of all affordable units must be affordable to very low income households, with half of the very-low-income units being available to families.
 - $143 \times 0.13 = 18.59 \text{ (19)}$
 - A minimum of 19 of the units to be constructed must be available to very low income households.
- **Family Units:** A minimum of fifty percent (50%) of the actual units must be non-age restricted affordable units available to families.
 - $143 \times 0.5 = 71.5 \text{ (72)}$
 - A minimum of 72 units must be available to families.
- **Rental Units:** At least twenty-five percent (25%) of the actual units to be constructed shall be met through rental units, including at least half in non-age-restricted rental units available to families.
 - $143 \times 0.25 = 35.75 \text{ (36)}$
 - A minimum of 36 units must be rental units, and at least 20 of those units must be non-age-restricted units that are available to families.
- **Age Restricted Units:** A maximum of 30 percent (25%) of the Borough's credits can be from age-restricted senior units.

- $143 \times 0.3 = 42.9$ (42)
 - The Borough may claim a maximum of 42 credits from age-restricted senior units.
- **Bonus Credits:** The Borough may claim bonus credits for a maximum of 25% of the RDP obligation.
 - $1 \times 0.25 = 0.25$
 - No bonus credits are available to the Borough for the Fourth Round. Although we note that many proposed Fourth Round projects would otherwise be eligible for bonus credits.

Fourth Round Compliance Mechanisms

Red Bank has a Fourth Round Prospective Need obligation of 154 affordable credits.

The Borough proposes to satisfy its 154 unit obligation and 1 unit RDP through the following projects:

Fourth Round Credits				
Project	Type of Unit	Units	Bonus	Total
Locust Landing	Family Rental	40	20	40
Globe Court	Family Rental	6	0	6
The Vista	Family Rental	5	0	5
121 Monmouth	Family Rental	7	0	7
THRIVE Red Bank	Special Needs	5	0	5
Rail North/South Redevelopment	Family Rental	80	0	80
Overall Totals		143	0	143

FAMILY RENTAL

Locust Landing: 40 credits

Block 71, Lot 1.01

Locust Lane

Status: Proposed

The Locust Landing project is a 100% affordable project discussed above as a Prior Round credit mechanism is due to have the affordability controls on the 40 existing units expire soon. The Borough proposes to extend the expiring controls on all 40 of these affordable family rental units for an additional 40 years, and will claim credit for doing so. To provide financial assistance to the project, the Borough will extend the current PILOT on the property and reduce the level of payments from the property to help allow for the project to be elevated above the Flood Hazard Area and finance needed renovations to the project.

The Borough is currently in discussions with the property owners on permitting the project and ensuring that these family rental units remain affordable for an additional generation.

All of the units will remain priced at 50% of Area Median Income, as low income family rental units.

A copy of the development proposal and site plan for this project can be found in Appendix E.2.

Globe Court: 6 credits

Block 28, Lot 4

Mechanic Street

Status: Proposed

Globe Court is an inclusionary affordable family rental project that will include 6 affordable units, two of which will be located off-site. The affordable units include 1 very low income 2-bedroom unit,

1 low income 1-bedroom unit, 1 low income 2-bedroom unit, 2 moderate income 2-bedroom units, and 1 moderate income 3-bedroom unit. The two off-site units are proposed for the following locations:

- 54 Chapin Ave – 3 bedroom house
- 27 Wall Street #25 – Two bedroom house

A copy of the affordable housing plan for the project can be found in Appendix E.3.

Park Valley / The Vista: 5 credits

Block 33, Lot 9.01

120 Monmouth Street

Status: Approved

This inclusionary project was approved by the Zoning Board in 2021 to include 5 on-site affordable units as a part of a mixed use development of retail space on the ground level and 32 total apartments above.

A copy of resolution of approval for the project can be found in Appendix E.4.

121 Monmouth Street: 6 credits

Block 42, Lots 7, 8, 9, 10, 11.01

121 Monmouth Street

Status: Proposed

This project is a proposed 45-unit mixed use project that will consist of retail space, office space, and apartments above the commercial spaces and a parking level. Seven (7) total affordable units are proposed along with this project, with one of them being located in an off-site house adjacent to the site. The project will include 1 very low income 1-bedroom unit, 3 low income 2-bedroom units, 2 moderate income 2-bedroom units, and 1 moderate income 3-bedroom unit. The off-site unit will be located at 36 Oakland Street.

A copy of the affordable housing plan for the project can be found in Appendix E.5

The Rail North & South Redevelopment: 80 credits

Block 41, Lots 1-7; Block 63, Lots 5-7.01; Block 75, Lots 104, 171, 172, 177, 178; Block 75.02, Lots 169, 170.01; Block 75.05, Lot 16.01; Block 75.06, Lots 7 and 8.01

Monmouth Street & West Street

Status: Proposed

A proposed redevelopment project immediately east of the Red Bank Train Station proposes a total of 400 apartments above retail space in a mixed use transit oriented development. The developer, Denholtz Properties, constructed a similar project on the west side of the train station. With 400 total units proposed and with a 20% set-aside, this would yield 80 affordable units. The project will include the appropriate income and bedroom distribution in accordance with UHAC requirements.

A draft of the concept plan for this project can be found in Appendix E.6

SUPPORTIVE / SPECIAL NEEDS HOUSING

THRIVE Red Bank: 5 credits

Block 77, Lot 1

273 Shrewsbury Avenue

Status: Proposed

THRIVE RB, a developer for special needs housing, has approached the Borough with a conceptual plan to provide a mixed-income inclusionary special needs project. The concept plan proposes up to 32 apartments in a new building on the corner of Shrewsbury Avenue and Dr James Parker Boulevard, and would include at least 5 of those apartments as one-bedroom units to serve adults with developmental disabilities.

A copy of the affordable housing plan and MOU for the project can be found in Appendix E.7.

SITES FOR FUTURE CONSIDERATION

Block 115, Lots 1.01, 7, 8, 9

303 Broad Street

Status: Proposed

A developer has approached the Borough with a concept plan to redevelop the 4.1 acre site on the corner of Broad Street and Bergen Place with a development that would consist of townhouse and stacked flat dwelling units. A 20% set aside of affordable units would be included.

This project has only been recently proposed at this time and likely would require a rezoning of the site to accommodate the proposal. The Borough is in the process of vetting the project and will consider the feasibility and suitability of new multi-family housing on the site.

Summary of Fair Share Plan

PRIOR ROUND SUMMARY

The Borough has a requirement of 427 unit obligation for the Prior Round, which was adjusted to a RDP of 0.

- **Age Restricted Units**: The following age-restricted projects are being credited to the Borough's Prior Round unmet need obligation:
 - River Street School – 51 units
 - Wesleyan Arms – 60 units
 - Total senior units – 111 credits
- **Rental Units**: The following rental projects are being credited to the Prior Round:
 - Locust Landing – 6 units
 - MW at Red Bank / Westside Lofts – 10 units
 - The Standard – 2 units
 - Denholtz / The Rail – 9 units
 - Oakland Square – 12 units
 - Tudor Village – 1 unit
 - River Street School – 51 units (senior)
 - Wesleyan Arms – 60 units (senior)
 - Total Rental Credits = 151 credits
- **Rental Bonus Credits**: No bonus credits are being claimed by the Borough for the Prior Round as all credits are towards unmet need.

A map of all prior round projects can be found in Appendix D-1.

THIRD ROUND SUMMARY

The Borough has a Third Round obligation of 313 units, which has been reduced to a RDP of 92 units.

- **Age Restricted Units:** A maximum of 23 credits can come from age restricted units. No senior or age restricted units are being credited towards the Third Round RDP.
- **Family Units:** A minimum of 46 units must be available to families. The following projects are family units:
 - 176 Riverside – 28 units
 - Riverwalk Commons – 2 units
 - Fortune Square – 3 units
 - Brownstones / Yellowbrook – 2 units
 - Azalea Gardens – 2 units
 - Cedar Crossing – 36 units
 - Total family units = 73 units
- **Rental Units:** A minimum of 23 rental units must be provided, with at least half of those (12) available to families. The following projects are rental units.
 - 176 Riverside – 28 units
 - Riverwalk Commons – 2 units
 - Fortune Square – 3 units
 - Collaborative Support of NJ – 3 units
 - The Borough is claiming 36 rental units, with 33 of those being available to families.
- **Rental Bonus Credits:** The Borough may claim a maximum of 23 bonus credits from rental units. The following rental projects will be claimed for bonus credits:
 - 176 Riverside – 18 units
 - Riverwalk Commons – 2 units
 - Fortune Square – 3 units
 - Total Bonus Credits – 23

A map of all Third Round projects can be found in Appendix D-2.

FOURTH ROUND SUMMARY

The Borough has Fourth Round prospective need obligation of 154 credits, which has been reduced to a 1 unit RDP. With a 1 unit RDP, all but one credit proposed will go to satisfy the unmet need. Of the 143 units proposed through projects for the Fourth Round, the following minimum and maximum requirements would apply based on the total number of affordable units counted as a part of this plan:

- **Low/Moderate Income Split:** At least 72 units must be available to low income households, with at least 21 units available to very low income households.
 - The Locus Landing project is 40 low income rental units.
 - All proposed projects will include the required income and bedroom distribution with at least half of the units being available to low income households and 13 percent set aside specifically for very low income households.
- **Age Restricted Units:** No age-restricted units are being claimed towards the Fourth Round.
- **Family Units:** At least 72 units must be available to families with children. The following units will be available to families with children:
 - Locust Landing Extensions: 40 units
 - Globe Court: 6 units
 - The Vista: 5 units
 - 121 Monmouth: 7 units
 - Station North/South Redevelopment: 80 units
 - In total, this Plan proposes as much as 138 affordable units available to families with children.
- **Rental Units:** The Borough must provide a minimum of 36 rental units, including half of those (18) being available to families. The following housing units are proposed as rental credits:
 - Locust Landing Extensions: 40 units (family)
 - Globe Court: 6 units (family)
 - The Vista: 5 units (family)
 - 121 Monmouth: 7 units (family)
 - Station North/South Redevelopment: 80 units (family)
 - THRIVE Red Bank: 5 units (special needs)
 - Total Rental Units: 63 (58 family units)
- **Bonus Credits:** No bonus credits are being claimed by the Borough towards its Fourth Round obligation.

A map of all Fourth Round housing projects can be found in Appendix D-3.

AFFORDABLE HOUSING ADMINISTRATION

Affordable Housing Ordinances

Through the Borough's Zoning Ordinance, Red Bank provides requirements and standards for low and moderate income housing consistent with the requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC).

If necessary, the Borough will prepare and adopt any comprehensive amendments to the Affordable Housing ordinances to ensure that all current and proposed affordable housing projects are compliant with the requirements for affirmative marketing, administration, income and bedroom distribution, monitoring of projects, and reporting, in accordance with the Fair Housing Act and the UHAC.

The Borough has also adopted a development fee ordinance that requires all non-residential developments and residential developments that do not provide affordable housing to make a contribution to the Borough's Affordable Housing Trust Fund at the time of construction and occupancy of new developments.

Affordable Housing Trust Fund

The Borough currently collects development fees from both residential and non-residential projects that are deposited into an interest bearing account. All funds collected from these fees will be spent on projects that will support affordable housing within the Borough, as identified in this Housing Plan Element and in a Spending Plan.

The AHTF Spending Plan is intended to demonstrate commitment of the funds in the Affordable Housing Trust Fund within four years of the date of collection as required by P.L. 2008 c.46, and to outline the Borough's plan to utilize the funds in support of proposed and existing affordable housing within the Borough. The adopted spending plans and the draft Updated Spending Plan provides a specific plan for the expenditure of the monies collected as of December 31, 2024 and also for anticipated revenue during the Fourth Round through 2035.

Revenues from the AHTF will be used to fund housing programs, affordability assistance, and administrative costs.

The Spending Plan will be amended as needed to respond to emerging opportunities and to adjust for unanticipated revenues or shortfalls.

A draft of the Spending Plan is provided in Appendix C.3.

Municipal Housing Liaison

The Borough has appointed the Director of Community Development as the municipal housing liaison.

See Appendix C.1.

Administrative Agent

The Borough has appointed the Director of Community Development as the administrative agent for administering affordable housing programs.

See Appendix C.2

Several existing projects are administered independently by qualified administrative agents.

The administrative agent will be responsible for ensuring that all affordable housing units in the Borough are affirmatively marketed and either sold or leased to income-qualified households of the appropriate size in accordance with all UHAC and other applicable regulations.

Income Levels

Red Bank Borough is in COAH's Region 4, which includes Mercer, Monmouth, and Ocean counties. Moderate-income households are those earning between 50% and 80% of the regional median income. Low-income households are those with annual incomes that are between 30% and 50% of the regional median income. Very-low income households are a subset of "low income" households, and are defined as households earning 30% or less of the regional median income.

APPENDICES

- A. Prior Compliance Documents
 - 1. Settlement Agreement with Fair Share Housing Center
 - 2. Third Round Final Judgement of Compliance
- B. Fourth Round Obligations
 - 1. Resolution 25-23 Establishing Fourth Round Obligations
 - 2. Vacant Land Adjustment Report
- C. Administrative Documents
 - 1. Resolution Appointing Municipal Housing Liaison
 - 2. Resolution Appointing Administrative Agent
 - 3. DRAFT Affordable Housing Trust Fund Spending Plan
- D. Affordable Housing Maps
 - 1. Prior Round Projects
 - 2. Third Round Projects
 - 3. Fourth Round Projects
- E. Crediting Documents
 - 1. Azalea Gardens Affordable Housing Plan
 - 2. Locust Landing Development Proposal
 - 3. Globe Court Affordable Housing Plan
 - 4. Park Valley Affordable Housing Plan
 - 5. 121 Monmouth Affordable Housing Plan
 - 6. Train Station Redevelopment Plan
 - 7. THRIVE Affordable Housing Plan

APPENDIX A-1

Settlement Agreement with Fair Share Housing Center



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January 23, 2019
Amended March 13, 2019

Leslie G. London, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

**Re: In the Matter of the Application of the Borough of Red Bank, County
of Monmouth, Docket No. MON-L-2540-15**

Dear Ms. London:

This letter memorializes the terms of an agreement reached between the Borough of Red Bank (the Borough or "Red Bank"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Red Bank filed the above-captioned matter on July 8, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Borough and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

This Amended Settlement Agreement, which is identical to the January 23, 2019 Settlement Agreement approved by the Borough on January 23, 2019, except for changes to Paragraph 6, supercedes the Settlement Agreement approved on January 23, 2019 in its entirety.

Settlement terms

The Borough and FSHC hereby agree to the following terms:

1. FSHC agrees that the Borough, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).
2. FSHC and the Borough agree that this Agreement supersedes in its entirety the Agreement made between FSHC and the Borough dated October 6, 2010, which Agreement was based on COAH's now-invalidated growth share regulations.

3. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.
4. FSHC and Red Bank hereby agree that Red Bank's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report ¹)	129
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	427
Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through this Agreement)	313

5. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
6. The Borough's efforts to meet its present need include the following:
 - a. The Red Bank Housing Authority is exploring the potential for rehabilitation and/or reconstruction of Montgomery Terrace (40 Family) and Evergreen Terrace (50 Age Restricted). The Borough acknowledges that there are substantial rehabilitation needs for these units. If the Borough provides documents in collaboration with the Housing Authority demonstrating a realistic opportunity for the rehabilitation and/or reconstruction of some or all of these units during the Third Round in accordance with all applicable laws including but not limited to Section 3 of the federal Housing and Urban Development Act of 1968 and otherwise consistent with the terms of this Agreement by the midpoint review of July 1, 2020 as part of the process outlined in paragraph 22(a) of this Agreement, it may use that number of units as credits towards the Borough's present need and reduce the obligation for the Borough's Rehabilitation Program referenced in subparagraph (b) below accordingly. Regardless of whether the Borough pursues this option, as part of the annual reporting referenced in paragraph 21 of this Agreement, the Borough will provide a status update of the Borough and Housing Authority's efforts to rehabilitate and/or reconstruct Montgomery Terrace and Evergreen Terrace.
 - b. The Borough has a total rehabilitation obligation of 129 units. The Borough's rehabilitation obligation will be addressed through the Borough's Rehabilitation Program, which will be reactivated as part of this Agreement either through an in-house program or contracting with a qualified outside entity, with that decision to be made during the compliance phase of this matter. The Rehabilitation Program will provide assistance to rehabilitate substandard housing units in the Borough that are occupied by low and moderate income households, both renter-occupied and owner-occupied. The Program will be funded through development fees and other available grants and funding sources for such programs, and will be administered by the Borough, either in-house or through an outside administrative agent or other qualified entity. The operation and funding of

¹ David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

the program shall provide for sufficient funding for the rehabilitation program based on an average cost of at least \$10,000 (inclusive of 20% administrative cost) per unit and based on the administrator's analysis of the cost needed to administer a rehabilitation program compliant with applicable COAH regulations and addressing the rehabilitation needs and costs to address those needs in the Red Bank housing stock. The operation and funding will be more fully demonstrated through documents to be provided during the compliance phase of this litigation, including a Rehabilitation Program manual, spending plan, description of who will administer the program including entrance into a contract with an outside entity by the time of final compliance or demonstration of a mechanism for in-house administration in conformance with the requirements of N.J.A.C. 5:93-4.2, and the passage of a resolution committing to supplemental municipal funding sources such as bonding if required to supplement the municipal Affordable Housing Trust Fund for this program. The Borough will phase in the program over the remainder of the Third Round period with roughly 22 units rehabilitated each one year period from July 1, 2019 to June 30, 2025, which number may be reduced at the midpoint review based on the provisions regarding the Housing Authority units in subparagraph (a) of this paragraph.

7. The Borough has a Prior Round prospective need of 427 units. COAH granted Prior Round substantive certification to the Borough with a realistic development potential (RDP) of zero (0) units and 427 units of unmet need. The Borough has satisfied 163 units of unmet need through the following mechanisms. The remaining unmet need will be addressed as described further in paragraph 8.

Project	Affordable Units/Credits	Unit/Credit Type	Status
Locust Landing Block 84/Lot 70.02	6	Family Rental	Built
MW @ Red Bank, LLC (Westside Lofts) Blocks 35; 37; 38; 62/Lots 7, 6.01, 7, 8.01, 10, 10.01; 1; 8	10	Family Rental Apartments and Duplexes	Built
Popkin Block 36/Lot 8, 23.01-23.06	2	Family Rental Apartments	Site Plan Approval 1/3/19
Denholtz Block 63/Lot 1.01, 3, 4, 8, 9, 10, 10.01	9	Family Rental Apartments	Site Plan Approval 11/5/18
Oakland Square (RB Monmouth/RB West) Block 42/Lot 19.01	12	Family Rental/Community Residence	Nearing Completion
Tudor Village Apartments, LLC Block 103/Lot 13.20	1	Rental Apartments	Site Plan Approval 2/4/16
River Street School Block 74/Lot 5.02	51	Age-Restricted Rental	Built
Wesleyan Arms Block 33/Lots 6, 7, 8, 9.02	60	Age-Restricted Rental	Built
RW Rivers Edge Blocks 82; 83/Lots 17; 5, 6.01, 6.02	2	Family-for-Sale Townhomes	Built
Bergen Square Block 75.01/Lot 82.01	10	Family-for-Sale Townhomes	Built
Total Prior Round Credits	163	-	-
RDP Obligation	0	-	-
Unmet Need Obligation (Prior Round - RDP)	427	-	-
Remaining Unmet Need	264	-	-

8. The municipality, as calculated in Exhibit A, has a Third Round realistic development potential (RDP) of 92 units, with an unmet need of 221 units. That RDP will be satisfied as described in the following chart, with 7 credits in excess of RDP being applied to the unmet need:

1999-2025 Third Round Obligation			
55 West Front Street/West Front Street Partners, LLC Block 30/Lot 10.01	-	Payment-in-lieu	Site Plan Approval 3/20/17
Collaborative Support Programs of NJ Block 23/Lot 2	3	Supportive/Special Needs	1998
VNA Redevelopment Site Block 3/Lots 2.01, 4.01, 6, 7.01, 9.01	28	Family Rental	Proposed
Riverwalk Commons Block 29/Lots 5, 6, 7	2	Family Rental	Under Construction
Fortune Square Block 75.01/Lot 86	3	Family Rental	Under Construction
Brownstones (Yellowbrook/Mumford) Block 75.03/Lots 46, 47, 48.01, 53, 54.01, 56	2	Family Apartments For-Sale/Rental TBD	Under Construction
Cedar Crossing Blocks 75.01; 75.03/Lots 83, 84, 85; 50.01, 69	36	Family-for-Sale Townhomes	Built
Azalea Gardens (Ray Rap) Block 58/Lots 1, 2, 3, 4, 5, 6	2	Family-for-Sale Single-Family Homes	Site Plan Approval 8/3/17
Bonus Credits	23	-	-
Total Credits	99	-	-
RDP Obligation	92	-	-
Unmet Need Units	7	-	-
Unmet Need Obligation* (Third Round - RDP)	221	-	-
Remaining Unmet Need	214	-	-

The remaining unmet need of 214, and the remaining Prior Round unmet need of 264, shall be addressed through the following mechanisms:

The Borough shall maintain the underlying zoning in the areas covered by the AH-1 Overlay Zone, Train Station Overlay Zone, and Design District Overlay Zone permitting residential development at at least the densities specified in those zones in the Borough zoning code current as of the date of execution of this agreement provided that the set-aside provisions shall be revised to be in accordance with the following paragraph and other terms of this Agreement. A map and summary of these zones is provided as Exhibit B.

The Borough shall adopt an ordinance requiring a mandatory affordable housing set aside for all new multifamily residential developments of as set forth below:

Total number of Rental of Sale Units	Minimum Percentage of Affordable Units
10 and under	none
11-25	10%
26-150	15%
151-215	17.5%
216 and over	20%

Developers of 10 units and under will be required to pay the Borough's development fee. Developers of 11 units and above will be required to provide at least 70% of the units required, on site and will have the option to satisfy the remaining obligation with either (a) off-site affordable units OR (b) a Payment In Lieu of such units in accordance with N.J.A.C. 5:93-8.10(c) and N.J.A.C 5:97-6.4(c)3, provided that the Borough will only accept a Payment in Lieu if at the time of application the applicant can demonstrate that the Payment in Lieu will create an equivalent number of new construction or gut rehabilitation affordable units to those that would have been provided on site, which off-site or payment in lieu units, when combined with the on-site units, shall be consistent with the bedroom distribution, very-low-/low-/moderate-income split and all other terms of this Agreement. Off-site affordable units or units to be produced through a Payment in Lieu will be subject to the same phasing requirements in N.J.A.C. 5:93-5.6(d) as on-site units. All applicants for a development of 11 units and above in the Borough will be required to include an Affordable Housing Plan, the form of which shall be finalized by the Borough with the approval of FSHC prior to the final compliance hearing in this matter, as a stand alone document with their applications for any form of land use approval that details how these requirements will be met, and such plan, as may be modified during the land use review process consistent with the terms of this Agreement, shall be part of all approvals of development of 11 units or more in the Borough beginning with the date of the adoption of the ordinance.

The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of eleven or more. The form of the Ordinance shall be finalized prior to final judgment being issued in this matter through collaboration between FSHC, the Special Master, and representatives of the Borough. The Ordinance, beginning with the date of its adoption, shall supersede both the existing 20 percent set-aside ordinance adopted in response to COAH's Second Round substantive certification in §490-153 and the existing 11 percent growth-share ordinance adopted in response to COAH's Third Round rules in Chapter 205, Article II.

9. The Borough will provide a realistic opportunity for the development of affordable housing for the VNA Redevelopment Site through executing a redevelopment agreement with the redeveloper of that site within the time period specified in paragraph 18 which provides for a minimum of 189 total units including on-site family rental affordable units totaling 28, or 15 percent of the total number of units built on the site, whichever is greater, and otherwise in compliance with the terms of this agreement. The mandatory affordable housing set aside ordinance provided for in paragraph 8 shall not apply to the VNA Redevelopment Site which shall instead be governed by the terms of this paragraph. The Borough shall also maintain existing inclusionary zoning on the sites and zones specified in paragraphs 7 and 8.
10. The Borough will provide a realistic opportunity for the development of additional affordable housing that will be developed or created through means other than inclusionary zoning through the projects referenced in paragraph 6 to meet the Borough's present need obligation. The Borough also will develop a first time home ownership assistance program to provide an opportunity for home ownership in the Borough to at least 50 low and moderate income households by 2025. The program will be funded with development fees collected by the Borough, and the properties involved will be deed restricted. This program will be described in detail as part of the Borough's Housing Element and Fair Share Plan and Spending Plan.

In accordance with N.J.A.C. 5:93-5.5, the Borough recognizes that it must provide evidence that the municipality has adequate and stable funding for any non-inclusionary affordable housing developments. The municipality is required to provide a pro forma of both total development costs and sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending. In the case where an application for outside funding is still pending, the municipality shall provide a stable alternative source, such as municipal bonding, in the event that the funding request is not approved. The Borough will describe how it meets the obligation for the projects referenced in this paragraph as part of its Housing Element and Fair Share Plan.

In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary developments, a construction or implementation schedule, or timetable, shall be submitted for each step in the development process: including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contractor and construction. The schedule shall provide for construction to begin within two years of court approval of this settlement. The municipality shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. The Borough will describe how it meets the obligation for the projects referenced in this paragraph as part of its Housing Element and Fair Share Plan.

11. The Borough agrees to require 13% of all affordable units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The Borough will describe how it will comply with these requirements as part of its Housing Element and Fair Share Plan, including but not limited to requiring that 13% of all affordable units at the VNA site be very low income family units.
12. The Borough shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above:
 - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
 - b. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - c. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.
 - d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
 - e. The Borough agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.

13. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, and the Trenton, Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch Branches of the NAACP, the Red Bank Affordable Housing Corporation, Pilgrim Baptist Church, Shiloh Baptist Church, and the Supportive Housing Association, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
14. The Borough agrees to contract with a qualified entity, as soon as practicable but not later than 60 days after the fairness hearing in this matter, in accordance with applicable law, to serve as the Borough-wide administrative agent, to among other things, assist the Borough with its Rehabilitation Program. The administrative agent once contracted with will be responsible for performing the duties specified by N.J.A.C. 5:80-26.14 for all affordable units in the Borough with the exception of units for which contractual agreements exist prior to the date of hiring of the administrative agent for other entities to serve as administrative agents or which are otherwise required to provide affirmative marketing by law.
15. The Borough Administrator and any other Borough staff that he or she may designate agrees to meet regularly, but no less than quarterly, with the Red Bank Affordable Housing Corporation (RBAHC) to update and advise the RBAHC on the status of actions of the Borough in furtherance of this Agreement, and to solicit input regarding housing issues in the Borough. The Borough also agrees to include the RBAHC, the Greater Red Bank Branch of the NAACP, and FSHC on all applicable service and/or distribution lists for notice regarding Borough resolutions, ordinances and other actions that may come before Borough Council or any Borough Board or Agency, that involves housing and housing related issues and the imposition of affordable housing obligations or requirements on Borough projects, including but not limited to providing copies within 10 days to these organizations of any Affordable Housing Plan filed with a development application pursuant to paragraph 11 of this Agreement and any approved Affordable Housing Plan pursuant to paragraph 11 of this Agreement.
16. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Borough as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:

- a. Regional income limits shall be established for the region that the Borough is located within (i.e. Region 4) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
 - b. The income limits attached hereto as Exhibit C are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2018, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
 - d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.
17. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
 18. As an essential term of this Agreement, within one hundred and twenty (120) days of Court's approval of this Agreement, the Borough shall introduce and adopt an ordinance or ordinances providing for the amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.
 19. The parties agree that if a decision of a court of competent jurisdiction in Monmouth County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Borough may seek to amend the judgment in this

matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Borough shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms to address unmet need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Borough's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its prospective need for the Third Round, the Borough may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

20. The Borough shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the execution of this Agreement, which shall be established by the date on which it is executed by a representative of the Borough, and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
21. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
22. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection provided in this Agreement. The Borough agrees to comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality,

with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.

- b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
23. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
 24. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
 25. The Borough agrees to pay FSHC's attorneys fees and costs in the amount of \$7,500 within ten (10) days of the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing.
 26. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
 27. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Monmouth County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.

28. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
29. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
30. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
31. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
32. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
33. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
34. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
35. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
36. No member, official or employee of the Borough shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
37. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
38. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as

follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC:

Adam M. Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE BOROUGH:

Leslie G. London, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

Telecopier: (973) 622-7333
Email: llondon@msbnj.com

**WITH A COPY TO THE
MUNICIPAL CLERK:**

Pamela Borghi, RMC
90 Monmouth Street
Red Bank, New Jersey 07701

Telecopier: (732) 450-9109
Email: pborghi@redbanknj.org

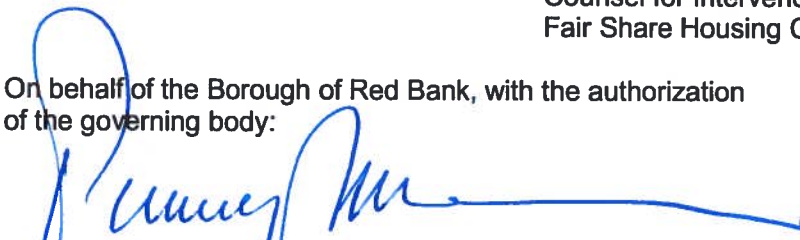
Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

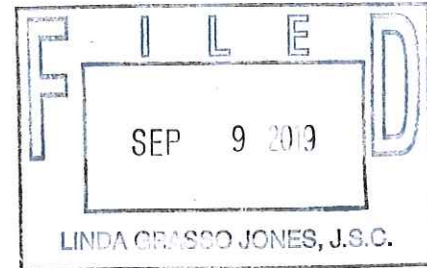
On behalf of the Borough of Red Bank, with the authorization
of the governing body:


PASQUALE MENZA, MAYOR
Dated: 3/13/2019

APPENDIX A-2

Third Round Final Judgment of Compliance

Leslie G. London, Esq.
McMANIMON, SCOTLAND & BAUMANN, L.L.C.
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068
(973) 622-1800
Attorneys for Plaintiff/Petitioner,
Borough of Red Bank
Attorney Identification No. 020801988



IN THE MATTER OF THE
APPLICATION OF THE BOROUGH OF
RED BANK FOR A DETERMINATION
OF MOUNT LAUREL COMPLIANCE

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY

DOCKET NO.: **MON-L- 2540-15**
Civil Case
(*Mount Laurel*)

**FINAL THIRD ROUND JUDGMENT OF
COMPLIANCE AND REPOSE**

THIS MATTER, having come before the Court by McManimon Scotland & Baumann, LLC (Leslie G. London, Esq. appearing), attorneys for Petitioner Borough of Red Bank (the "Borough"), via a Declaratory Judgment Complaint to have the Court determine the Borough's fair share affordable housing obligation, to permit the Borough time to adopt a compliance plan and for temporary immunity from builder's remedy litigation pending the Declaratory Judgment action in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 2015 ("Mt. Laurel IV"); and the Court having appointed Frank J. Banisch, III, PP, AICP, as the Special Court Master; and Fair Share Housing Center ("FSHC") (Josh Bauers, Esq. appearing) having participated in the Declaratory Judgment action as an interested party; and the Borough and Fair Share Housing Center having entered into an Amended Settlement Agreement dated March 13, 2019 (the "Settlement Agreement"); and the Court having scheduled a Fairness and Preliminary Compliance Hearing (the "Fairness Hearing") on May 29, 2019 to consider approval of the Amended Settlement Agreement, and to determine whether the settlement is fair, reasonable and

adequately protects the interest of very low, low and moderate income households, and the Borough having provided proper public and actual notice of the Fairness Hearing; and the Special Court Master, Frank Banisch, PP, AICP having issued a report to the Court dated May 22, 2019 recommending that the Court approve the Amended Settlement Agreement subject to certain terms and conditions; and the Court having conducted a Fairness Hearing on May 29, 2019 and having considered the testimony of Peter Van den Kooy, PP, AICP and the Special Court Master; and the Court having found and determined pursuant to the judicial standards prescribed by the Appellate Division in East/West Venture v. Bor. Of Fort Lee, 289 N.J. Super. 311 (App. Div. 1996) and in Morris County Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div. 1984), *affd o.b.* 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), and through analysis of the Settlement Agreement and on the basis of the testimony taken during the Fairness Hearing conducted on May 29, 2019, entered an Order Approving Amended Settlement Agreement and Fixing Date for Rescheduled Final Hearing for Third Round Judgment of Compliance and Repose dated July 19, 2019, approving the Amended Settlement Agreement and finding it is fair, reasonable and adequately protects the interests of very low, low and moderate-income households and the mechanisms by which the Borough will meet its Prior and Third Round affordable housing obligation subject to the conditions imposed by the Special Master's Report dated May 22, 2019; and the Court having conducted a Final Compliance Hearing on August 22, 2019 and having considered the submissions of the Borough regarding public notice and in response to the conditions imposed in the Special Master's Report dated May 22, 2019, the subsequent Final Report of the Special Court Master dated August 14, 2019, a copy of which is attached hereto as Exhibit A, and the testimony of the Special Court Master; and it appearing to

the Court that the Borough has satisfied the conditions imposed by the July 19, 2019 Order Approving Amended Settlement Agreement and Fixing Date for Rescheduled Final Hearing for Third Round Judgment of Compliance and Repose, including but not limited to the adoption of a Housing Element and Fair Share Plan, the adoption of an Affordable Housing Ordinance, and affordable housing development overlay zoning amendments; and for the reasons set forth on the record on August 22, 2019; and for good cause having been shown;

IT IS on this 9th day of ~~August~~ ^{September}, 2019;

ORDERED, as follows:

1. The Borough has provided sufficient notice of the Final Compliance Hearing to the public and all interested parties; and
2. The Borough's Housing Element and Fair Share Plan is hereby approved, and the Borough is granted a Final Third Round Judgment of Compliance and Repose pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., applicable Council on Affordable Housing ("COAH") substantive regulations, and the Mt. Laurel case law, including Mt. Laurel IV; and
3. The Borough's Judgment of Compliance and Repose shall remain in effect for ten (10) years, commencing on July 1, 2015 and ending on July 1, 2025 during which time the Borough shall have complete immunity and repose from any and all Mt. Laurel lawsuits, including "builder remedy" lawsuits, "constitutional compliance actions", and any other lawsuit brought under Mt. Laurel principles except for actions brought to enforce the terms of this Order or the Settlement Agreement; and
4. The Borough's Rehabilitation obligation is 129, the Borough's Prior Round Obligation (1987-1999) is 427 and the Borough's Gap + Prospective Need Obligation (1999 – 2025) is 313.

5. The Borough is entitled to a Vacant Land Adjustment with a Realistic Development Potential ("RDP") of 92 units for both the Prior Round and Third Round. The Borough's RDP shall not be revisited by FSHC or any other interested party absent a substantial changed circumstance and, if such a change in circumstances occurs either with the RDP or the remaining portion of its allocation of the Round 3 regional need, the Borough shall have the express right to address the issue without any negative impact on its immunity from all Mt. Laurel lawsuits or from any related litigation claiming that the RDP should be increased in accordance with the terms of the Settlement Agreement.
6. The Borough's unmet need for both the Prior and Third Round is 478 units which has been addressed through the adoption of affordable housing development overlay zoning amendments.
7. Counsel for the Borough shall provide copies of this Order to all counsel of record, the Special Court Master and the Service List within seven (7) days of the date hereof.
8. The Court retains jurisdiction over this matter solely for purposes of enforcement of this Judgment of Compliance and Repose and the Amended Settlement Agreement by and between the Borough and Fair Share Housing Center dated March 13, 2019.



Linda Grasso Jones, J.S.C.

EXHIBIT A
REPORT OF SPECIAL COURT MASTER DATED AUGUST 14, 2019

B A N I S C H
A S S O C I A T E S , I N C .

Planning and Design

August 14, 2019

(via e-mail and regular mail)

The Honorable Linda Grasso Jones, J.S.C.
Monmouth County Superior Court
71 Monument Park
Freehold, New Jersey 07728

Subject: In the matter of the of the Borough of Red Bank, County of Monmouth
Docket No. MON-L-2540-15

Dear Judge Jones:

In my May 22, 2019 report to the Honorable Jamie Perri, I recommended that the Court approve the Settlement Agreement between the Borough of Red Bank and Fair Share Housing Center. I also advised that Red Bank would be eligible for a Judgment of Compliance and Repose, when the conditions found in my report and the May 22, 2019 Settlement Agreement were satisfied.

1. The proposals contained in Tables 1 and 2 and the applicable terms of the executed Settlement with FSHC shall be referenced in the Housing Element and Fair Share Plan.

The Housing Element and Fair Share Plan adopted on April 15, 2019 references all the terms of the executed settlement.

The HE/FSP shall be prepared according to the requirements of the Fair Housing Act (FHA), which identifies the "Essential components of the municipality's housing element" at N.J.S.A. 52:27D-310.

The HE/FSP was prepared in accordance with the FHA.

2. The Fair Share Plan document should include any proposed Ordinances and Resolutions needed to implement the Plan, including zoning amendments, an Affordable Housing Ordinance, a Development Fee Ordinance, an Affirmative Marketing Plan, a Rehabilitation Program description and Manual, a Spending Plan, resolutions appointing an Administrative Agent and a Municipal Affordable Housing Liaison, a resolution adopting the Housing Element and Fair Share Plan (Planning Board) and a resolution endorsing the Housing Element and Fair Share Plan (Governing Body).

The following documents have been adopted to address this requirement:

- Resolution 2019-12 adopting the Housing Element and Fair Share Plan, adopted April 15, 2019

111 Main Street, Flemington, NJ 08822

908-782-0835/908-782-7636(fax) banisch@banisch.com

- Resolution 19-128 Borough Council endorsing the Housing Element and Fair Share Plan, adopted May 8, 2019
- Ordinance 2019-18, Affordable Housing Ordinance, adopted April 24, 2019
- Ordinance 2019-18, Affordable Housing Ordinance, which includes the Mandatory Set-Aside Ordinance, April 24, 2019
- Resolution 19-131, Affirmative Marketing Plan approval resolution and Affirmative Marketing Plan, adopted May 8, 2019
- Resolution 18-277, appointing and Affordable Housing Administrative Agent and designating a Municipal Housing Liaison, adopted February 26, 2019
- Resolution 19-129, adopting the Spending Plan, adopted May 8, 2019 (*See comments below and Spending Plan*)
- Resolution 19-130, intent to bond in event of shortfall, adopted May 8, 2019
- Chapter 205. Affordable Housing, Article III Mandatory Affordable Housing Fees
- Ordinance 2019-19 removing the Affordable Housing Overlay District One in compliance with the settlement agreement, adopted April 24, 2019
- Affordable Housing Plan forms worksheet for mandatory set-aside
- Resolution 19-132, Operating Manual for rehabilitation program, adopted May 8, 2019
- Resolution 19-133, First-Time Homebuyer Program Manual, adopted May 9, 2019
- Certifications for existing units including Supportive and Special needs survey for Collaborative Support Programs of NJ and Mortgage notes/deeds for affordable housing sites

3. *The Spending Plan must be prepared, submitted to the Special Master for review and comment, adopted by the Planning Board as part of the Plan and by the Borough Council as a separate action and submitted to the Court for approval before the Borough will be permitted to expend any funds from its Affordable Housing Trust Fund.*

The May 2019 Spending Plan was adopted through Resolution 19-129. The majority of programmed funds will be utilized for the rehabilitation program, affordability assistance and a first-time homebuyer program. The Spending Plan conforms with minimum requirements for affordability assistance (30% of fees) and the plan will limit administrative expenses to 20% of the total of development fees collected through July 2025.

I note that \$69,361.95 has been expended for administrative costs through December 31, 2018, representing 29% of the funds generated. The Borough should assure that no more funds are used for administrative expenses until the collection of fees renders the Administrative share below the 20% cap. Going forward from that point, the Borough must adhere to the 20% cap, as outlined in the Spending Plan.

4. *All proposed inclusionary and 100 percent affordable housing development zoning amendments must be prepared, reviewed by the Special Master, and adopted and submitted to the Court prior to the entry of an Order granting a final Judgment of Compliance and Repose.*

- Ordinance 2019-18, Affordable Housing Ordinance, was adopted on April 24, 2019.

5. *The Borough will need to prepare and adopt an Affordable Housing Ordinance that reflects all provisions of the settlement agreement as well as applicable UHAC and COAH Rules.*

- Ordinance 2019-18, Affordable Housing Ordinance, includes the Mandatory Set-Aside Ordinance.

In addition, an Affirmative Marketing Plan Resolution consistent with the terms of the settlement agreement must be prepared and adopted.

- Resolution 19-131, Affirmative Marketing Plan approval resolution and Affirmative Marketing Plan, adopted May 8, 2019.

6. *If it has not done so already, the Borough will need to contract with one or more Administrative Agents.*

- Resolution 18-277, appoints an Affordable Housing Administrative Agent.

7. *If it has not done so already, the Borough will need to create the position of Municipal Housing Liaison.*

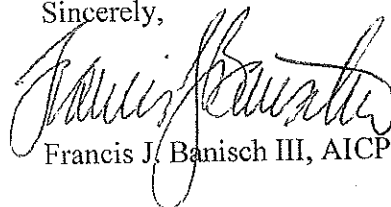
- Resolution 18-277 includes designation of the Municipal Housing Liaison.

8. *In addition to the above referenced conditions in my May 22, 2019 report, the Borough was directed to submit a crediting chart to be attached to the Order approving the Judgment of Compliance and Repose.*

- The Borough has submitted the attached crediting charts, identified as Prior Round Calculation and Third Round Calculation and dated July 15, 2019.

Based upon the above, I recommend that the Borough be granted a final judgment of compliance and repose. The monitoring and reporting requirements identified in the Settlement Agreement will remain continuing conditions of the Court's approval.

Sincerely,



Francis J. Banisch III, AICP, PP

cc via email: Adam Gordon, Esq.
Leslie London, Esq.
Julia Bordelon, PP, AICP
Supreme Court service list

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Prior Round Calculation

Borough of Red Bank

Date: July 15, 2019

Red Bank Obligations Summary: Prior Round					
	Obligation (RDP)	Affordable Units	Bonus Credits	Total Credits	Notes
	Status				
		427			
Prior Round Compliance Mechanism					
Family For Sale					
1 RW River's Edge	Existing	2	0	2	
2 Bergen Square	Existing	10	0	10	
	Subtotal	12	0	12	
Family Rental					
3 Locust Landing	Existing	6	0	6	640 units total, Middletown receives credit for 34
4 MW @ Red Bank, LLC (Westside Lofts)	Existing	10	0	10	
5 Popkin	Approved	2	0	2	
6 Denholtz	Under Construction	9	0	9	
Oakland Square (RE Monmouth/RB)					
7 West	Existing	12	0	12	
8 Tudor Village Apartments	Approved	1	0	1	
	Subtotal	40	0	40	
Age Restricted Rental					
9 River Street School	Existing	51	0	51	5162 units total, Middletown receives credit for 11
10 Wesleyan Arms	Existing	60	0	60	
	Subtotal	111	0	111	
	Subtotal of all	163	0	163	
	Total (Credits + Bonus)	163			
	Obligation (RDP)	0			
	Surplus (Total Credits - RDP Obligation)	163			
	Remaining Unmet Need Obligation (Total Credits - Unmet Need Obligation)	264			

CME Associates

Date: July 15, 2019

Borough of Red Bank

Third Round Calculation

Red Bank Obligations Summary: Third Round						
	Obligation (RDP)		92			
	Obligation (Unmet Need)	Limit	221			
	Limitation Type (RDP)	Provided				Notes
	Min. Rentals	36				N.J.A.C. 5:93-5.15(a); 0.25(RDP) = 0.25(92) = 23
	Min. Family Rental	33				Per settlement agreement
	Max. Age Restricted Units	0				Per settlement agreement
	Min. Family Units	73				Per settlement agreement
Third Round Compliance Mechanism						
	Status	Affordable Units	Bonus Credits	Total Credits		Notes
Family For Sale						
1 Cedar Crossing	Existing	36	0	36		
2 Azalea Gardens (Ray Rap)	Under Construction	2	0	2		
3 Brownstones (Yellowbrook/Mumford)	Under Construction	2	0	2		
	Subtotal	40	0	40		
Family Rental						
4 VNA Redevelopment Site	Proposed	28	23	51		
5 Riverwalk Commons	Under Construction	2	0	2		
5 Fortune Square	Built	3	0	3		
7 West Front Street Partners, LLC	Built	0	0	0		Payment-in-Lieu
	Subtotal	33	23	56		
Supportive/Special Needs Housing						
8 Collaborative Support Programs of NJ	Built	3	0	3		
	Subtotal	3	0	3		
	Subtotal of all	76	23	99		
	Total (Credits + Bonus)	99	-	-		
	Obligation (RDP)	92	-	-		
	Surplus (Total Credits - RDP Obligation)	7	-	-		
	Remaining Unmet Need Obligation (Total Unmet Need Obligation - Surplus)	214	-	-		

CME Associates

APPENDIX B-1

Resolution 25-23 Establishing Fourth Round Obligations

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH**

RESOLUTION NO. 25-23

**RESOLUTION ADOPTING THE NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS'
CALCULATION OF RED BANK'S FOURTH ROUND
PRESENT AND PROSPECTIVE NEED AFFORDABLE
HOUSING OBLIGATIONS**

WHEREAS, the Borough of Red Bank, County of Monmouth (the "**Borough**") is a public body corporate and politic of the State of New Jersey; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c. 2 (the "**Act**"), which established a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's *Mount Laurel* doctrine and the State of New Jersey's Fair Housing Act; and

WHEREAS, *N.J.S.A. 52:27D-304.1(c)* of the Act provides that prior to the beginning of each new 10-year round of affordable housing obligations beginning with the Fourth Round on July 1, 2025, the State of New Jersey's Department of Community Affairs (the "**DCA**") is tasked with determining municipal present and prospective need in accordance with the formulas established at *N.J.S.A. 52:27D-304.2* and *N.J.S.A. 52:27D-304.3*; and

WHEREAS, *N.J.S.A. 52:27D-304.1(d)* further provides that the DCA is required to prepare and submit a report to the Governor and Legislature on the calculations of such municipal obligations by October 20, 2024; and

WHEREAS, in accordance with the requirements of the Act, on October 18, 2024, the DCA provided a report setting forth its non-binding calculations of municipalities' present and prospective need for affordable housing for the Fourth Round using the formulas set forth at *N.J.S.A. 52:27D-304.2* and *N.J.S.A. 52:27D-304.3* (the "**Report**"); and

WHEREAS, the Report determined the Borough's present need obligation to be 54 units and its prospective need obligation to be 154 units; and

WHEREAS, *N.J.S.A. 52:27D-304.1(f)* provides that the Borough is required to determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established at *N.J.S.A. 52:27D-304.2* and *N.J.S.A. 52:27D-304.3* and adopt a housing element and fair share plan based on this determination (as may be adjusted by the Affordable Housing Dispute Resolution Program (the "**Program**") in accordance with the Act); and

WHEREAS, for the Fourth Round of affordable housing obligations, this determination of present and prospective fair share obligation is required to be made by binding resolution no later than January 31, 2025; and

WHEREAS, the Borough accepts the DCA present and prospective need obligations of 54 units and 154 units, respectively, for the Borough as calculated in the Report and wishes to adopt these calculations as the determination of the Borough's Fourth Round affordable housing obligation, subject to any vacant land and/or durational adjustment it may seek as part of the Housing Element and Fair Share Plan it subsequently submits in accordance with the Act; and

WHEREAS, notwithstanding the foregoing, the Act's future is uncertain at this stage due to ongoing litigation, and accordingly, the Borough also reserves its right to review and revise its Fourth Round affordable housing obligation calculations in the event the Act should be amended or overturned; and

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

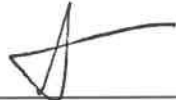
WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the Act shall file an action in the form of a declaratory judgment complaint . . . in the county in which the municipality is located . . . within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner"; and

WHEREAS, the Borough seeks a certification of compliance with the Act and, therefore, directs its Affordable Housing Counsel to file a declaratory judgment action with the Program within 48 hours of the adoption of this Resolution in Monmouth County.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the Council of the Borough of Red Bank, County of Monmouth, State of New Jersey as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Borough accepts and adopts the DCA present and prospective need obligations of 54 units and 154 units, respectively, for the Borough as calculated in the Report and adopts these calculations as the determination of its Fourth Round affordable housing obligation, subject to any vacant land and/or durational adjustment it may seek as part of the Housing Element and Fair Share Plan it subsequently submits in accordance with the Act.
3. The Borough reserves its right to review and revise its Fourth Round affordable housing obligation calculations in the event the Act should be overturned or amended.

4. The Borough's Affordable Housing Counsel shall file a declaratory judgment action with the Program no later than 48 hours with the Program following adoption of this Resolution, in accordance with the requirements of the Act. A certified copy of this Resolution shall be included with such filing.
5. A copy of this Resolution shall be posted on Borough's website.
6. This Resolution will take effect immediately.



William Portman, Mayor



Mary Moss, Borough Clerk

Borough Council	Moved	Seconded	Ayes	Nays	Abstain	Absent
Councilmember Bonatakis			X			
Councilmember Cassidy			X			
Councilmember Facey-Blackwood		X	X			
Councilmember Jannone			X			
Deputy Mayor Triggiano	X		X			
Mayor Portman			X			
ON CONSENT AGENDA			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		

I hereby certify the foregoing to be true copy of a Resolution adopted by the Borough Council of the Borough of Red Bank, in the County of Monmouth, New Jersey at their regular meeting held on January 23, 2025.


Mary Moss, RMC
Municipal Clerk

APPENDIX B-2

Vacant Land Adjustment Report

DRAFT

2025 Vacant Land Inventory & Analysis

PREPARED FOR:

Borough of Red Bank

MONMOUTH COUNTY, NEW JERSEY

April 15, 2025

Prepared By:



1 Market Street, Suite 1F
Camden, New Jersey 08102
(732) 410-2651

Christopher Dochney, PP, AICP
License Number 6225

This document has been prepared in accordance with N.J.S.A 40:55D-89 of the Municipal Land Use Law.
The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-12.

Introduction

Red Bank Borough is seeking to obtain a vacant land adjustment due to the built-out nature of the Borough, and the limitations this puts on attempts to satisfy the Borough's affordable housing obligations.

The State of New Jersey has recently adopted new affordable housing regulations that impact every municipality in the state. Pursuant to the Fair Housing Act as amended in March of 2024 by P.L. 2024 c.2, each municipality in the state is required to determine its "fair share" of the regional need for low and moderate income housing, and adopt specific numbers for present need (rehabilitation) and prospective need (new construction), through a binding resolution. Red Bank has complied with this requirement by adopting Resolution 2025-23, which identified the following obligations for Red Bank for the Fourth Round of affordable housing:

- Present Need (Rehabilitation) = 54 units
- Prospective Need (New Construction) = 154 units

These obligation numbers are determined by several factors, only one of which considers the amount of vacant land potentially available. With the obligation numbers determined, the next step is for the Borough to develop a new Housing Plan Element and Fair Share Plan to identify the mechanisms that will be used to address these obligations. This includes identifying lands suitable for development of new housing.

The Fair Housing Act allows for municipalities to adjust their prospective need down to a more realistic number if it can be demonstrated that there is not sufficient vacant and available land to accommodate new growth. This process is referred to as a Vacant Land Adjustment (VLA), and it is used to determine a Realistic Development Potential (RDP), which can be used as the targeted prospective need in lieu of the obligations otherwise required by the Fair Housing Act.

The Borough has reviewed all potentially available properties within the municipal boundaries to determine a realistic development potential that Red Bank can address during the Fourth Round that runs until the summer of 2035.

Methodology

Prior COAH rules at N.J.A.C. 5:93-4.2 et seq. provide a framework for determining the amount of land available and guidelines for calculating the development capacity of vacant properties in order to determine the RDP for any built-out communities. Consistent with these prior rules, the Borough has compiled an inventory of all lands that may be available for development, and analyzed each parcel to determine its RDP.

Utilizing Monmouth County MODIV Tax data that was last updated in December 2024, all parcels in Red Bank that are classified as vacant (tax classification 1), all farms (tax classification 3A and 3B), and public property (tax classification 15C) were identified and reviewed to determine if any of these parcels on their own, or when combined with adjacent

parcels, may be available, and potentially developable at a density sufficient to produce at least one affordable dwelling unit on site.

An assumption was made that each site would be developed as an inclusionary development where 20% of the total number of residential dwellings constructed would be set aside as affordable units. This means that for every 5 dwellings constructed, 1 affordable unit would be set aside. So in order to generate at least 1 affordable dwelling unit, a site or tract of land would have to be able to accommodate at least 5 total units. The analysis of each parcel was done without considering the current zoning regulations that would otherwise limit development on any given property. The review has been conducted assuming that any particular property could be rezoned to accommodate affordable housing if necessary, and minimum lot area, building setbacks, parking requirements, and maximum density regulations were not taken into account in any calculation for any properties.

For the purposes of this review, the minimum density applied to each tract was 6 units per acre. Therefore an assumption was made that any potentially available tract would be developed at a density of no less than 6 units per acre, while some tracts more suitable for more intense development such as multi-family apartments, due to their location and size, were assumed that they could be developed at a density of 10 to 12 units per acre, which is consistent with the current density of several multi-family projects in the Borough already.

The purpose of these specific densities is to ensure that market rate development can be achieved in a manner consistent with the existing scale and character of the community and so that any projects would be realistic. This also takes into account the efficiencies of scale that can be achieved on some larger tracts. So larger tracts of land are assumed to be developable at a greater density than smaller tracts. The RDP generated by a particular tract was rounded to the nearest whole number for any fractional affordable units.

For example;

- a parcel or tract of parcels that has a total area of 1 acre was assumed to be developable at a density of 6 units per acre, which would yield 6 total housing units. With a 20% set aside of affordable units this would be 1.2 affordable units, which is then rounded to 1 affordable unit as the nearest whole number.
 - $1 \text{ acre} \times 6 \text{ units/acre} = 6 \text{ units} \times 20\% = 1.2 \text{ (1) affordable units}$
- A tract of land that has a total area of 10 acres was assumed to be developable at a density of 10 units per acre. This would yield 100 total housing units, and 20 affordable dwelling units at a 20% set aside.
 - $10 \text{ acres} \times 10 \text{ units/acre} = 100 \text{ units} \times 20\% = 20 \text{ affordable units}$

Permitted Exclusions

N.J.A.C. 5:93 establishes criteria by which sites, or portions thereof, in a municipal land inventory may be excluded from a municipality's RDP calculation. Environmentally sensitive areas, including flood hazard areas, areas outside of the Sanitary Sewer Service Area (SSA), wetlands, and areas characterized by steep slopes of greater than 15 percent that render a site

unsuitable for affordable housing may be excluded from consideration. In addition, small or isolated lots lacking sufficient acreage to generate an affordable housing set-aside as part of an inclusionary development may also be excluded.

Environmental Constraints

In order to determine the amount of land available for development, each vacant parcel, farm, and public property was also reviewed to identify any environmental constraints that would prohibit development. These include identification of wetlands which are regulated by NJDEP, and the Flood Hazard Area. Wetlands areas throughout the Borough were identified using data from NJDEP for wetlands as of 2020. A 50-foot wetlands transition buffer was also applied to all wetlands areas. It is important to note that NJDEP regulations for wetlands transition buffers vary depending on the quality of the wetlands. Buffer areas can be 0 feet for ordinary wetlands, 50 feet for intermediate wetlands, 150 feet for extraordinary wetlands, and 300 feet for wetlands around any Category 1 waterway. While actual transition buffers would vary from site to site, utilizing the 50-foot buffer acknowledges the likelihood that some buffer would be required, while allowing for a conservative analysis. Flood Hazard Area data was taken from viewing Flood Maps provided by FEMA. Areas of each parcel that are likely encumbered by wetlands, wetlands transition buffer, or are located within the Special Flood Hazard Area, were subtracted from the developable area of each tract.

If a 5 acre tract had 1 acre of wetlands and wetlands transition buffer areas, it was assumed to have a total of 4 acres that were otherwise developable.

It is noted that the entirety of the Borough of Red Bank is located within a designated sewer service area. Although calculations have not been performed or considered regarding the current capacity of any treatment facilities, no parcel or tract of land was excluded from consideration due to lack of access to public sewer.

Insufficient Tract Area

Prior COAH regulations had established that a minimum density of 6 units per acre is to be applied to all potentially developable tracts, which then requires a minimum tract area of 0.83 acres in order to accommodate at least 5 units of housing to produce at least 1 affordable dwelling. Under those previous regulations, any tract less than 0.83 acres could be excluded. For the purposes of this report, the standard of a minimum tract area of 0.83 acres was used as general guidance rather than a hard line minimum. Some tracts that are smaller than 0.83 acres, but are otherwise regular in their shape (being rectilinear) were presumed to be potentially developable at a density of 8 units per acre in order to generate 5 units and 1 affordable unit, and thus were included in the Borough's RDP calculation.

No tracts of less than 0.5 acres were included in the RDP calculation. All tracts with less than 0.5 acres of developable lands were considered to be unsuitable and no RDP was generated by these tracts. Tracts of land greater than 0.5 acres were potentially considered developable.

Properties Reserved for Public Use

Many parcels within the Borough may appear to be vacant or developable and are not physically constrained by environmental concerns, but are otherwise permitted to be excluded from consideration of generating an RDP. These included lands reserved for other public purposes, including municipal facilities, parks, and conservation lands. Publicly owned lands such as the municipal administration building, fire stations, and for utility infrastructure have been excluded from consideration. Also, all lands listed on the Borough's Green Acres Recreation & Open Space Inventory (ROSI) and are deed restricted from any development, have been excluded from consideration.

Agricultural lands that are deed restricted as preserved farms are also permitted to be excluded. However, records from Monmouth County's farmland preservation program did not indicate that any preserved farms are located in Red Bank.

Conclusions

A review of the data indicates that there are 144 properties in Red Bank that are identified as either vacant, non-preserved farmland, or publicly owned. Of these, the vast majority can be excluded due to being deed restricted by the ROSI, being fully encumbered by wetlands, or by their insufficient size and isolation rendering them unsuitable for development.

There was only parcel of land in the Borough that was identified as being potentially developable and suitable, and generating a Realistic Development Potential. This parcel is Block 27, Lot 8.01. It is a 0.70 acre vacant parcel located on East Front Street. If this parcel were to be developed at a density of 8 units per acre, this would generate 5 total dwellings and 1 affordable dwelling. All other parcels in the Borough of Red Bank that are vacant are less than 0.5 acres in size, or are entirely encumbered by wetlands. All public properties are currently utilized for public purposes or are listed on the ROSI.

Red Bank does not have sufficient vacant and developable area to accommodate its full 154 unit Fourth Round prospective need obligation on vacant lands.

The Borough has a realistic development potential of one affordable housing unit that can be developed on vacant lands. Any new development of inclusionary housing within Red Bank will come through redevelopment of tracts that are currently occupied and utilized for other purposes.

A list of all parcels identified, and the calculations of developable area can be found in Appendix A of this report.

Maps illustrating the locations of all parcels identified and analyzed can be found in Appendix B.

Appendices

A – Full List of All Parcels Reviewed

B – Maps of all Parcels

Appendix A

List of All Parcels Identified as Vacant, Farmland, or Public Property

BLOCK	LOT	CLASS	LOCATION	Acres	Wetlands Acres	Developable Acres	Developable	Notes
4	8	1	39 BRIDGE AVE	0.147	0	0.147	No	Too Small
4.01	3	1	63-65 N BRIDGE AVE	0.146		0.146	No	Too Small
8	2	1	98 W FRONT ST	0.252		0.252	No	Too Small / Flood Hazard Area
8	3	1	96 W FRONT ST	0.333		0.333	No	Too Small / Flood Hazard Area
9.01	6.01	1	4 BOAT CLUB CT	0.46		0.46	No	Too Small
9.01	7	1	22 W FRONT ST REAR	0.103		0.103	No	Too Small
11	4	1	95 E FRONT ST	0.538	0.352	0.186	No	Too Small
13	25	1	8 ALSTON CT	0.244		0.244	No	Too Small
24	2	1	94 E FRONT ST	0.143		0.143	No	Too Small
24	3	1	96-98 E FRONT ST	0.143		0.143	No	Too Small
24	4	1	6 SPRING ST	0.213		0.213	No	Too Small
27	8.01	1	60 E FRONT ST	0.705		0.705	Yes	
27	11	1	80 E FRONT ST	0.201		0.201	No	Too Small
32	23	1	29 PEARL ST	0.15		0.15	No	Too Small
33	9.01	1	120 MONMOUTH ST	0.481		0.481	No	Too Small
39	18.01	1	20 DEFOREST AVE	0.148		0.148	No	Too Small
39	27	1	46 SHREWSBURY AVE	0.487		0.487	No	Too Small
39	33	1	2 SHREWSBURY AVE	0.064		0.064	No	Too Small
39	34	1	8 SHREWSBURY AVE	0.058		0.058	No	Too Small
41	5	1	84 OAKLAND ST	0.281		0.281	No	Too Small
42	7	1	129 MONMOUTH ST	0.179		0.179	No	Too Small, not vacant
42	8	1	121-123 MONMOUTH ST	0.383		0.383	No	Too Small, not vacant
42	11.01	1	62 PEARL ST	0.05		0.05	No	Too Small
48	37	1	29 LINDEN PL	0.077		0.077	No	Too Small
48	38	1	27 LINDEN PL	0.115		0.115	No	Too Small
52	74	1	REAR LOT	0.087		0.087	No	Too Small
53	39	1	67 JOHN ST	0.07		0.07	No	Too Small
54	3.01	1	14 JOHN ST	0.049		0.049	No	Too Small

BLOCK	LOT	CLASS	LOCATION	Acres	Wetlands Acres	Developable Acres	Developable	Notes
57	1	1	37 HUDSON AVE.	0.113		0.113	No	Too Small
58	1	1	36 HARDING RD	0.1		0.1	No	Approvals for Inclusionary Site - Under Construction
58	2	1	28-32 HARDING RD	0.193		0.193	No	Approvals for Inclusionary Site - Under Construction
58	3	1	52 HUDSON AVE	0.05		0.05	No	Approvals for Inclusionary Site - Under Construction
58	4	1	50 HUDSON AVE	0.121		0.121	No	Approvals for Inclusionary Site - Under Construction
58	5	1	48 HUDSON AVE	0.165		0.165	No	Approvals for Inclusionary Site - Under Construction
58	6	1	42 HUDSON AVE	0.16		0.16	No	Approvals for Inclusionary Site - Under Construction
65	8.02	1	42 HERBERT ST	0.101		0.101	No	Too Small
67	19	1	160 SHREWSBURY AVE	0.181		0.181	No	Too Small
70	5	1	114 CATHERINE ST	0.102		0.102	No	Too Small
72	2.01	1	11 TILTON AVE	0.147		0.147	No	Too Small
75	95	1	76 DRS JAMES PARKER BLVD.	0.08		0.08	No	Too Small
75	175	1	26 DRS JAMES PARKER BLVD.	0.136		0.136	No	Too Small
76	1.01	1	1 BERRY ST	0.033		0.033	No	Too Small
76	2.02	1	232 S PEARL ST	0.068		0.068	No	Too Small
77	3	1	263 SHREWSBURY AVE	0.041		0.041	No	Too Small
78	20.03	1	26 BANK ST	0.11		0.11	No	Too Small
79	24	1	180 DRS JAMES PARKER BLVD	0.049		0.049	No	Too Small
80	11	1	150 LEIGHTON AVE	0.128		0.128	No	Too Small
84	1.03	1	86 CHAPIN PL	0.086	0.086	0	No	Too Small
84	42	1	16 MUNSON PL	0.223	0.058	0.165	No	Too Small
84	143	1	131 W WESTSIDE AVE	0.262	0.222	0.04	No	Too Small
84	155.01	1	148 NEWMAN SPRINGS RD	0.983	0.705	0.278	No	Too Small

BLOCK	LOT	CLASS	LOCATION	Acres	Wetlands Acres	Developable Acres	Developable	Notes
84.03	1	1	UNKNOWN	0.348	0.348	0	No	Too Small
88	12.01	1	390 SHREWSBURY AVE	0.725		0.725	No	Not Vacant - Active Gas Station
90	6	1	203 DRS JAMES PARKER BLVD	0.126		0.126	No	Too Small
90	13	1	177 DRS JAMES PARKER BLVD	0.088		0.088	No	Too Small
90	15	1	288 SHREWSBURY AVE	0.165		0.165	No	Too Small
90	22	1	316 SHREWSBURY AVE	0.178		0.178	No	Too Small
91	6.06	1	278 BRIDGE AVE	0.085		0.085	No	Too Small
93	10	1	26 DRUMMOND AVE	0.089		0.089	No	Too Small
97	20	1	28 WILLOW ST	0.138		0.138	No	Too Small
97	21	1	26 WILLOW ST	0.141		0.141	No	Too Small
97	22	1	20 WILLOW ST	0.09		0.09	No	Too Small
97	22.01	1	24 WILLOW ST	0.072		0.072	No	Too Small
97	57	1	260 PEARL ST	0.164		0.164	No	Too Small
100	4	1	245 MAPLE AVE	0.119		0.119	No	Too Small
109	3	1	64 TOWER HILL AVE	0.051		0.051	No	Too Small
114	37.01	1	118 PINCKNEY RD REAR	0.128		0.128	No	Too Small
114	43	1	100 PINCKNEY RD REAR	0.099		0.099	No	Too Small
115	15	1	132-142 SOUTH ST	1.206		1.206	No	Not Vacant - Condo development open space
117	6	1	27 GRANT PL	0.082		0.082	No	Too Small
119	34	1	55 GARFIELD PL	0.128		0.128	No	Too Small
1	14	15C	3 RECTOR PL	0.202		0.202	No	Too Small
1	17	15C	W FRONT ST	0.156		0.156	No	Too Small
3	1.02	15C	BODMAN PL	0.236		0.236	No	Too Small
6.01	1	15C	130 RIVERSIDE AVE	0.072		0.072	No	ROSI PARK
8	1	15C	1 MAPLE AVE	0.26		0.26	No	ROSI PARK
8	1.02	15C	END OF MAPLE AVE	0.163		0.163	No	Too Small

BLOCK	LOT	CLASS	LOCATION	Acres	Wetlands Acres	Developable Acres	Developable	Notes
8	5	15C	84 W FRONT ST	0.708		0.708	No	Library
8	10	15C	58 W FRONT ST	0.486		0.486	No	ROSI PARK
8	11	15C	50 W FRONT ST	1.43		1.43	No	ROSI PARK
8	12	15C	42 W FRONT ST	0.069		0.069	No	ROSI PARK
9	5	15C	MARINE PARK	1.738		1.738	No	ROSI PARK
9.01	25.01	15C	WHARF AVE	0.162		0.162	No	Too Small
11	16	15C	HUBBARD PARK	0.062		0.062	No	Too Small
15.01	16.01	15C	34 HARRISON AVE	2.313		2.313	No	ROSI PARK
15.01	24	15C	47 MARION ST.	0.083		0.083	No	ROSI PARK
15.01	26.01	15C	41 MARION ST	0.139		0.139	No	ROSI PARK
15.01	27.03	15C	37 MARION ST	0.121		0.121	No	Too Small
28	3.03	15C	MECHANIC ST	0.017		0.017	No	Too Small
28	6	15C	9 MECHANIC ST	0.061		0.061	No	Too Small
29	9	15C	42 MECHANIC ST	0.243		0.243	No	Too Small
29	20	15C	43 WALLACE ST	0.264		0.264	No	Too Small
29	22.01	15C	41 WALLACE ST	0.944		0.944	No	Municipal parking lot
30.01	37	15C	WHITE ST	0.109		0.109	No	Too Small
30.01	39	15C	EMANUEL COURT	0.133		0.133	No	Too Small
30.01	40	15C	EMANUEL COURT	0.15		0.15	No	Too Small
30.01	41	15C	EMANUEL COURT	0.147		0.147	No	Too Small
31	2.01	15C	75-79 WHITE ST	2.274		2.274	No	Municipal parking lot
31	4.01	15C	RIGHT OF WAY	0.056		0.056	No	Too Small
32	12.01	15C	90 MONMOUTH ST	1.428		1.428	No	Municipal building / courthouse
39	1.01	15C	100 LOCUST AVE	0.966		0.966	No	ROSI PARK
39	23	15C	80 SHREWSBURY AVE	0.493		0.493	No	Too Small
39	24	15C	80 SHREWSBURY AVE	0.986		0.986	No	Senior Center
41	1	15C	BRIDGE & OAKLAND ST	0.411		0.411	No	Too Small
41	3	15C	MONMOUTH ST	1.007		1.007	No	NJ Transit Train Station

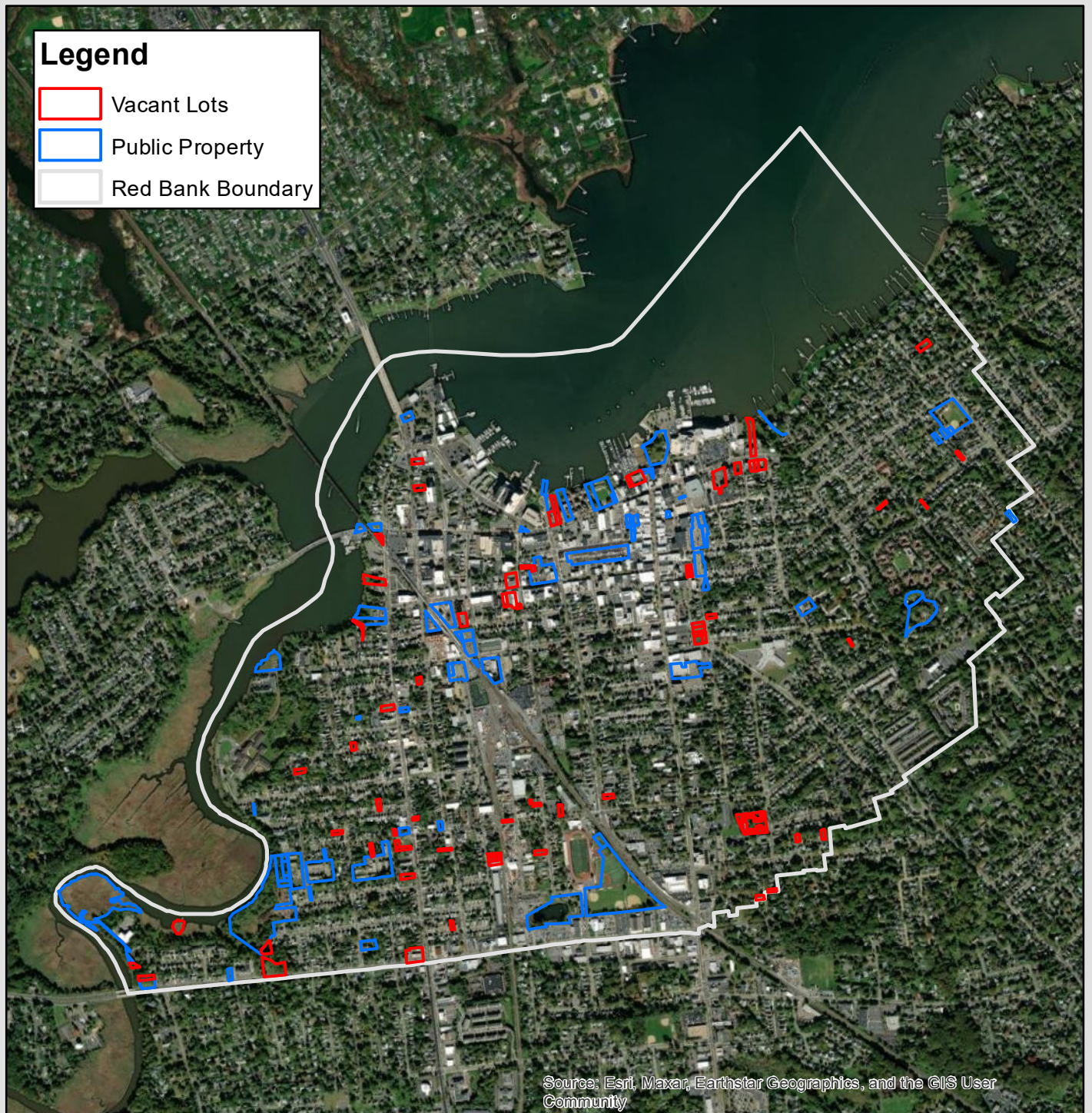
BLOCK	LOT	CLASS	LOCATION	Acres	Wetlands Acres	Developable Acres	Developable	Notes
48	7.01	15C	38 WALLACE ST	0.688		0.688	No	Municipal Parking Lot
49	1	15C	40 LINDEN PL	0.141		0.141	No	Too Small
52.03	1	15C	151 SPRING ST	0.525		0.525	No	EMS Building
52.04	6	15C	PROSPECT AVE	0.561		0.561	No	landlocked, part of reservoir
52.04	7	15C	HILLTOP TERRACE	1.876		1.876	No	Reservoir
54	9.38	15C	WINWARD WAY REAR	0.149		0.149	No	ROSI PARK
63	6	15C	OAKLAND ST	0.112		0.112	No	Too Small
63	7	15C	79 OAKLAND ST	0.33		0.33	No	Too Small
63	7.01	15C	88 WEST ST.	0.467		0.467	No	Too Small
67	28.01	15C	EARL ST	0.032		0.032	No	Too Small
68	10	15C	163 SHREWSBURY AVE	0.116		0.116	No	Too Small
75	171	15C	85 CHESTNUT ST	0.044		0.044	No	Too Small
75.02	170.01	15C	75 CHESTNUT ST	1.146		1.146	No	Public Works Garage
75.06	7	15C	111 CHESTNUT ST	0.156		0.156	No	Too Small
75.06	8.01	15C	105 CHESTNUT ST	0.715		0.715	No	Municipal Parking Lot
77	22	15C	138 DRS JAMES PARKER BLVD	0.113		0.113	No	Too Small
79	23	15C	270 SHREWSBURY AVE	0.184		0.184	No	Too Small
82	1.04	15C	213 1/2 RIVER ST	0.035		0.035	No	Too Small
84	1.02	15C	CHAPIN PL	6.618	6.5	0.118	No	Wetlands / FHA
84	1.04	15C	CHAPIN AVE	0.084		0.084	No	Too Small
84	1.06	15C	CHAPIN AVE	0.115		0.115	No	Too Small
84	1.07	15C	CHAPIN AVE	0.04		0.04	No	Too Small
84	43	15C	MUNSON PL & N SPR RD	0.38		0.38	No	Too Small
84	62	15C	NEWMAN SPRINGS RD	0.165		0.165	No	Too Small
84	64	15C	SUNSET AVE	8.65		8.65	No	ROSI PARK
84	66	15C	287 DRS JAMES PARKER BLVD	0.515		0.515	No	ROSI PARK

BLOCK	LOT	CLASS	LOCATION	Acres	Wetlands Acres	Developable Acres	Developable	Notes
84	66.01	15C	285 DRS JAMES PARKER BLVD	0.085		0.085	No	ROSI PARK
84	66.02	15C	283 DRS JAMES PARKER BLVD	0.248		0.248	No	ROSI PARK
84	66.03	15C	281 DRS JAMES PARKER BLVD	0.116		0.116	No	ROSI PARK
84	67	15C	DRS JAMES PARKER BLVD	0.185		0.185	No	ROSI PARK
84	70.02	15C	DRS J PARKER BV & TILTON	1.356		1.356	No	Public Housing
84.01	76.01	15C	DRS JAMES PARKER BLVD	1.629		1.629	No	Public Housing
84.01	99	15C	SUNSET AVE	0.059		0.059	No	Too Small
87	19.01	15C	261 LEIGHTON AVE	0.414		0.414	No	Too Small
90	21.01	15C	DRS JAMES PARKER BLVD	2.576		2.576	No	Public Housing
97	38	15C	HENRY ST & MOHAWK LA	3.686		3.686	No	ROSI PARK
97.01	40	15C	11 HENRY ST	8.194		8.194	No	ROSI PARK
97.01	57	15C	DRS JAMES PARKER BLVD	0.288		0.288	No	ROSI PARK
105	23	15C	171 BROAD ST	1.406		1.406	No	Post Office

Appendix B

Maps of Parcels Identified as Vacant, Farmland, or Public Property

Vacant Land Assessment - Red Bank



Borough of Red Bank
Monmouth County
Vacant Land Adjustment



CONSULTING & MUNICIPAL ENGINEERS

3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
1460 ROUTE 9 SOUTH HOWELL, N.J. 07731
3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852
ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM

Source: NJGIN Network, NJDEP
Monmouth County MODIV data

DATE	SCALE	REVISED	CREATED BY
02/25/25	1 inch = 1,703 feet	N/A	CD

APPENDIX C-1

Resolution Appointing Municipal Housing Liaison

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 25-04**

CONFIRMING APPOINTMENTS OF OFFICIALS AND EMPLOYEES FOR 2025

BE IT RESOLVED that the appointments made by the Mayor are hereby confirmed and the following officials are appointed for a term specified by Municipal Ordinance, unless otherwise specified or provided for by statute;

Deputy Court Administrator	Susan Milnes
Deputy Municipal Clerk/Registrar	Bonnie K. Thomas
Municipal Housing Liaison	Shawna Ebanks
Clean Communities Coordinator	Maria Rotolo
Community Development Representative	Shawna Ebanks
Alternate Community Development Representative	James Gant
Public Agency Compliance Officer	Sheri Gumina

RED BANK EMERGENCY MANAGEMENT COMMITTEE

Director		Mayor William Portman
Coordinator		Thomas Welsh
Deputy Coordinator/Police Coordinator		Michael Frazee
Deputy Coordinator/EMS Representative		Douglas Haviland
Borough Manager		James Gant
OEM Assistant		Chris Soden
OEM Assistant		Alan Soden Jr.
OEM Assistant		Greg Oliva
OEM Assistant		John Ziemannis
Fire Chief		Frank Woods
Communications OEM		Alan Soden Sr.
Hazardous Material Technician		Joseph Forgione
Emergency Health Care	Riverview Security Supervisor – Derek Englese	
Public Utilities		Terrence Walton
Welfare Officer		Jacqueline Reynolds
Public Information Officer		James Gant/Adriana Medina-Gomez
Chief Financial Officer		Thomas Seaman
Construction Official		Anthony Niebert

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT	<p>I hereby certify that the above Resolution was adopted by the Borough Council of the Borough of Red Bank, In the County of Monmouth at a Meeting held on January 1, 2025.</p> <p style="text-align: right;"><i>Bonnie K. Thomas</i> Bonnie K. Thomas Deputy Municipal Clerk</p>
Councilmember Bonatakis			X				
Councilmember Cassidy	X		X				
Councilmember Facey-Blackwood			X				
Councilmember Forest			X				
Councilmember Jannone		X	X				
Councilmember Triggiano			X				
Mayor Portman			X				
ON CONSENT AGENDA	Yes X			No			

APPENDIX C-2

Resolution Appointing Administrative Agent

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH**

RESOLUTION NO. 25-85

**RESOLUTION APPOINTING SHAWNA EBANKS, DIRECTOR OF COMMUNITY
DEVELOPMENT, AS THE BOROUGH'S ADMINISTRATIVE AGENT FOR
AFFORDABLE HOUSING EFFECTIVE APRIL 1, 2025**

WHEREAS, the Borough of Red Bank has an obligation to provide for the administration and oversight of affordable housing units in accordance with the New Jersey Fair Housing Act, the Borough's Housing Element and Fair Share Plan, and applicable rules and regulations established by the New Jersey Housing and Mortgage Finance Agency (HMFA); and

WHEREAS, N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq. require that each municipality appoint an Administrative Agent to be responsible for the administration of its affordable housing program; and

WHEREAS, the Administrative Agent is charged with the responsibilities of ensuring compliance with applicable affordability controls, maintaining and updating the Borough's affordable housing inventory, processing applications for affordable housing units, facilitating re-sales and re-rentals in accordance with affordability requirements, interfacing with the public and with developers regarding affordable housing matters, and preparing required reports to the appropriate regulatory bodies; and

WHEREAS, the Borough Manager recommends the appointment of Shawna Ebanks, Director of Community Development, to serve in this capacity based on her qualifications, experience, and familiarity with the Borough's affordable housing program; and

WHEREAS, the position of Administrative Agent shall come with an annual stipend in the amount of \$10,000, pro-rated for the remainder of 2025 beginning April 1, 2025.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank, County of Monmouth, State of New Jersey, that:

1. Shawna Ebanks, Director of Community Development, is hereby appointed as the Borough's Administrative Agent for Affordable Housing effective April 1, 2025.
2. Ms. Ebanks shall perform all duties and responsibilities required under applicable state regulations and Borough policies, including, but not limited to, maintaining compliance with affordability controls, managing the Borough's affordable housing inventory, reviewing and processing applications, and providing periodic reports as required by the Borough Manager.
3. Ms. Ebanks shall receive a pro-rated stipend of \$10,000 annually for the performance of these duties, effective as of April 1, 2025.
4. A certified copy of this resolution shall be provided to the Chief Financial Officer, Human Resources, and the Director of Community Development.

Borough Council	Moved	Seconded	Ayes	Nays	Abstain	Absent
Councilmember Bonatakis			X			
Councilmember Cassidy			X			
Councilmember Facey-Blackwood	X		X			
Councilmember Forest			X			
Councilmember Jannone		X	X			
Deputy Mayor Triggiano			X			
Mayor Portman			X			
ON CONSENT AGENDA	Yes	<input checked="" type="checkbox"/>		No	<input type="checkbox"/>	

I, the undersigned Borough Clerk of the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough") hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Borough Council of said Borough at its meeting held on April 10, 2025.


 Mary Moss, RMC
 Municipal Clerk

APPENDIX C-3

DRAFT Affordable Housing Trust Fund Spending Plan

Borough of Red Bank, Monmouth County
DRAFT Affordable Housing Trust Fund Spending Plan
Fourth Round (2025 – 2035)

INTRODUCTION AND BACKGROUND

The Borough of Red Bank has prepared a Housing Element and Fair Share Plan in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Amended Fair Housing Act (N.J.S.A. 52:27D-301) and consistent with the affordable housing regulations set forth at N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:97-1 et seq, to address its Fourth Round of affordable housing obligations.

A development fee ordinance creating a dedicated revenue source for affordable housing is in place and will continue to be applied after the adoption and endorsement of the Housing Plan Element and Fair Share Plan by the Planning Board and Borough Council.

The Borough will prepare annual reporting on Affordable Housing Trust Fund activity. This Spending Plan provides an estimate of projected funding and proposals for expenditure of funds in support of the Housing Plan Element and Fair Share Plan, and provides guidance to ensure that funds are spent in accordance with the requirements of N.J.A.C. 5:97- 8.7 through 8.10. In accordance with N.J.S.A. 52:27D-329.2 and -329.3, all funds deposited into the Borough’s Affordable Housing Trust Fund are to be spent within 4 years of their receipt. The Borough will provide annual monitoring to the AHMS as administered by the NJDCA.

As of January 23, 2025, the Borough had a balance of \$360,615.84 in the Affordable Housing Trust Fund. This is inclusive of the following cumulative deposits and payments from the AHTF:

- Deposits: \$931,491.11
 - Fees Collected: \$680,371.97; Interest Collected: \$69178.09; Other Payments: \$181,941.05;
- Payments: \$570,875.27
 - Housing Activity: \$294,551.32; Administrative Expenses: \$266,323.95; Affordability Assistance: \$10,000.00

1. REVENUES FOR CERTIFICATION PERIOD

All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the trust fund monies will be deposited in a separate interest-bearing affordable housing trust fund account for the purposes of supporting and providing affordable housing. These funds have been and shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9, as described in the sections that follow.

To calculate a projection of revenue anticipated through 2035, the following have been considered:

(a) Development fees.

1. Residential and non-residential construction projects that are subject to the development fee requirements, (Affordable Housing Development Fees) and fees for developments that have already received approval by the Borough’s Planning and Zoning Boards.
2. Applications for residential and non-residential construction projects that are currently pending and will be heard by the Planning Board and are likely to receive building permits and/or certificates of occupancy before 2035; and
3. Residential and non-residential construction projects that are likely to occur before 2035 based on available land, economic conditions, and historical rates of development.
4. For the purposes of this plan, estimated development fees are \$30,000 annually for the remainder of the reporting period. This is based on a conservative estimate of the approximate average of fees collected over the previous 5 years. Actual averages from 2020-2024 were approximately \$35,000.

(b) Payment in lieu (PIL) of on-site construction.

Payments in lieu (PIL) of construction from residential developers that have or are expected to enter into an agreement with the Borough to make a specific payment to the Affordable Housing Trust Fund in lieu of providing affordable housing units onsite.

At this time, the Borough is not anticipating any payments in lieu of construction.

(c) Other funding sources.

Potential funds from other sources include the sale of units with extinguished controls, repayment of affordable housing program loans (such as rehabilitation or down payment assistance), rental income, and proceeds from the sale of affordable units.

Any such payments will be accepted, but at this time the Borough is not anticipating any alternative sources of revenue, and no projections of revenue derive from such payments.

(d) Projected interest.

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate. The interest is conservatively estimated to be approximately \$8,000 per year. All interest earned on the account shall be used only for the purposes of affordable housing.

Table 1. Projected Revenues 2025 - 2035													
Starting Balance (01/23/25)	\$360,815.84												
SOURCE OF FUNDS	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total	
(a) Development Fees:	\$15,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$15,000	\$300,000	
1. Approved Development	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	-	
2. Development Pending Approval	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	-	
3. Projected Development	\$15,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$15,000	\$300,000	
(b) Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
(c) Other sources	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
(d) Interest on Total Account Balance	\$4,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$4,000	\$80,000	
Total	\$19,000	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000	\$38,000	\$19,000	\$380,000	

The Borough of Red Bank projects a total revenue of \$380,000 to be collected from June 2025 through July 2035 in development fees and interest payments. When combined with the existing balance of \$360,815.84, the Borough can anticipate to have a total of \$740,615.84 to spend on funding and administering affordable housing programs through 2035.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

Red Bank will follow the following procedures for the collection and distribution of affordable housing trust fund revenues.

(a) Collection of fees and payments:

1. Development fees shall be collected consistent with the Borough's development fee ordinance for both residential and non-residential projects in accordance with the N.J.A.C. 5:97-1 et seq and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).
2. Payments-in-lieu shall be collected as set forth in an Agreement between the Borough and the Developer. Typically, payments will be made in no more than four (4) installments as the development progresses and the entire payment shall be made prior to the issuance of the final Certificate of Occupancy.

(b) Distribution of development fee revenues:

1. The Municipal Housing Liaison and Borough Staff coordinate compliance and implementation of the Spending Plan as it relates to the Fair Share Plan; and coordinate recommendations for expenditure of funds in support of compliance or implementation of the Spending Plan.
2. The Borough Administrator authorizes staff to prepare a Resolution that includes an explanation of how the expenditure advances the Borough's affordable housing objectives, implements some aspect of the Fair Share Plan, and is consistent with the Spending Plan.
3. Borough Council reviews the request and authorizes the expenditure by resolution.
4. The Municipal Housing Liaison and the CFO maintain accounting of expenditures.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) New construction, extension of controls, and conversion programs and projects (N.J.A.C. 5:97-8.7)

Rehabilitation Program: \$600,000

The Borough currently operates a municipal rehabilitation program. The Borough will continue this program and fund it through the Affordable Housing Trust Fund. With a Fourth Round rehabilitation obligation of 54 units, the Borough will dedicate \$600,000, or an average of \$11,100 towards each rehabilitation project in order to ensure adequate funding is in place to meet the rehabilitation obligation.

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

As per previous COAH requirements, municipalities were required to spend a minimum of 30% of development fee revenue to render existing affordable units more affordable and one-third of that amount must be dedicated to very-low-income households. Although not required by the Amended Fair Housing Act, the Borough will use that 30% requirement for affordability assistance as a target for their spending plan. The table below projects the anticipated affordability assistance spending:

Table 2. Affordability Assistance			
Actual development fees through 01/23/2025			\$680,371.97
Actual interest through 01/23/2025			\$69,178.09
Development fees projected 2025-2035	+		\$300,000.00
Interest projected 2025-2035	+		\$80,000.00
Other funds Received	+		\$181,941.05
Less projected rehabilitation program expenditures			\$600,000.00
Less housing activity expenditures through 01/23/2025	-		\$294,551.32
Total	=		\$416,939.79
30 percent	x 0.30 =		\$125,081.94
Less affordability assistance expenditures through 01/23/2025	-		\$10,000.00
Projected Affordability Assistance 6/30/2025 through 06/30/2035	=		\$115,081.94
Projected Very Low-Income Affordability Assistance 06/30/2025 through 06/30/2035	x 0.34 =		\$39,127.86

Red Bank will dedicate \$115,081.94 from the affordable housing trust fund to provide affordability assistance, with at least 1/3 of the affordability assistance spending being dedicated to providing assistance to very-low income households. This would be a minimum of \$39,127.86 that will be directed towards making housing more affordable specifically to very-low income households. As the Borough projects to have additional revenues, some of this revenue will be dedicated towards affordability assistance, and as much as \$140,616 may be spent on affordability assistance.

In accordance with N.J.A.C. 52:27D-329.2, the programs considered to provide affordability assistance to low and moderate income households may include the following:

1. Down Payment Assistance Program;
2. Security Deposit Assistance Program;
3. Low interest loans;
4. Maintenance expenses for condominiums;
5. Rental assistance;
6. Conversion of low or moderate income housing units to very low income housing units;
7. Any other program authorized by the Department of Community Affairs (NJDCA)

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

Administrative expenses are subject to a twenty percent (20%) cap. The table below demonstrates the maximum amount of Affordable Housing Trust Fund revenue that will be available for administrative expenses through 2035.

Table 3. Administrative Expense Calculation			
Actual development fees through 01/23/2025			\$680,371.97
Actual interest through 01/23/2025			\$69,178.09
Development fees and interest projected 2025-2035	+		\$380,000.00
Less Payment in Lieu Funds	-		\$0.00
Total	=		\$1,129,550.06
Calculate 20 percent	x .20 =		\$225,910.01
Less administrative expenditures through 01/23/2025	-		\$266,323.95
Projected maximum allowable for administrative expenses 06/30/2025 through 06/30/2035	=		(\$40,413.94)

Red Bank has currently exceeded the 20% cap on administrative expenses. At this time, it is not projected that the Borough will bring in sufficient funds to bring administrative funding under that cap. Until such funding is in place, the Borough will commit to not spending any additional AHTF money on administrative expenses. However, since there is no certainty about the timing of revenue deposits, the Borough will continue to calculate the maximum amount to be expended on administrative expenses yearly. In the event that sufficient funds are deposited, projected administrative expenditures, subject to the 20 percent cap, are as follows:

1. Wait list management and general administration.
2. Administration of Down Payment Assistance Program by Administrative Agent
3. Establishment and Administration of Homeowner Association Fee Assistance Program by Administrative Agent
4. Establishment and Administration of the Very Low-Income Assistance program
5. Establishment, Implementation, Administration of Market to Affordable program
6. Fees for the sale of affordable units that are priced such that 3% of sale price is less than the Administrative Agent's minimum fee (Borough pays the difference).
7. Preparation and Review of Affordable Housing Agreements, Resolutions, Deed Restrictions for affordable housing developments.
8. Preliminary engineering analysis for affordable housing sites
9. GIS mapping and analysis related to preparation and implementation of the Fair Share Plan.
10. Litigation expenses for the review and implementation of the Fourth Round Housing Element and Fair Share Plan.

4. EXPENDITURE SCHEDULE

Red Bank intends to use affordable housing trust fund revenues for the creation and maintenance of affordable housing units, for affordability assistance, and for administration as set forth above. The Borough will commit funds to specific programs as outlined above, or the plan will be amended.

TABLE 4. Projected Expenditure Schedule 2025-2035												
Programs	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
Rehabilitation	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000		\$600,000
Affordability Assistance	\$14,062	\$14,062	\$14,062	\$14,062	\$14,062	\$14,062	\$14,062	\$14,062	\$14,062	\$14,062		\$140,616
Administration	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$74,062	\$74,062	\$74,062	\$74,062	\$74,062	\$74,062	\$74,062	\$74,062	\$74,062	\$74,062	\$0	\$740,616

5. EXCESS OR SHORTFALL OF FUNDS

The Borough plans to implement the programs set forth in the Fourth Round Fair Share Plan and the Spending Plan incrementally with the funds that are available; and will ensure that the collected funds are spent consistent with the applicable rules and regulations and in a manner that advances the Borough's affordable housing goals. The purpose of the Spending Plan is to plan for expenditure of monies in the Affordable Housing Trust Fund. N.J.A.C. 5:97-8.10(a)(9) requires that the spending plan address the "manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the plan". The Borough will assess the status of the AHTF and implementation of the Fair Share Plan annually.

In the event more funds than anticipated are collected and the available funds exceed the amount necessary to implement the Fair Share Plan, the excess funds may be used to expand the programs described above.

SUMMARY

The Borough of Red Bank intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the programs outlined in the Fourth Round Housing Element and Fair Share Plan dated June 2025 and this Spending Plan.

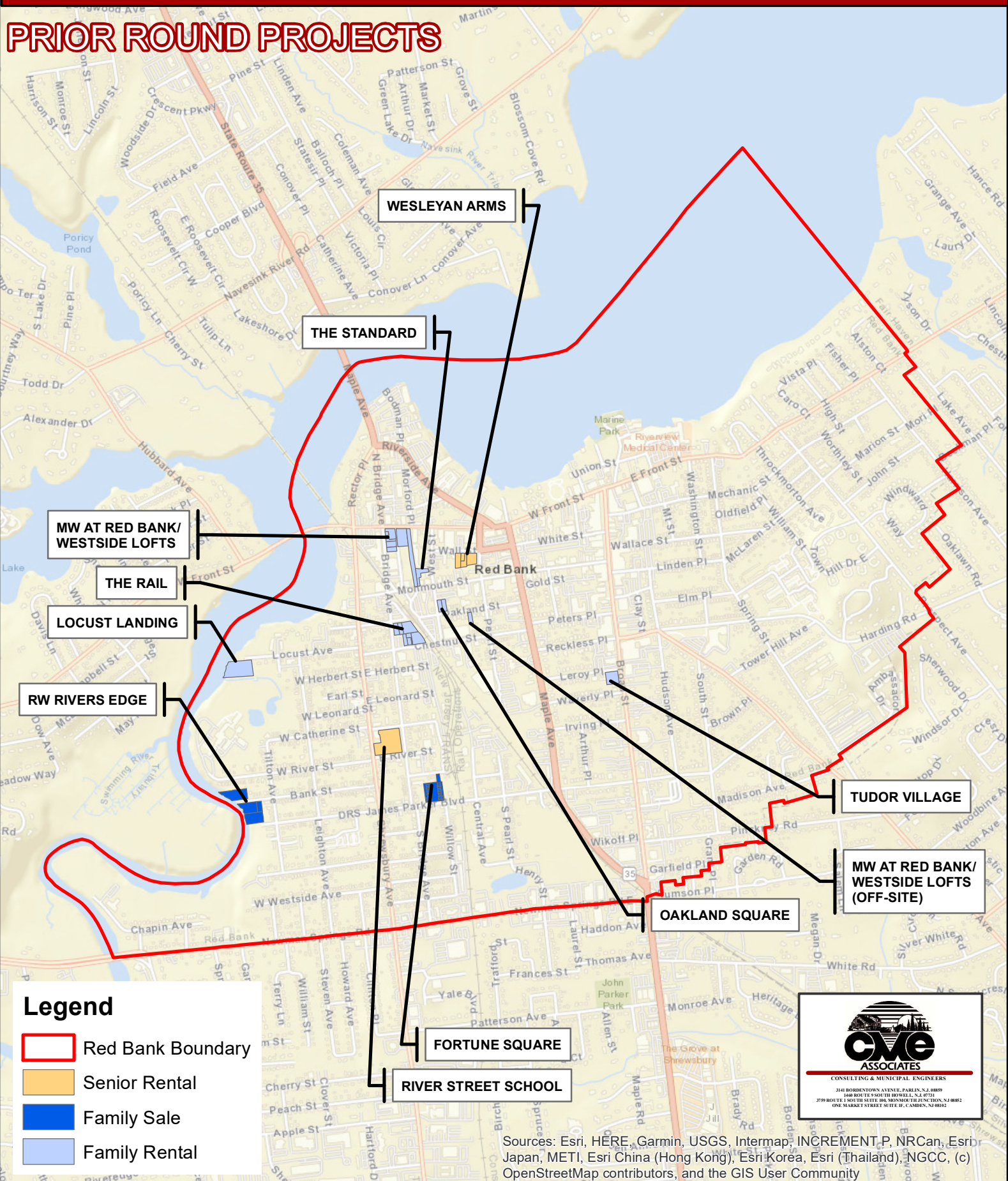
Red Bank anticipates collection of \$380,000 in revenues through 2035 to supplement the \$360,615.84 currently in the Trust Fund. The municipality has provided a plan to spend projected revenues on specific projects and programs. The exact timing of additional revenues is uncertain, but the estimate is realistic based on development trends in the Borough. The Spending Plan will be amended if needed to adjust for changed needs or emergent opportunities for affordable housing production or assistance.

Table 5. Spending Plan Summary	
Balance as of January 23, 2025	\$360,615.84
Projected Revenue 2025-2035	\$380,000.00
Development Fees	\$300,000.00
Other Funds	\$0.00
Interest	\$80,000.00
Payment in Lieu	\$0.00
TOTAL REVENUE	\$740,615.84
Expenditures	
Rehabilitation	\$600,000.00
Affordability Assistance	\$140,615.84
Emerging Mechanisms	\$0.00
Administration	\$0.00
TOTAL PROJECTED EXPENDITURES	\$740,615.84
REMAINING BALANCE	\$0.00

APPENDIX D-1

Prior Round Projects Map

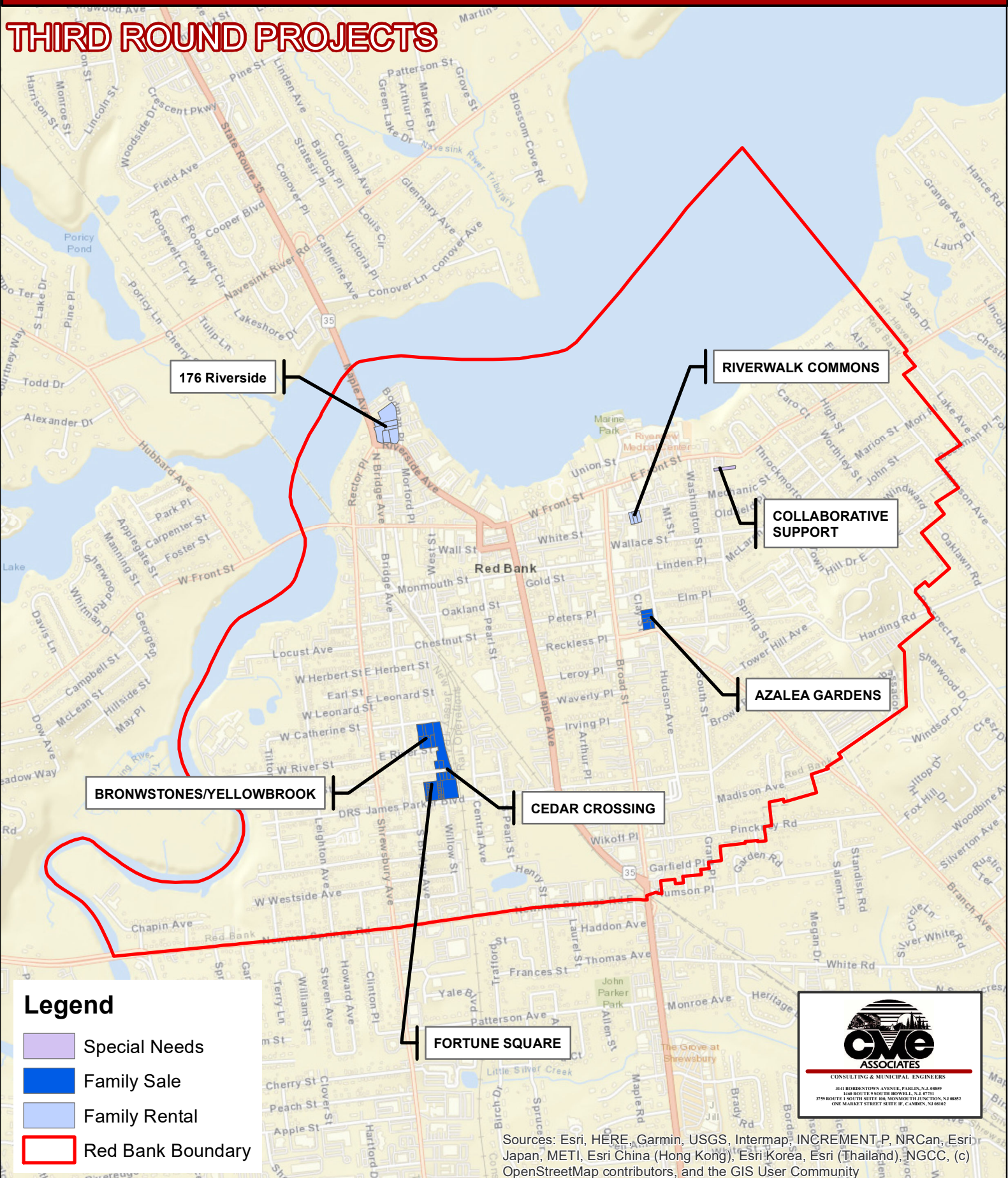
PRIOR ROUND PROJECTS



APPENDIX D-2

Third Round Projects Map

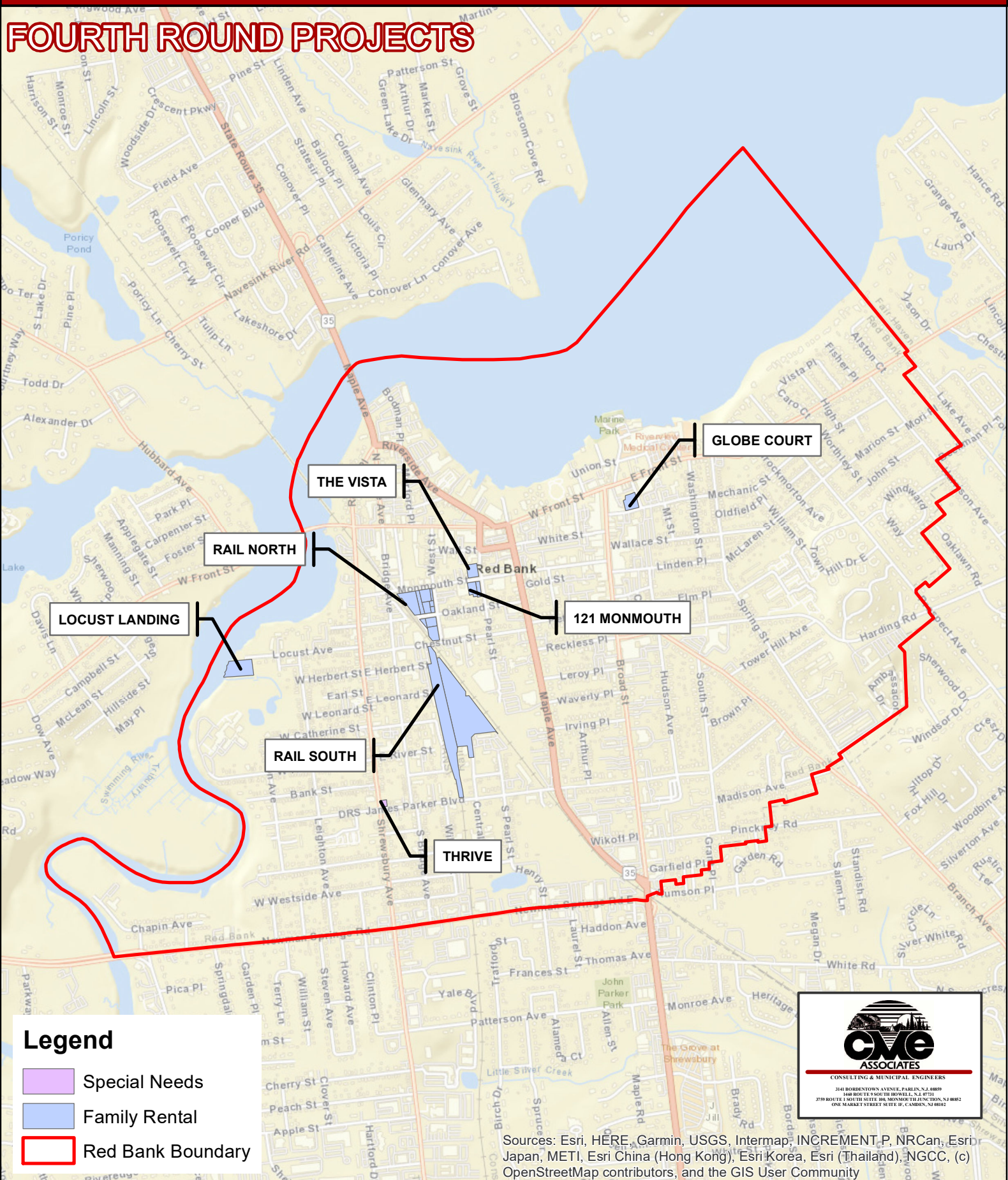
THIRD ROUND PROJECTS



APPENDIX D-3

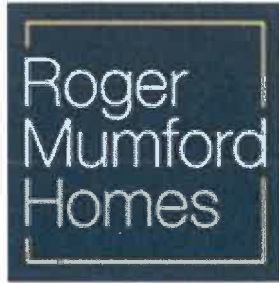
Fourth Round Projects Map

FOURTH ROUND PROJECTS



APPENDIX E-1

Affordable Housing Plan – Azalea Gardens



April 27, 2023

Shawna Ebanks
Director of Community Development
Borough of Red Bank
90 Monmouth Street
Red Bank, New Jersey 07701

Re: 14 townhomes and 2 affordable housing on Hudson Street (Formerly known as Azalea Gardens)

Dear Shawna,

I hope you are doing well. In reference to the affordable housing compliance for the project, please see the requested information below:

Section 205-4 requires the submission of an affordable housing plan with an application for development. To assess compliance with Chapter 205, said plan should minimally contain:

- The number of affordable housing units to be provided: 2
- The room allocation of each unit consistent with Section 205-4: **Both Units will be 2 bedrooms
(As per the approved plans)**
- Indication of any age restricted units: **No**
- Indication of which units will be very low income (minimum 13% as per settlement with FSHC), low income and moderate income in accordance with Section 205-5, 205-6, and 205-13

1 Low and 1 Moderate Income Unit

- For affordable units proposed on site, the location of each unit. **Plan is attached**

- For affordable units proposed off site:

- The location where the affordable units are proposed to be provided, **Non-Applicable**

- For each off-site location where affordable units are proposed, sufficient information on that site to access compliance with 205-4(E)

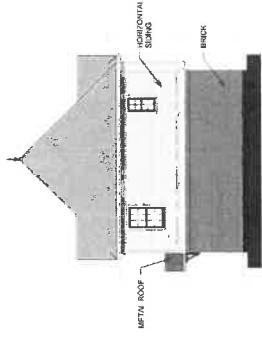
A handwritten signature in black ink, appearing to read 'S Braitling', followed by a large, stylized circular flourish.

Shawn Braitling

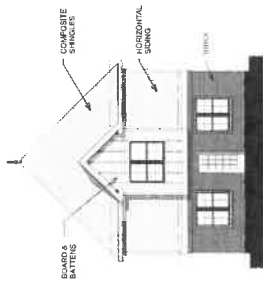
Vice President

Roger Mumford Homes

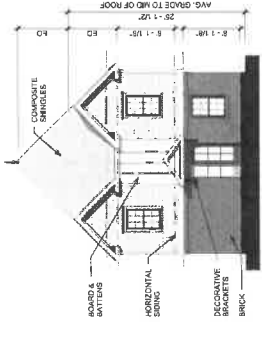
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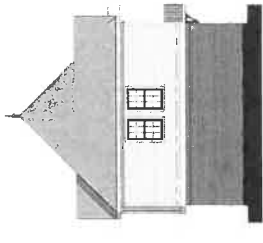
Affordable Right Elevation
Scale: 1/8" = 1'-0"



Affordable Rear Elevation
Scale: 1/8" = 1'-0"



Affordable Front Elevation
Scale: 1/8" = 1'-0"



Affordable Left Elevation
Scale: 1/8" = 1'-0"



Affordable 2nd Floor Plan
Scale: 1/8" = 1'-0"



Affordable 1st Floor Plan
Scale: 1/8" = 1'-0"

Building Gross Area	
Level	Area
1st Floor Plan	825 SF
2nd Floor Plan	668 SF
Grand total	1293 SF

APPENDIX E-2

Locust Landing Development Proposal

GIORDANO, HALLERAN & CIESLA, P.C.

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
WWW.GHCLAW.COM

JOHN A. SARTO, ESQ.
SHAREHOLDER
JSARTO@GHCLAW.COM
DIRECT DIAL: (732) 219-5496

Please Reply To:
125 HALF MILE ROAD
SUITE 300
RED BANK, NJ 07701
(732) 741-3900
FAX: (732) 224-6599

February 20, 2025

Client/Matter No. 25261/1

HAND DELIVERED AND EMAIL: jgant@redbanknj.org

James Gant, Borough Manager
Borough of Red Bank Municipal Building
90 Monmouth Street
Red Bank, NJ 07701

**RE: Affordable Housing, Residential Development Proposal
Request for Inclusion in the Red Bank's Fourth Round Housing Element and
Fair Share Plan, MON-L-315-25
105 Locust Landing Ave., Red Bank, Lot 1.01, Block 71**

Dear Mr. Gant:

This law firm represents Locust Landing Urban Renewal Associates, L.P. ("Locust"), owner of property located in the Borough of Red Bank ("Borough") at 105 Locust Landing Avenue, and identified as Lot 1.01, Block 71, on the Borough Tax Map ("Property"). Please accept this letter requesting the Property be included in the Borough's Fourth Round Housing Element and Fair Share Plan ("HEFSP").

I. Background.

By way of background, the Property is located in the Borough's Residential District ("RD Zone") and is 1.34 acres (58,390 s.f.) in area and is presently improved with a 100% affordable housing development within 3 garden apartment style buildings and containing 40 affordable housing units, along with parking and associated site improvements ("Development"). The Development was initially constructed on or about 1965.

The Borough relied upon the Development for 6 family rental units credited towards the Prior Round within its Third Round HEFSP. (See September 9, 2019 Judgment of Compliance and Repose, and Borough's Third Round HEFSP dated April 4, 2019, pp.16-17). Middletown received credit for the remaining 34 units as part of a Regional Contribution Agreement ("RCA") with Middletown. See id.

The Development was previously rehabilitated and funded in part by Low Income Housing Tax Credits, and the Borough's grant of a long-term tax exemption in 1999. Accordingly, the Development is subject to various existing agreements.

James Gant, Borough Manager

February 20, 2025

Page 2

The Development is now 60 years old, deteriorating, and in need of investment to redevelop the Property in order to improve the aesthetics, elevate the structures, extend its useful life, and preserve (and create) much needed affordable housing units in the Borough.

II. Proposal.

Without investment, the Development will continue to deteriorate in the coming years. Additionally, the Property sits along the Navesink River's south bank and the existing buildings, developed at grade, were damaged by Super Storm Sandy. As you know, the New Jersey Department of Environmental Protection ("DEP") has proposed a new rule entitled the Reform to Support Resilient Environments and Landscapes ("REAL rule") which we anticipate will be enacted as early as July of this year. As drafted, the REAL rule will raise the flood elevation applicable to the Property.

Locust seeks to substantially renovate and elevate the existing buildings to ensure the long-term viability of the Development. The 100-year flood elevation applicable to the Property is 11 feet. The lowest first-floor elevations of each of the existing three building is below that flood elevation and varies from 9.1 feet to 10.3 feet. Locust proposes to raise the first-floor elevation of all buildings to 12 feet, which is 1 foot above the 100-year flood elevation. A concept plan is enclosed for the Borough's review.

As discussed further below, the Development requires funding via 9% Low Income Housing Tax Credits ("LIHTC") from the New Jersey Housing and Mortgage Finance Agency ("NJHMFA"). Locust anticipates that the NJHMFA will require elevation of the buildings as depicted in the concept plan in order to consider granting LIHTC.

Locust would like to meet with the Borough at its earliest convenience to discuss redevelopment of the Property and the steps necessary to bring this to fruition.

III. Affordable Housing Credits Under Recently Enacted Law (L. 2024, c.2).

As previously mentioned, the Borough received 6 credits for the Development against its Prior Round obligation. As you know, the legislature enacted new affordable housing law in March of 2024. The law modified the standards for credits and bonus credits for the Fourth Round.

In connection with the redevelopment of the Property, the Borough may be able to claim 40 credits and potentially 40 bonus credits. There is available to the Borough one unit of credit and one-half bonus credit against its Fourth Round prospective need, for each existing low- or moderate-income rental housing unit for which affordability controls are extended for a new term of affordability, in compliance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC"), and the Borough contributes funding towards the costs necessary for this preservation. See N.J.S.A. 52:27D-311(l)(7).

Alternatively, the Borough can receive one unit of credit and one bonus credit against its Fourth Round prospective need for each unit of low- or moderate-income housing in a 100 % affordable housing project for which the Borough contributes toward the costs of the project via contributions from the municipal affordable housing trust fund if the contribution consists of no less than three percent of the project cost. See N.J.S.A. 52:27D-311(l)(8).

James Gant, Borough Manager
February 20, 2025
Page 3

IV. Conclusion.

If cooperative action is not taken in the immediate term, the ongoing viability of the Development is uncertain. Without public investment from the Borough and the grant of LIHTC from by NJHMFA, Locust will eventually confront an economic reality that it would be financially prudent to terminate its affordable housing obligation under the LIHTC by requesting termination of the extended use period, resulting in a corresponding termination of the affordability controls.

We are eager meet to discuss the Development at the Borough's earliest convenience. I anticipate that I would be joined by Locust's principals, financial consultants, and engineer. A proposed agenda for any discussion would include, but not be limited to, the following:

1. Municipal development approvals process. Locust seeks direction on the municipal level approvals necessary to renovate and lift the existing buildings, and if the proposed improvements could be permitted as exempt development under the Borough's ordinance. If an application to the Planning Board is required, Locust would like to understand if this would be deemed a minor or major site plan, and if relief is required.
2. LIHTC. The credits being sought are 9% preservation credits. Locust has a short window of opportunity to apply for these LIHTC. The application to NJHMFA due on May 16, 2025. Further, there are certain documents that are due on or before April 4, 2025, some of which require municipal action. Namely, adoption of a "resolution of need" by the Borough, and the Borough's grant of tax abatement.
3. Tax Abatement. The Borough and Locust previously entered into a financial agreement outlining the terms of a 30-year tax abatement terminating on November 1, 2028. In order to qualify for LIHTC, the Borough must grant Locust a new tax abatement, including terms that meet the requirements of the 9% NJHMFA LIHTC Qualified Application Plan.
4. DEP approvals. As mentioned above, DEP has proposed REAL rules which we anticipate will be enacted as early as July of this year, which would require a 5-foot elevation of the buildings above the existing flood elevation of 11 feet, possibly making elevation infeasible. Locust intends to seek permits from DEP for the proposed improvements prior to the effective date of the REAL rule. Approvals granted by the Borough would help facilitate the issuance of DEP approvals sought.

If there is any additional information that would help facilitate discussions or aid in consideration of the proposal please let us know.

GIORDANO, HALLERAN & CIESLA

A Professional Corporation
ATTORNEYS-AT-LAW

James Gant, Borough Manager

February 20, 2025

Page 4

Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Sarto", enclosed within a rectangular border.

JOHN A. SARTO, ESQ.

JAS

Encls.

Via Email

cc: Leslie G. London, Esq. (llondon@msbnj.com)

Ted J. Del Guercio, III, Esq. (tdelguercio@msbnj.com)

Greg Cannon, Esq. (gcannon@cannonlawnj.com)

Shawna Ebanks, PP, AICP – Community Development Director (sebanks@redbanknj.org)

Michael J. Gross, Esq. (mgross@ghclaw.com)

Locust Landing Urban Renewal Associates, L.P.

APPENDIX E-3

Affordable Housing Plan – Globe Court

Globe Court Affordable Housing Plan

1. The number of affordable housing units to be provided

- 6 Units

2. The room allocation of each unit consistent with Section 205-4

- 1 One Bedrooms
- 4 Two Bedrooms
- 1 Three bedrooms

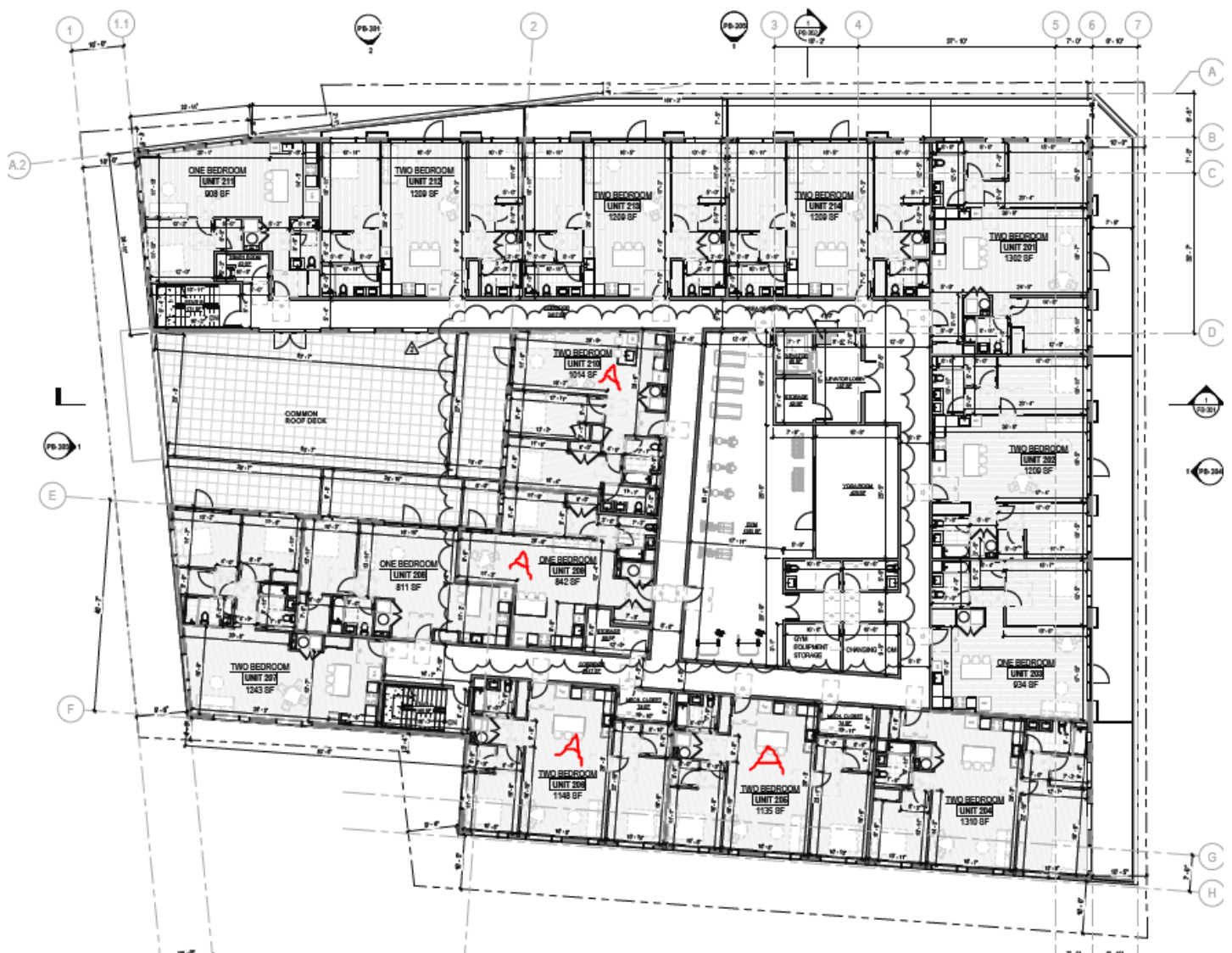
3. Indication of any age restricted units

- No age restricted units

4. Indication of which units will be very low income (minimum 13% as per settlement with FSHC), low income and moderate income in accordance with Section 205-5, 205-6, and 205-13

1. 1 Bedroom – Low Income
2. 2 Bedroom – Very Low Income
3. 2 Bedroom – Moderate Income
4. 2 Bedroom – Low Income
5. 2 Bedroom – Moderate Income Offsite
6. 3 Bedroom – Moderate Income Offsite

5. For affordable units proposed on site, the location of each unit within the development in accordance with 205-10B(1)(b)(2).



A = Affordable Unit

6. For affordable units proposed off site:

- These units will be completed simultaneously with the new building and will be ready for move in at the same time or before the new building

- The location where the affordable units are proposed to be provided (subject to ability to acquire the properties – otherwise alternatives will be proposed):

1. 54 Chapin Ave, Red Bank NJ 07701 – Three Bedroom
2. 27 Wall St #25 Red Bank NJ 07701 – Two Bedroom

Signature Field:

Board Engineer

Director of Community Development

Board Secretary

One Globe Court LLC

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Joshua Zager

Steve Heisman
Executive Director

Marta Joy Quinn
Director of Events & Enga

Tax ID 52-1596165

July 19, 2024

VIA E-MAIL: sebanks@redbanknj.org

Shawna Ebanks, P.P., AICP
Director of Community Development
Borough of Red Bank
90 Monmouth Street, 3rd Floor
Red Bank, NJ 07701

**Re: HABcore, Inc.
27 Wall Street, #25
Red Bank, NJ
Block 33, Lot 5**

Dear Ms.Ebanks:

I am the Executive Director of HABcore, Inc.

The mission of HABcore,Inc. is to provide permanent, supportive, and affordable housing to Veterans, families with children, and individuals with special needs.

As you may recall, in conjunction with a prior Land Use Board approval, One Globe Court, LLC secured approval to construct a 40-unit residential apartment building on the property located at 19-29 Mechanic Street, Red Bank, NJ (Block 28, Lot 4).

I understand that in conjunction with the aforesaid approval, the Developer has an affordable housing obligation.

I further understand that the aforesaid affordable housing obligation will be satisfied off-site.

Under separate cover, you were advised that the HABcore entity entered into an agreement with the Developer (or an agent thereof) so as to provide 2 such qualifying affordable housing units within the Borough of Red Bank.

In that regard, HABcore representatives have executed a Contract to purchase the 3-family home (apartment building) located at 27 Wall Street #25, Red Bank, NJ (Block 33, Lot 5).

Once purchased, one of the aforesaid units in the 3-family apartment building will be utilized to satisfy a portion of the aforesaid Developer's affordable housing obligation.

HABcore, by providing permanent housing and individualized support, helps homeless families, veterans, and individuals with special needs move through crisis to stability, giving them the opportunity to improve their lives

Details pertaining to the proposed affordable housing unit at the 27 Wall Street, Red Bank, NJ property are as follows:

Approximate size:	900 SF
Number of Bedrooms:	2
Number of Bathrooms:	1
Deed Restriction:	HABcore officials will consent to the imposition of a standard 30-year Deed Restriction memorializing the affordable housing nature of the unit, and occupancy / income restrictions associated therewith.

HABcore representatives are aware that the subject unit will need to satisfy all prevailing regulations as to size / condition / occupancy, etc.

Parenthetically, the other 2 units in the 3-family apartment building (27 Wall Street, Red Bank, NJ) will be leased to other HABcore-qualifying individuals.

As referenced, HABcore representatives are aware that a Borough-approved Deed Restriction will need to be prepared / filed / recorded memorializing the affordable housing restrictions.

HABcore representatives are also aware that tenants to be placed in the proposed affordable housing unit (within the 3-story apartment building located at 27 Wall Street, Red Bank, NJ) will need to be reviewed / screened / qualified / placed by the Borough's Affordable Housing Administrator.

I would therefore ask that you please advise as to what other information you will need in order for the proposed affordable housing unit to be officially approved, so as to satisfy a portion of the Developer's affordable housing obligation.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Steven Heisman", is written over a light blue rectangular background.

Steven Heisman, Executor Director

APPENDIX E-4

Resolution of Approval – 120 Monmouth Street

R-2021-16

RESOLUTION

**RED BANK ZONING BOARD OF ADJUSTMENT
PARK VALLEY MONMOUTH, LLC
120 MONMOUTH STREET
RED BANK, NJ
BLOCK 33, LOT 9.01
APPLICATION NO.: Z13547**

INTRODUCTION

WHEREAS, representatives of Park Valley Monmouth, LLC have made application to the Red Bank Zoning Board of Adjustment for the property designated as Block 33, Lot 9.01, commonly known as 120 Monmouth Street, Red Bank, NJ, within the Borough's BR-1 Zone, for the following approval: Major Site Plan Approval, Use / "d" Variance Approval, Floor Area Ratio Variance Approval, Density Variance Approval, Height Variance Approval, and Bulk Variance Approval associated with a request to effectuate the following:

- Demolition of the existing building on the site; and
- Construction of a 4-story 60,117 SF Mixed Use Building, consisting of 1,293 SF of commercial space on the ground floor and 32 Residential Apartments (in the aggregate) on the 2nd, 3rd, and 4th floors; and
- Construction of various site improvements, including an at grade parking lot beneath the building, landscaping, lighting, and utilities.

PUBLIC HEARINGS

WHEREAS, the Board held Public Hearings on May 6, 2021 and August 19, 2021, Applicant having filed proper proof of service and publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

WHEREAS, at the said Hearings, the Board reviewed, considered, and analyzed the following:

- *Application for Development Permit, dated June 10, 2020, introduced into Evidence as A-1;*
- *Denial of Development Permit, dated November 14, 2019, introduced into Evidence as A-2;*
- *Revised Denial of Development Permit, dated July 14, 2020, introduced into Evidence as A-3;*
- *Preliminary and Final Major Site Plan, prepared by Two River Engineering, LLC, dated April 8, 2020, last revised October 1, 2020, consisting of 8 sheets, introduced into Evidence as A-4;*
- *Architectural Plans, prepared by S.O.M.E. Architects, P.C., dated May 22, 2020, last revised April 20, 2021, consisting of 7 sheets, introduced into Evidence as A-5;*
- *Traffic Engineer Response Letter with figures and exhibits, prepared by Dynamic Traffic, dated April 20, 2020, introduced into Evidence as A-6;*
- *Ground Water Monitoring Well Summary Letter, prepared by AEI Consultants, dated April 2021, introduced into Evidence as A-7;*
- *Monitoring Well Decommission Reports, introduced into Evidence as A-8;*

- *Communication from the Applicant's Architect, dated April 21, 2021, introduced into Evidence as A-9;*
- *T&M Associates Review Memorandum, dated May 5, 2021, introduced into Evidence as A-10;*
- *Preliminary and Final Major Site Plan, prepared by Two River Engineering, LLC, dated April 8, 2020, last revised October 1, 2020, consisting of 8 sheets, introduced into Evidence as A-20;*
- *Revised Site Plans, prepared by Two River Engineering, last revised April 8, 2021, consisting of 9 sheets, introduced into Evidence as A-21;*
- *Architectural Plans, prepared by S.O.M.E. Architects, P.C., dated May 22, 2020, last revised April 20, 2021, consisting of 7 sheets, introduced into Evidence as A-22;*
- *Preliminary and Final Major Site Plan (sheet 3 of 8 only), prepared by Two River Engineering, LLC, dated April 8, 2020, last revised August 5, 2021, introduced into Evidence as A-23;*
- *Architectural Plans (sheets A-101 and A-102/103 only), prepared by S.O.M.E. Architects, P.C., dated May 22, 2020, last revised August 6, 2021, introduced into Evidence as A-24;*
- *Zoning Map, Borough of Red Bank, introduced into Evidence as A-25;*
- *T&M Associates Review Memorandum, dated August 18, 2021;*
- *Traffic Impact Study, prepared by Dynamic Traffic, dated May 14, 2021;*
- *Green Development Checklist;*
- *Certification of Board Member Sean Murphy, confirming that he reviewed the transcripts of and / or otherwise listened to the tape of the May 6, 2021 meeting, introduced into Evidence as B-1;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

WHEREAS, sworn testimony in support of the Application was presented by the following individuals:

- Michael Simpson, Architect;
- A.J. Garito, Professional Engineer;
John McCormack, Traffic Engineer;
- Keenan Hughes, Professional Planner;
- Edward J. McKenna, Jr., Esq., Appearing

WHEREAS, Edward Herrman, P.E., the Board Engineer and Greg Gitto, P.E. the acting Board Engineer, were also sworn with regard to any information / testimony they would provide in connection with the subject Application; and

TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANT

WHEREAS, testimony and other evidence presented on behalf of the Applicant and his Representatives revealed the following:

- The subject development site is a 0.456 acre property.
- The subject property is a developed corner lot, and the site currently contains a 1-story commercial building with an associated parking area.
- The subject building was most recently utilized as a Cross-Fit Gym.
- The Applicant's representatives propose to effectuate the following:
 - Demolition of the existing building on the site; and
 - Construction of a 4-story 60,117 SF Mixed Use Building, consisting of 1,293 SF of commercial space on the ground floor and 32 Residential Apartments (in the aggregate) on the 2nd, 3rd, and 4th floors; and

- Construction of various site improvements, including an at grade parking lot beneath the building, landscaping, lighting, and utilities.
- Upon completion of the project, the site will contain the following:
 - a. An at grade parking lot, containing 47 off-street parking spaces;
 - b. A 1,293 SF 1st floor commercial area;
 - c. Residential Units on the 2nd floor;
 - d. Residential Units on the 3rd floor; and
 - e. Residential Units on the 4th floor.
- There will be eleven (11) 1-bedroom units, twenty (20) 2-bedroom units, and one (1) 3-bedroom unit.
- There will be 5 Affordable Housing Units, and the same will be constructed onsite.
- It is anticipated that there will be dedicated parking for some or all of the proposed occupants.
- The Residential Units will be apartments, which will be rented out.
- Garbage at the site will be collected from a private hauler.
- The Applicant anticipates having the construction completed in the near future.
- The Applicant's representatives will be utilizing licensed contractors in connection with the demolition / construction process.

VARIANCES

WHEREAS, the Application as presented and modified requires approval for the following Variances:

USE / "d" VARIANCE: The Prevailing Ordinance permits dwelling apartment uses on floors above the street-level floor; provided, however, that each dwelling has a minimum of 1,000 SF of habitable floor area, and no more than 2-bedrooms at a maximum density of 16-

units per acre. In the within situation, the Applicant is proposing dwelling units with less than 1,000 SF of floor area and a total density of 69.6 dwelling units per acre. As such, Use / "d" Variance Approval is required in that the Applicant does not meet the requirements of a permitted use.

FLOOR AREA RATIO: The Prevailing Ordinance permits a maximum Floor Area Ratio of 2.1; whereas, in the within situation, the Applicant has proposed a Floor Area Ratio of 3.03.

DENSITY: The Prevailing Regulations allows a maximum Density of 16 dwelling units per acre; whereas in the within situation, the Applicant is proposing a Density of 69.6 dwelling units per acre.

BUILDING HEIGHT: Pursuant to the Prevailing Zoning Regulations, the maximum building height allowed is 40 ft.; whereas, in the within situation, the Applicant is proposing a building which is 50 ft. tall;

REAR YARD SETBACK: Pursuant to the Prevailing Zoning Regulations, a Rear Yard Setback of 25 ft. (to the principal building) is required; whereas, in the within situation, the Applicant is proposing a Rear Yard Setback of 1.12 ft.;

SIDE YARD SETBACK: Pursuant to the Prevailing Zoning Regulations, a Side Yard Setback of 10 ft. (to the principal building) is required; whereas, in the within situation, the Applicant is proposing a Side Yard Setback of 5 ft.;

MINIMUM GROSS HABITABLE FLOOR AREA FOR THE 2-BEDROOM UNITS: Pursuant to the Prevailing Zoning Regulations, a Minimum Gross Habitable Floor Area of 1,100 SF is required for 2-bedroom units; whereas, in the within situation, the Applicant is proposing some 2-bedroom units which only have a Minimum Gross Habitable Floor Area of 985 SF;

MINIMUM GROSS HABITABLE FLOOR AREA FOR THE 1 BEDROOM UNITS): Pursuant to the Prevailing Zoning Regulations, a Minimum Gross Habitable Floor Area of 900 SF is required for 1-bedroom units; whereas, in the within situation, the Applicant is proposing 6 1-bedroom units which do not meet the standard. As such, Variance relief is required.

LOT COVERAGE: Pursuant to the Prevailing Zoning Regulations, a maximum Lot Coverage of principal and accessory

structures of 50% is allowed; whereas, in the within situation, the Applicant is proposing 82.93%;

MINIMUM UNOCCUPIED OPEN SPACE: Pursuant to the Prevailing Zoning Regulations, a Minimum Unoccupied Open Space of 15% is required; whereas, in the within situation, the Applicant's representatives propose 9%;

OFF-STREET PARKING SPACES: Pursuant to the Prevailing Zoning Regulations / RSIS Standards, approximately 69 / 67 (69 under the Borough Ordinance and 67 under RSIS) are required; whereas, 47 on-site parking spaces are proposed;

GREEN ROOF REQUIREMENTS: Pursuant to the Prevailing Zoning Regulations, new buildings with a roof area in excess of 5,000 SF must provide a minimum of 25% of the roof area as a green roof (which meets the Prevailing Definitions set forth in the Ordinance). In the within situation, the Applicant is proposing approximately 18,120 +/- SF of roof, therefore requiring 4,530 SF of the same to meet the Prevailing Green Roof criteria. In the within situation, the Applicant is only providing 3,203 SF of a green roof and therefore, Variance relief is required.

PUBLIC COMMENTS

WHEREAS, public comments, questions, concerns, and / or statements regarding the application, and its effect on the surrounding neighborhood, were posed the following:

- Cindy Burnham
- Mary Ellen Messi
- Carl DeAngelis, Esq.

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Red Bank, after having considered the aforementioned Application,

plans, evidence, and testimony, that the Application is hereby **granted / approved with conditions.**

In support of its decision, the Zoning Board of Adjustment makes the following Findings of Fact and Conclusions of Law:

1. The Red Bank Zoning Board of Adjustment has proper jurisdiction to hear the within matter.

2. The within property is located at 120 Monmouth Street, Red Bank, NJ, within the Borough's BR-1 Zone.

3. The subject property contains approximately 0.456 acres.

4. The subject property is currently a developed corner lot, and the site contains a 1-story commercial building with associated parking.

5. The Applicant proposes the following:

- Demolition of the existing building on the site; and
- Construction of a 4-story 60,117 SF Mixed Use Building, consisting of 1,293 SF of commercial space on the ground floor and 32 Residential Apartments (in the aggregate) on the 2nd, 3rd, and 4th floors; and
- Construction of various site improvements, including an at grade parking lot beneath the building, landscaping, lighting, and utilities.

6. Such a proposal requires Site Plan Approval, Density Variance Approval, Use Variance Approval, Floor Area Ratio Variance Approval, and Bulk Variance Approval.

7. The Red Bank Zoning Board of Adjustment is statutorily authorized to grant such relief – and therefore, the matter is properly before the said entity.

8. With regard to the Application, and the requested relief, the Board notes the following:

Density

- As indicated, the Application as presented requires a (d) (5) Variance for Density relief. The relevant calculations in the said regard include the following:

Maximum 16 dwelling per acre permitted; whereas 69.6 dwelling units per acre proposed.

- As referenced, the Application as presented requires Density relief – and, per New Jersey Law, there is an enhanced standard for satisfying Standards associated with such Density relief. The Board is aware of the following references in the Borough's Master Plan, Master Plan Re-Examination Reports, and Zoning Ordinances regarding Density at the subject property, and in the surrounding areas. Specific references in the said regard include the following:

a.) *...The Land Use element of the 1995 Borough Master Plan contained a specific proposal of increased residential density within areas proximate to the Train Station. The 1995 Master Plan states at page 7:*

“Residential developments should be encouraged in a variety of ways, to further the objective of an increased population. These developments begin with the basic recommendation to permit some type of residential development to occur in virtually every area of town, including downtown and the industrial areas, where many changes can be expected to take place in the future. It also includes the recommendation to create a new mixed-use residential area west of downtown, in the vicinity of the Galleria and the train station. This new zoning district should permit a higher density of residential development than in most sections of town, but should also be

similar to the surrounding neighborhoods.” . . .

b.) In 2002, a re-examination of the 1995 Master Plan was undertaken. Generally, the goals of the 1995 Master Plan were reaffirmed. However, the Re-examination report encouraged the review of “housing densities in the downtown and in residential areas” with respect to the capacity of the roadway system and the availability of parking. The re-examination report also discussed the need for an evaluation of the availability of recreational facilities of the Borough, in order to accommodate the increased density of residential development. The re-examination report contained a specific recommendation to “Review residential uses in zones adjoining train station to determine conformity with Master Plan recommendations for residential density in that area.” . . .

c.) In 2009, a re-examination of the Master Plan was again prepared. With specific reference to the BR-1 and BR-2 zone, the report suggested:

“The density requirements in the BR-1 and BR-2 zones shall be increased to encourage increased residential development in that area and to allow residential uses above retail consistent with the recent extension of the River Center District...

d.) In addition, the 2009 Re-Examination Report suggested the formation of a new zone or zoning overlay for areas abutting or proximate to the train station. Specifically, the following was recommended:

“A new zone (or overlay district) should be considered in the vicinity of the train station to encourage residential development with ready access to public transportation as the primary means of travel.

e.) Also in 2009, Ordinance 2009-39 established the "Train Station Overlay Zone". The overlay zone encompasses the proposed development parcels. The purpose of this overlay zone was described in the ordinance as follows:

"The purpose of the "Train Station Overlay District" is to encourage a mix of retail/commercial uses at street level with increased residential density on floors above street level to create a mixed residential and commercial neighborhood that relies predominantly on public transportation as the primary means of travel."

The Board specifically finds that the Applicant's request for increased Residential Density at the site is consistent with the aforesaid goals, objectives, and standards of the Master Plan.

- The subject development site is within approximately 1,000 ft. of the Red Bank Train Station.
- State Planning Guidelines / Municipal Regulations encourage high density growth and development near train stations, such as that proposed by the Applicant herein.
- Approval of the Application will allow development to occur within walking distance of public transportation routes.
- The Borough's Master Plan encourages creation of a more pedestrian-friendly development in the Monmouth Street area, and approval of the within Application will help effectuate such a goal.
- Pedestrian-friendly residential development, within walking distance of train and bus lines, (as approved herein) is appropriate.
- Pedestrian-friendly residential development within walking distance of train and bus lines, (as approved herein) represents sound and environmentally conscientious planning.
- Subject to the conditions contained herein, construction of the project site will have no adverse impact on the environment.
- Mixed Use development of the site is appropriate.

- Mixed Use development of the site is welcomed in the neighborhood.
- The Pedestrian-friendly Development at the Site, such as that proposed herein, can potentially spur other development, and can bring needed or necessary customers / pedestrians / shoppers to other businesses in the Monmouth Street corridor / area.
- Approval of the Application, and construction of the development project, will help revitalize the Monmouth Street area.
- Approval of the Application and construction of the development project could help spur other appropriate redevelopment of the Monmouth Street corridor.

Traffic

- There was extensive testimony, debate, and discussion regarding the traffic impact associated with the proposal.
- The Applicant's representatives submitted a Traffic Impact Study, prepared by Dynamic Traffic, dated May 14, 2020. (The said Traffic Impact Statement is incorporated herein at length.)
- The Applicant's representatives also presented the testimony of John McCormack, a qualified and licensed Traffic Engineer.
- The Applicant's Traffic Engineer was retained so as to assess the traffic impact the construction of the project would have on the adjacent roadway network.
- In preparing the Traffic Impact Study, the Applicant's representatives considered and presented a number of documents, studies, methodologies, analyses, findings, and conclusions.
- In furtherance of the above point, in preparing the Traffic Impact Study, the Applicant's representatives analyzed a number of relevant factors, including, the following:
 - *A detailed field inspection was conducted to obtain an inventory of existing roadway geometry, traffic control, and location / geometry of existing driveways and intersections;*
 - *Existing traffic and pedestrian volume data was collected via manual turning movement (MTM)*

counts during the weekday AM and weekday PM peak periods, at the intersection of Monmouth Street with Pearl Street;

- *Projections of traffic to be generated by the proposed development were prepared utilizing trip generation data, as published by the Institute of Transportation Engineers;*
- *Trip generation of a similar adjacent residential apartment building was recorded and compared to the national trip generation data;*
- *The trip generation potential of re-occupancy of the existing site (fitness facility) was identified;*
- *The anticipated site traffic was then assigned to the adjacent street system based upon the anticipated directional distribution;*
- *Capacity analyses were conducted for the Existing, "No Build" and "Build" conditions for the study intersection and the site driveway;*
- *The proposed points of ingress and egress were inspected for adequacy of geometric design, spacing and/or alignment to streets and driveways on the opposite side of the street, relationship to other driveways adjacent to the development, and conformance with accepted design standards; and*
- *The parking layout and supply was assessed based on accepted design standards and demand experienced at similar developments.*

See Page 1 of Traffic Impact Study

- Given the nature, size, and scope of the proposal, such an extensive Traffic Impact Study / Analysis was appropriate.
- Given the nature, size, and scope of the proposal, a Traffic Impact Study which did not sufficiently address and incorporate all of the above issues / factors would not have been sufficient or appropriate.
- In conjunction with the Traffic Impact Study, the Applicant's representatives appropriately considered existing traffic conditions.

The said analysis of existing conditions included field investigations of the surrounding roadways and intersections, a collection of traffic and pedestrian volume data, and an analysis of the various intersections.

- As referenced, the Applicant's representatives considered the conditions of the existing roadway. Towards that end, the Applicant's Traffic Impact Study revealed the following:
 - *Monmouth Street is an Urban Major Collector roadway under the jurisdiction of the Borough of Red Bank. In the vicinity of the site the posted speed limit is 25 MPH and the roadway provides one travel lane in each direction with a general east/west orientation. On-street metered parking is provided along both sides of the roadway. Curb and sidewalk are also provided along both sides of the roadway. Monmouth Street provides a straight horizontal alignment and a relatively flat vertical alignment. The land uses along Monmouth Street in the vicinity of The Project are primarily commercial, with the Count Basie Theatre located along the south side of the roadway one block east of the site.*
 - *Pearl Street is a local roadway under the jurisdiction of the Borough of Red Bank. In the vicinity of the site the speed limit is not posted (assumed 25 MPH) and the roadway provides one travel lane in each direction (south of Wall Street) with a general north/south orientation. On-street parking (unmetered but 2-hour time limit) is permitted along the east side of the roadway between Monmouth Street and Wall Street/Water Street, and along both sides of the roadway to the south of Monmouth Street. Curb and sidewalk is provided along both sides of the roadway to the north of Monmouth Street and along the east side of the roadway and portions of the west side of the roadway to the south of Monmouth Street. Pearl Street provides a straight horizontal alignment and a relatively flat vertical alignment. The land uses along Pearl Street in the vicinity of The Project are a mix of residential and commercial.*

See Traffic Impact Study, Page 2

- In preparing its Traffic Impact Study, the Applicant's representatives also considered the future "no build" and future "build" conditions associated with the area. Specifically, the Applicant's traffic documentation suggested that regardless of whether the subject site is developed or not, traffic binds on the surrounding roadways are expected to increase as a result of developments throughout the surrounding area. Specifically, the Applicant's traffic documentation noted that there are numerous developments in the vicinity of the subject site which are in various stages of approval / development, and which are identified as potential traffic generators. The specific information in the said regard revealed the following:

- *A mixed-use building consisting of 210 residential units, 9,000 SF of co-working space and accessory retail/food space, located at 176 Riverside Avenue (Route 35), has been approved but has not started construction.*
- *A Hampton Inn & Suites consisting of 76 hotel rooms, located at Block 1 – Lot 1, has been approved but has not started construction.*
- *The Rail at Red Bank Station consisting of 57 residential units and 6,000 SF of ground floor retail space, located along Chestnut Street and Bridge Avenue, is currently under construction.*
- *The Anderson Building consisting of 11,500 SF of retail space and 31,205 SF of office space, located at 200 Monmouth Street, is constructed but not yet fully occupied.*
- *The Count Basie Theatre expansion consisting of a new lobby, upgrades to the theatre's backstage area, a multi-use venue for up and coming artists (Second Space), as well as a new classroom space which will accommodate area arts nonprofits, partner programs and the theatre's Performing Arts Academy is currently under construction.*

It is unlikely that traffic associated with the 176 Riverside Avenue, Hampton Inn, or Rail at Red Bank projects will have much, if any, impact on the traffic at Monmouth Street/Pearl Street; however, the Anderson Building and the Count Basie Theatre expansion will have some level of impact on the traffic volumes. Therefore, in addition to the background growth of 2.5% per year for 2 years, an

additional increase of 5% was applied to the existing traffic volumes in order to account for traffic associated with the above adjacent developments.

Applying an additional 5% to the existing traffic volumes is likely more conservative than if the site generated volumes for each area development (and) were estimated and distributed separately through the study intersection. Considering each development individually would only affect a few of the intersection movements, whereas an overall growth rate is applied to every movement at the intersection resulting in analysis of higher traffic volumes. This methodology essentially added 10% to the existing volumes. Figure 3, in Appendix A, shows the No Build traffic volumes.

See Traffic Impact Study, Page 4

- The Applicant's traffic documentation / testimony also advised that trip generation projections for the proposal were estimated in 2 ways; namely, the guidance from the Institute of Transportation Engineers (ITE) Trip Generation Manual (10th Manual) and an analysis of Trip Generation associated with a similar land use development in the area. The specific information, and tables associated therewith, were set forth during the Public Hearing process, and were more clearly identified on pages 5 and 6 of the Traffic Impact Study.
- In conjunction with the above point, the Applicant's representatives utilized the previously approved Station Place project as a comparison for a similar land use. The testimony / documentation indicated that pursuant to the Station Place Website, 44 of the 45 apartment units in the Station Place Complex are currently occupied. Additionally, while the Applicant's representatives noted that Station Place is strictly residential in nature (whereas the project approved herein contains a commercial component), the Applicant's representatives advised that the parking for the subject proposal will primarily serve residents of the proposed building. Therefore, the Applicant's representatives argued, use of the Station Place project as the comparable local trip generator was deemed to be appropriate.
- The tables and findings and studies associated with the projected trip generations, as referenced above, were set forth during the Public Hearing process, and identified, in detail, in the Traffic Impact Study.

- With regard to such a comparison to a local trip generating development, the Applicant's Traffic Impact Study revealed the following:

As can be seen above, the projected site generated trips based on local data are generally lower or similar to the ITE projections. This is due to the fact that the Station Place apartment building is located within close proximity to the Red Bank Rail Station. Similarly, the within Project is also located in close proximity to the Red Bank train station (less than 1,000 feet to the west along Monmouth Street). Therefore, the development can be expected to generate a significant amount of pedestrian traffic utilizing rail transit as an alternative to driving. However, in order to perform a more conservative analysis, the ITE data was utilized for all analyses contained herein.

See Traffic Impact Study, Page 6

- The Applicant's Traffic Report / testimony also analyzed trip generation, trip distribution, and an analysis of future traffic capacities.
- Based upon the above, and based upon the testimony / evidence presented, the Applicant's Traffic Impact Study contained several findings, including, the following:
 - *The proposed 32 residential units and 1,293 SF of ground floor commercial space will generate minimal traffic. A conservative estimate identifies that the project could generate 3 entering trips and 7 exiting trips during the morning peak hour and 8 entering trips and 4 exiting trips during the evening peak hour. This conservative estimate of trip generation does not account for mass transit influence of the Red Bank train station or take any credit for the existing use of the site.*
 - *Access to the site will be provided via one (1) full movement driveway along Pearl Street.*
 - *With the addition of the site generated traffic, the individual intersection movements of Monmouth Street and Pearl Street will operate at Level of Service "C" or better during the studied peak*

hours. There will be no perceptible change in the traffic operation of the intersection.

- *As designed, the individual intersection movements of Pearl Street and the site driveway will operate at Level of Service "A" during the studied peak hours. The exit movement from the site driveway will be Stop controlled and the parking restriction along the west side of Pearl Street ensures that the sight line will remain clear.*
- *The site driveway, internal circulation and parking space dimensions will allow safe and efficient movement of vehicles on-site.*
- *The redevelopment of the property and revision to the access will allow the on-street parking to remain as currently exists.*
- *The removal of the driveway along Monmouth Street will allow the creation of a loading space which will ensure ease of access to the building by delivery vehicles and eliminate disruption to the through traffic along Monmouth Street.*
- *The proposed parking supply is sufficient to support the anticipated demand, particularly considering the close proximity of the site to the Red Bank Rail Station, local parking demand characteristics, accessibility of TNC's and the walkability of the Borough.*
- *The peak parking demand characteristics of the residential and retail uses are such that any sharing of parking spaces will be compatible with one another.*

See Traffic Impact Study, Page 12

- Based upon the testimony and evidence presented, the Applicant's Traffic Impact Study contained the following conclusion:

Based upon our Traffic Impact Study as detailed in the body of this report, it is the professional opinion of Dynamic Traffic, LLC that the adjacent street system will not experience a degradation in operating conditions with the construction of The

Project. The site driveway is located to provide safe and efficient access to the adjacent roadway system. The site plan as proposed provides for good circulation throughout the site and provides adequate parking to accommodate The Project's needs.

See Traffic Impact Study, Page 12

- After considerable debate and discussion, a majority of the Board accepts the traffic findings and conclusions as set forth in the Traffic Impact Study.
- The Board notes that the subject property is, essentially vacant, underutilized, and ripe for development.
- The Board notes that the subject property is within walking distance to the Train Station (which is less than ¼ mile away), but that the subject property is also nearby shops, entertainment centers, places of work, and other downtown areas.
- The Board notes that the development site does truly involve a walkable downtown setting.
- Given the location of the property (being less than a ¼ mile from the Train Station), even though the subject property is not located in the Transit Overlay District, the subject property is, for a variety of reasons, ideally located for transit-oriented mixed-use development.
- The Board notes that notwithstanding the fact that the subject property is not located in the Train Station Overlay District, the subject property has, nonetheless, been declared an area in need of rehabilitation.
- The Board Members recognize that planning efforts over the last 15 years have, essentially, encouraged revitalization west of Maple Avenue, and near the Train Station.
- Approval of the within Application will advance some important concepts referenced in the Master Plan – including, but not limited to, the following:
 - The creation of pedestrian connectivity;
 - The creation / maintenance of adequate sidewalk widths and sidewalk areas;

- The promotion of new developments with pedestrian-oriented designs; and
- The creation of mixed-use developments at a walkable scale.

Parking

- Parking is always an important concern regarding any Development Application in the Borough of Red Bank, including the within Application.
- In the within situation, the Applicant's proposal requires 67 off-street parking spaces. The 67 off-street parking requirement is calculated as follows:

Proposed Apartments..... 62 spaces

Proposed commercial space... 5 spaces

= 67 spaces required

- In the within situation, the Applicant is proposing 47 parking spaces.
- As a result, a parking Variance is required (i.e. 67 spaces required; whereas 47 spaces proposed, resulting in a 22 space deficiency.)
- The Board notes that 47 parking spaces are proposed (including 2 handicap spaces) to support the 32 residential units.
- The Board is aware that the prevailing section of the Residential Site Improvement Standards (RSIS) provide that "alternative parking standards (to those shown herein) shall be accepted if the Applicant demonstrates these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site resources". Towards that end, the Board notes that the availability of mass transit (i.e the Red Bank Train Station is less than 1,000 ft from the development site) and the availability of off-site parking resources (i.e. the significant number of on-street spaces available along

Monmouth Street and adjacent streets) are local factors which can, and do, affect the actual parking demand/inventory.

- The Zoning Board is aware that the Borough ordinance includes a Train Station Overlay District overlay which reduces the parking requirements to 1.25 parking spaces per 1-bedroom unit and 1.4 parking spaces per 2-bedroom unit for residential uses if the subject property is located in the Train Station Overlay District.
- Likewise, the Board is also aware that the prevailing ordinance imposes a lesser standard if the development site were actually located in the Train Station Overlay District.
- In the within situation, the subject property is not located in the Train Station Overlay District. Rather, the development site is located approximately 200 ft outside of the Train Station Overlay District.
- That notwithstanding, per the testimony and evidence by the Applicant's representatives, residents / occupants of the proposed building will presumably exhibit parking behavior similar to that of a building actually located in the Train Station Overlay District.
- Per the testimony and evidence presented, the actual parking demand required for the site is a function of many things – including, the proximity of the Red Bank Train Station, the availability of other on-street parking in the area, and the walkable nature of the site.
- Additionally, per the testimony and evidence presented, the Applicant's representatives also conducted parking counts for a comparable mixed-use development within the Borough of Red Bank. Specifically, the Applicant's representatives conducted a parking count associated with the nearby Station Place project. Per the testimony and evidence presented, the Applicant's representatives suggested that the Station Place project is appropriately parked, and because of many similar factors, the within development site will be appropriately parked as well.
- The Applicant's Traffic Engineers performed 3 separate parking analyses in an attempt to prove that the proposed parking supply is sufficient to support the actual parking demand. Specifically, the Applicant's traffic representatives considered Institute of Traffic Engineer (ITE) parking criteria, the prevailing Borough ordinance requirements (for the Train Station Overlay District), and other local parking data. Based upon the same, the Applicant's traffic

representatives argued that under strict Institute of Traffic Engineer data, 40 off-street parking spaces are required. Likewise, under the prevailing Borough ordinance (if the property had been located in the Train Station Overlay District), 47 parking spaces would be required. Finally, considering local parking data and other Train Station Overlay District requirements, a total of 42 parking spaces would be required. Thus, under the aforesaid analyses, under 1 estimate, 40 parking spaces were required; under a second methodology 47 parking spaces were required; and, under a third calculation methodology, 42 parking spaces were required. In the within situation, the Applicant's representatives are proposing 47 off-street parking spaces, which satisfy all 3 analyses, as referenced above.

- Based upon the testimony and evidence presented, the Board finds that the proposed parking supply of 47 spaces is adequate to support the demand of the project approved herein.
- It is also noted that the peak parking demand for the residential use is non-coincidental with the peak parking demand for the retail use, meaning that any sharing of parking spaces will be compatible with one another. That is, the Board notes that the residential use parking demand peaks during the overnight hours, during which time, the retail use will have no actual parking demand. Likewise, the retail peak parking demand will occur during the daytime hours, during which time the residential parking use will be at its lowest demand. With the aforesaid parking demand characteristics of the 2 proposed land uses (residential and commercial), and per the testimony and evidence presented, the parking supply approved herein is expected to be more than sufficient to accommodate the peak parking demand of the proposed mixed-use development.
- Additionally, per the testimony and evidence presented, the Applicant's representatives will likely assign / dedicate parking for some or all of the residential occupants of the proposed apartments. The Board finds that such an approach will likely facilitate the manner in which the proposed mixed use will ultimately operate.
- Though the Board prefers to avoid the need to issue/grant a parking variance, under the circumstances, an approximate 20 space deficiency can be granted without causing substantial detriment to the public good.
- The Applicant herein has proposed a shared parking arrangement so as to maximize the parking efficiency at the site. The Zoning

Board has reviewed the Applicant's shared parking analysis and has studied the testimony/evidence/agreements presented, or otherwise advanced by the Applicant's professionals. In that regard, and subject to the conditions set forth herein, the Zoning Board is of the opinion that the proposed shared parking arrangement is a realistic and functional plan for the site.

- A shared parking analysis, as proposed herein, is appropriate so as to account for the differing peak parking needs associated with the various uses proposed in the mixed-use development. Specifically, shared parking, as proposed herein, reduces the total number of overall parking spaces needed at a site, by providing appropriate credit for the vacant / unused spaces associated with other/competing uses in the mixed-use development.
- The shared parking proposal/concept submitted by the Applicant allows the proposed residential use and the proposed retail use to harmoniously operate with each other - as opposed to competing with each other. That is, typically, the residential uses will have peak parking demands at night, while the proposed retail use(s) will have peak parking demands during the day. The absence of simultaneous peak parking needs at the site (between the proposed mixed uses) will better allow the site to operate in a safe, convenient and non-competing fashion.
- The proposed mixed-use development is appropriate for the site, particularly given the size of the site (i.e. 0.456 acre), the nature of the surrounding uses, and the Master Plan goal/ intention of encouraging mixed use development at the site.
- The approximately 47 parking spaces provided at the development project are, per the testimony presented, adequate for the site (i.e. testimony indicated that the site will need approximately 47 spaces, whereas approximately 47 spaces are actually provided).
- Per the testimony / evidence presented, per the conceptual design presented, and per the testimony that parking at the site will be sufficient, the site can accommodate the mixed-use development approved herein (which exceeds the density otherwise permitted.)

Miscellaneous

- Construction of the project and full occupancy can actually be a necessary anchor to potentially spur other appropriate development in the surrounding areas.

- The architectural design of the proposed building is aesthetically appealing.
- The Mixed Use approved herein is appropriate for the site.
- Other permitted uses at the site (including banks, food establishments, business offices, theaters, and professional offices) could potentially generate substantially more vehicular traffic at the site than the Mixed Use proposed / approved herein.
- The proposed development site is very close to the Red Bank Train Station – and it is believed that some young professionals / commuters will be occupying the proposed development. Therefore, some of the commuters who live at the site are generally expected to walk to/from the train station, thereby somewhat reducing the vehicular congestion generally associated with an average rush hour / weekday.
- For the reasons set forth above, the Borough's Master Plan encourages high-density growth and development near the train station, and approval of the within application will help effectuate/advance the same.
- For the reasons set forth above, the State encourages high-density growth and development near train stations as well - and approval of the within application will help effectuate/advance the same.
- The Borough's Master Plan encourages growth and development which will create a more pedestrian friendly area in the Monmouth Street vicinity, and it is believed that approval of the within application will allow the same to be effectuated.
- The construction associated with the within approval will take place on land which has mostly already been developed. Thus, subject to the conditions noted herein, approval of the within application will allow appropriate development to occur, with little or no adverse impact on the environment.
- Approval of the within application will not appreciably reduce open space at this site, nor will the same disturb an environmentally sensitive area.
- The proposal approved herein is located near other existing developments, and, as such, the project can benefit by the

existence of nearby infrastructure improvements, i.e. roadways, water connections, and sewer connections.

- Approval of the application will allow residential development to occur within walking distance of public train lines and public bus lines.
- In order to combat detrimental effects associated with urban sprawl, towns are, essentially, encouraging development where occupants will not be required to rely exclusively on intense automobile use. In that regard, approval of the within application (subject to the conditions noted herein) will allow occupants to live within walking distance of train lines, bus lines, existing neighborhoods, existing commercial uses, and existing restaurants/churches, etc.
- The site can be developed for several permitted uses, including banks, food establishments, theaters, business offices, and professional offices. The Board finds that other permitted development at the site could be potentially more intense than the mixed use proposed herein. Thus, it is believed that subject to the conditions noted herein, and subject to the Applicant satisfactorily addressing future site plan, and bulk variance concerns, the within use / density will not have an adverse impact on surrounding uses.
- Subject to conditions contained herein, approval of the within application is generally consistent with the Borough's Master Plan.
- The Application as presented requires a Variance for the Minimum Gross Habitable Floor Area for some of the 2-bedroom units. Specifically, a 1,100 SF Minimum Gross Habitable Floor Area for a 2-bedroom unit is required; whereas, the Applicant is proposing some 2-bedroom units which only have 985 SF. The Board notes, that although the size standard for some of the 2-bedrooms units is not met, the size of the 2-bedroom units approved herein will not compromise public health or safety.
- The Application as presented also requires a Variance for the Minimum Gross Habitable Floor Area for 1-bedroom units. Specifically, a 1-bedroom unit requires a Minimum Gross Habitable Floor Area of 900 SF; whereas, some of the 1-bedroom units do not comply, with the smallest 1-bedroom unit containing 832 SF. Although a Variance is required, the Board notes that per the testimony and evidence presented, the said deviation will not compromise public health or safety.

- The Application as presented requires a Variance because the roof area does not meet all prevailing “green” roof requirements. That notwithstanding, the Board notes that there is a sufficient component of “green” elements associated with the proposal and thus, the Board finds that the Application can be granted without causing substantial detriment to the public good.

Affordable Housing Units

- The testimony indicated that per Prevailing Affordable Housing Regulations, 5 Affordable Housing Units are required in connection with the subject Application. Towards that end, the Applicant’s representatives testified that 5 required Affordable Housing Units will be actually constructed on-site. Many times, the Board has experienced developers having a concern or reluctance about placing Affordable Housing Units in newly constructed buildings or newly renovated buildings. The Applicant’s representatives herein, however, after debate and discussion, have voluntarily offered to affirmatively place 5 Affordable Housing Units on the site – and the Board Members gratefully acknowledge / appreciate such a commitment.
- A commitment for the inclusion of 5 on-site Affordable Housing Units will be beneficial for the Borough of Red Bank and the Borough’s existing / future residents.
- Approval of the Application will result in the creation of 5 on-site Affordable Housing Units.
- Construction of 5 Affordable Housing Units on site will substantially promote / advance the Borough’s Affordable Housing-related needs.
- The Applicant’s proposal complies with the 15% Affordable Housing set aside as presumably mandated in some Development Zones of the Borough.
- The inclusion of 5 Affordable Housing Units on-site will help further establish the great Borough of Red Bank as an inclusionary community.

Floor Area Ratio

- The Application as presented and modified requires a variance approval for the Floor Area Ratio (FAR). Specifically, a maximum Floor Area Ratio of 2.1 is permitted in the subject zone; whereas, the Application herein is proposing a floor area ratio of 3.03.
- The Board is aware that, generally speaking, the legal standards associated with FAR relief require the Applicant to prove that the site can, in fact, accommodate the Applicant's proposal, notwithstanding the non-compliant FAR.
- The Board Members reviewed the FAR Variance in accordance with the said standards.
- The Board is furthermore aware that the Floor Area Ratio generally compares the size of the proposed buildings, to the size of the proposed Lot. Hence, the Floor Area Ratio is one way Boards can typically attempt to ensure that the size of the development will be appropriately scaled (given the size of the subject Lot).
- The proposed 3.03 Floor Area Ratio, quite frankly, represents a potentially material deviation.
- The said Floor Area Ratio Variance was critically reviewed by the Board Members.
- Importantly, for the reasons set forth herein and as otherwise set forth during the public hearing process, a majority of the Board finds that the subject site can, in fact, accommodate the Applicant's proposal, notwithstanding the Floor Area Ratio deviation.

Height Variance

- The Application as presented required a height variance.
- The Board is aware that height variances are treated rather uniquely under the New Jersey Municipal Land Use Law, and associated case law.
- Under the New Jersey Municipal Land Use Law, a height variance can be a bulk variance under section "c" of the prevailing statute, or the same can be a use variance under section "d" of the Statute. Specifically, if the height deviation of the principal building exceeds 10 ft. or 10 percent of the allowable height, then, in that event, the height variance requires use / "d" variance relief (which

involves / implicates a higher and more intense legal criteria / standard.) Likewise, if the principal height deviation is less than 10 ft. or 10%, then, in that event, the Applicant will be required to obtain bulk “c” height variance relief. As submitted, the Application requires a variance for a height of 50 ft., whereas, the maximum allowable height in the BR-1 Zone is 40 ft. The said height deviation, which exceeds the 10 ft. / 10% rule, as referenced above, necessitates use / “d” variance relief.

- As referenced, the Application, requires height variance relief. Specifically, a maximum principal building height of 40 ft. is allowed; and 50 ft. is proposed.
- The Applicant’s representatives essentially testified that the 50 ft. height is necessary for aesthetic reason and functional reasons. Additionally, the requested height will allow for sufficient grade level parking to be installed so that the site is sufficiently parked. A majority of the Board has accepted and endorsed such a concept/argument.
- A majority of the Board finds that, under the circumstances, any further substantive reduction in the principal height of the building approved herein would likely detract from the beautiful and positive aesthetic impact as designed by the project architect.
- Based upon the testimony / evidence presented, the Board finds that the height of the building approved herein will not be out of character, or otherwise inconsistent, with the height of other structures in the area.
- As referenced elsewhere herein, the Board Members also balanced the benefits of the Application against the potential detriments associated therewith – and the height analysis was appropriately factored into the equation as well.
- For all the reasons set forth herein, and otherwise set forth during the public hearing process, a majority of the Board finds that the height variance can be granted without causing substantial detriment to the public good (and in conjunction with other applicable legal standards.)
- Six members of the Zoning Board of Adjustment were of the belief that the height deviation approved herein is appropriate, particularly in conjunction with the many other benefits of the within approval.

- The height deviation approved herein will more easily / comfortably allow for a greater amount of parking on the site, and parking which will not be readily visible from the street.
- The height approved herein will help keep the project viable, and the same will simultaneously allow the proposed development to comfortably accommodate the proposed residential/retail uses.
- Per the testimony and evidence presented, the height of the proposed building will not be out of character from other buildings in the immediate neighborhood.
- For the reasons set forth herein, and as set forth during the Public Hearing process, the Board finds that the requested Height Variance can be granted without causing substantial detriment to the public good.

Surrounding Uses

- Per the testimony and evidence presented, some of the surrounding uses (surrounding the subject development site) include the following:
 - A Consignment Shop;
 - A Boutique;
 - An Auto Center;
 - A Butcher;
 - A Restaurant;
 - A Pet Store;
 - A Hair Salon;
 - Other Commercial Establishments; and
 - Other Retail Establishments.
- The nature of, and character of, the surrounding uses is a very important consideration, particularly in light of the Use / "d" Variance relief requested.
- In that the Mixed-Use approved herein is not a specifically permitted Use (because of the density and other issues), it is appropriate for the Board to consider what type of impact the non-

complying use will have on the site, the neighborhood, and the Borough of Red Bank as a whole.

- Relevant questions for the Board to consider in the said regard include, but are not limited to, the following:
 - a. Is the proposed use compatible with the surrounding uses?
 - b. Is the proposed use incompatible with the surrounding uses?
 - c. Will the proposed uses, essentially, “blend in” with the surrounding uses?
 - d. Is the proposed use similar to a permitted use?
 - e. Will the proposed use be compatible with the surrounding uses, from an operational standpoint?
 - f. Will the proposed use be compatible with the surrounding uses, from an aesthetic / visual standpoint?
 - g. Will the proposed use be compatible with the surrounding uses?
 - h. Will the proposed use be compatible with the surrounding use from a traffic standpoint?
 - i. Will the proposed use be similar to the existing use, from a parking standpoint?
 - j. Is the proposed use more intense or less intense than the existing use?
 - k. Will the proposed use cause substantial detriment to the public good?
 - l. Can any detrimental issues associated with the proposed use be off-set or otherwise mitigated as a result of the imposition of conditions on the approval?
 - m. Will the proposed use generate noise, parking demands, or garbage issues which are incompatible with the surrounding uses?

- n. Will the proposed use “stick out” from the surrounding uses?
 - o. Will the proposed use be more, or less, compatible with the surrounding uses?
- The Red Bank Zoning Board Members did consider the aforementioned questions in conjunction with its overall analysis of the Application
- The nature of the surrounding uses was a very important consideration for the Board Members.
- As referenced, the surrounding areas consist of various commercial and retail establishments. As such, the Board finds that the use approved herein is consistent with other uses in the neighborhood / area.
- The Board finds that the Mixed-Use Development approved herein is not inconsistent with the surrounding uses.
- The Board finds that the Mixed-Use Development approved herein is not incompatible with the other surrounding uses.
- The proposed Mixed-Use is compatible with the surrounding uses.
- The Mixed-Use Development approved herein will appropriately “blend in” with the other developments.
- The proposed Use will blend in with the surrounding uses, from an operational standpoint, from an aesthetic standpoint, from a noise standpoint, from a traffic standpoint, and from a parking standpoint.
- The Board finds that the Mixed-Use Development approved herein is not inconsistent with the surrounding uses.

Architectural / Aesthetic Benefits

- The Board Members very carefully reviewed the Architectural details of the proposal.
- The testimony and plans indicated that the architectural features/details associated with the within proposal likely and generally include the following:

- Those Architectural features and details associated with Borough Resolution RE 2655-490f Design Standards Within the Transit Village, Attachment 6, #1) through #15 inclusive, including but not limited to:
 - Building Placement and Street Walls;
 - Parking Structures
 - Architectural Design Guidelines;
 - Well Designed front façade
 - Building Alignment with adjacent street edge
 - Pedestrian-scale aesthetic
 - Articulated façade on public streets
 - Door and window placement
 - Well defined horizontal elements including base, middle, and top
 - Differing façade materials and distinction of ground floor from upper stories
 - Ornamental cornices and bands of contrasting materials
 - No exterior ductwork
 - Utility meters in inconspicuous locations
 - Transparency of Window and Door Openings
 - Building Entrances
 - Roof Design and Uses
 - Usable roof spaces
 - Green Roof
 - Screened roof mechanicals
 - Discernable Cornice lines
 - Building Materials constructed of durable, high quality materials such as brick and/or manufactured stone
 - Bicycle, scooter and small motorcycle parking
- The building approved herein is a beautiful building.
- The building approved herein will be a Code-compliant buildings.
- The architectural enhancements of the building approved herein will significantly improve the overall aesthetic appeal of the site.
- The architectural details of the building approved herein will significantly improve the overall curb appeal at the site.

- The architectural details of the building approved herein will, undoubtedly, beautify the site, the neighborhood, and the Community as a whole.
- Aesthetic improvements are an important element of the within proposal, which certainly helps justify the grant of the Variance Relief.
- The brand-new structure approved herein will replace the existing run-down / worn-down building.
- One purpose of the Municipal Land Use Law is, essentially, to encourage the creation of a desirable visual environment through creative development techniques – and the Board notes, quite convincingly, that approval of the within Application will dramatically enhance the architectural/aesthetic beauty of the site.
- The existing site is aged, weathered, and suffers from deferred maintenance. For example, per the testimony and evidence presented, per pictures identified throughout the Public Hearing process, and per common knowledge, the existing building / site has the following issues:
 - The existing building is old, run-down, underutilized, and essentially vacant;
 - The site is aesthetically challenged; and
 - The site is nearly fully paved / covered.
- Additionally, based upon information presented, there does not appear to have been any significant investment/improvements associated with the subject site for a number of years. It is believed that all can agree that the existing site is compromised, underutilized, stagnant, and aesthetically challenged.
- The architectural/aesthetic improvements associated with the demolition of the existing structure, and the construction of a new mixed-use development, are, in fact, significant. Moreover, the aforesaid architectural/aesthetic improvements will be significantly beneficial for the community.

- The physical appearance of the existing site does not appear to fit in with the character of some of the other surrounding uses.
- Even though the brand-new, beautiful structure approved herein is not technically a permitted use (because of the size and the density, etc), the same will more appropriately fit in with, and/or otherwise blend in with, the surrounding neighborhood (as compared to what currently exists on the site.) That is, the brand-new building approved herein, will appropriately compliment the neighborhood, and will, in fact, improve the neighborhood.
- The physical appearance of the existing depressed site appears (from a physical and visual standpoint) to be much more non-compliant than the mixed-use development approved herein. That is, the new mixed-use building will look much more compliant than the compromised / vacant site.
- The construction of the brand-new beautiful building approved herein, should likely have a positive impact on the values of the surrounding properties.
- Most, members of the Public who attended the Public Hearing and presented testimony, publicly commented on the architectural / aesthetic beauty of the building approved herein.
- Those who were not inclined to support the Application essentially expressed the belief that the architectural / aesthetic beauty of the new building did not, in and of itself, justify approval of a Use Variance Application – and though a valid point, such an argument did not resonate with all Board Members.
- Those who were not inclined to support the Application also expressed the belief that a smaller development could also be architecturally/aesthetically beautiful – and there is, in fairness, some merit to such an argument.
- The aforesaid objecting arguments were accepted, analyzed, and debated, in good faith, by the Members of the Zoning Board.
- Some of the aforementioned arguments contributed to why the Application was not endorsed by all Board Members.

- The aesthetic improvement associated with the within Application is significant and substantial.
- The aesthetic improvement associated with the within application will positively impact the site, the neighborhood, and the community as a whole.
- The significant aesthetic improvements associated with the proposal certainly help justify the necessary variance relief.
- Per New Jersey Municipal Land Use Law, aesthetic improvements can help justify approval of an application – and the Board herein finds that the aesthetic improvements are significant.
- The brand-new structure approved herein, accompanied by an active and productive use, will likely create a better physical impression for many Borough residents and guests (than what currently exists).
- The brand-new Code-compliant structures approved herein will significantly upgrade and improve the Monmouth Street area.

MLUL Purposes

- The Zoning Board is aware, that, generally speaking, in order to be entitled to use / “d” variance relief, the Applicant’s representatives must prove that the Applicant will satisfy and/or otherwise advance one of more purposes of the Municipal Land Use Law (i.e. the so-called “positive” criteria).
- The intent and purposes of the Municipal Land Use Law are set forth, in detail, in NJSA 40:55D-2.
- Purpose “a” of NJSA 40:55D-2 provides the following:

To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare.

As referenced quite extensively elsewhere herein, the Board finds that demolition of the existing depressed building and construction of a brand new mixed-use building in its place, will, in fact, promote the general welfare.

- Purpose “c” of the aforesaid section of the Municipal Land Use Law is as follows:

To provide adequate light, air, and open space.

The within purpose in the Municipal Land Use Law was intensely reviewed, studied, and analyzed by the Board Members, particularly in light of the concerns of those who objected to the setbacks. Perhaps some of the Board Members would review the Application differently if the subject parcel involved an undeveloped / vacant / virgin piece of land. However, in that the existing site contains a deteriorated, vacant and stagnant site, some Board Members viewed the light, air, and open space issue differently than the individuals who did not support the Application. With all due respect, a majority of the Board finds that, under the circumstances, construction of the subject proposed development will, in fact, provide adequate light, air, and open space.

- In conjunction with the above point, a majority of the Board notes, respectfully, that the subject Municipal Land Use Law purpose does not require one to provide “perfect” or “abundant” or “excessive” light, air, and open space; but rather, the exact language of the specified MLUL purpose references a goal of providing “adequate” light, air, and open space.
- While all Board Members can certainly understand and appreciate the Objectors’ density / setback concerns, under the circumstances, the Board finds that the setbacks approved herein are, in fact, adequate.
- Purpose “e” of the aforesaid section of the Municipal Land Use Law is as follows:

To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities, and regions, and preservation of the environment.

- The Application as presented and modified certainly advances such a purpose. That is, the building approved herein will restore

beauty / vitality to the site, will generate pedestrian activity at the site, and will hopefully spur other appropriate development.

- Purpose “e” of the Municipal Land Use Law, as referenced above, also asserts the importance of approving Applications which promote the preservation of the environment. The Board finds that approval of the within Application will advance environmental interests in a number of ways, including, but not limited to, the following:
 - i. The Mixed-Use Development approved herein will be constructed on / over land which has already been developed and thus, the subject Development will not be constructed over vacant land, undisturbed land, or otherwise environmentally sensitive land.
 - ii. The stormwater management at the site will be improved per the testimony.
 - iii. The site will become increasingly “greener” as a result of the proposed green elements.
- Purpose “g” of the aforesaid section of the Municipal Land Use Law is as follows:

To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses, and open space, both public and private, according to their respective Environmental Requirements in order to meet the needs of all New Jersey citizens.

In that the mixed residential / commercial use approved herein is appropriate for the site, the Board finds that the Mixed-Use Development, as approved herein, does, in fact, constitute sufficient space in an appropriate location.

- Purpose “h” of the aforesaid section of the Municipal Land Use Law is as follows:

To encourage the location and design of transportation routes which will promote the free-flow of traffic, while discouraging location of such facilities and routes which result in congestion or blight.

- Purpose “i” of the aforesaid Section of the Municipal Land Use Law is as follows:

To promote a desirable visual environment through creative development techniques and good civic design and arrangement.

As set forth rather extensively elsewhere herein, the approval of the within Application, and the construction of a brand-new, beautiful, and Code-compliant building at the site will, by all accounts, result in a marked and significant visual / aesthetic improvement.

- The visual / aesthetic improvements (associated with the demolition of the existing depressed / stagnant sites and the construction of a Mixed-Use Development at the site, will significantly improve the overall visual appeal / curb-appeal / aesthetic appeal of the subject property.
- The dramatic visual and architectural improvements associated with the approval of the within Application will be beneficial for the site, the neighborhood, and the community as a whole.
- The significant aesthetic improvements associated with the within Application help justify the overall approval of the subject Application.
- Construction of the mixed-use building approved herein will promote a desirable visual environment, as specifically encouraged / identified in section “i” of N.J.S.A. 40:55D-2.
- Section “i” of the aforesaid MLUL purposes also references the importance of “creative development techniques” and “good civic design and arrangement.” The aforementioned aspect of the purpose is quite important as well. The elimination of the existing dilapidated site, coupled with the construction of a brand-new beautiful and Code-compliant building is creative and does, in fact, represent a “good civic design arrangement.”

Goals and Objectives of the Master Plan

- The Red Bank Master Plan contains several goals and objectives.

- The ability of an Applicant, any Applicant, to advance, satisfy, promote, or fulfill any of the aforesaid goals and objectives is important and beneficial.
- One goal / objective of the Master Plan is, essentially, to encourage and promote economic development. Towards that end, the Board finds that approval of the within Application (i.e. the demolition of a stagnant site and construction of a brand-new mixed use building) will, in fact, promote and encourage appropriate economic development within the Borough of Red Bank.
- One goal / objective of the Master Plan is, essentially, to preserve the character of the community. Given the nature of the stagnant / depressed site, and the overwhelmingly negative aspects associated therewith, the Board finds that approval of the within Application will help preserve the character of the community.
- One goal / objective of the Master Plan is, essentially, to provide a broad range of housing options for Red Bank residents. The Board finds that approval of the within Application will provide Red Bank and other area residents with another form of year-round occupancy options which will, in fact, promote the interests of the public as well as the aforesaid Master Plan goals / objectives.

Economics

- Throughout the public hearing process, some individuals implicitly suggested, or otherwise inferred, that some economically-related reasons justified the grant of the Variances.
- The said testimony, or portions thereof, seemed to generate significant debate / discussion between those present.
- The Board Members can certainly understand the rationale for the Applicant's desire for the Zoning Board to consider economic arguments.
- However, the Board Members were, as a matter of law, reluctant to approve any Application because of economic-related arguments.
- The Board finds that, as a matter of law, approving an Application because of economic factors would establish a negative and troubling precedent.
- The Board finds that, as a matter of law, approving an Application because of economic factors would be legally untenable.

- The Board finds that approving an Application because of economic factors would likely lead to judicial criticism / critique (in the event of any litigation.)
- The Board finds that approval of an Application because of economic factors could be viewed (by a reviewing court) as arbitrary, capricious, and unreasonable.
- The Board is aware that no Applicant is entitled to have its / his / her property zoned, or developed, for the most profitable use.
- The Board herein is not approving the Application because of any apparent economic needs. Rather, and importantly, the within Application is being approved because of all of the factors set forth herein, and because of the credible professional testimony associated therewith which justified the Variance relief.
- If economic factors were considered as a basis for approving the within Application, then, in that event, similar economic arguments would also need to be considered as a basis to approve all other Applications (where economics is cited, or even referenced, as a basis of approval.)
- If economics factors were considered as a lawful basis for approving the within proposal, in analyzing applications, the Board would only need to consider the testimony of economists, as opposed to the traditional zoning testimony presented by planners, engineers, architects, and the like. The Red Bank Zoning Board is not prepared / authorized to endorse such a concept that Applications should be approved for economic-related reasons.
- The within Application has been approved, after much intense debate and discussion, because of the Applicant's ability to satisfy, to the satisfaction of a majority of the Board Members, the legal standards associated with the requested Variance relief.
- The Applicant's economic interests and economic motives, are not a relevant basis as to why the within Application has been approved.

Number of Variances

- The Application as presented, and modified, required a number of Variances, as more particularly set forth herein.

- Throughout the public hearing process, there were occasional discussions and/or references to the number of Variances which were required.
- The Board recognizes that the number of Variances is relevant, in that Board Members, the Board Attorney, the Applicant, and the Public need to know what specific variance relief is requested, and what legal standards to apply, etc.
- During the public hearing process, there were some suggestions that at some point, an Application which required a certain number of Variances, or a number in excess of the same, should likely be automatically denied, merely /solely as a result of the number of Variances necessary.
- The Board respectfully rejects such an argument.
- The Board also rejects the argument that any Application involving a certain number of Variances (or greater) should automatically be denied.
- While there should not be any automatic denial of any Application, likewise, there should not be any automatic approval of an Application as well.
- Additionally, the Board Members note that there is no legal authority, or recognized legal basis, to deny an Application just because the number of necessary variances exceeds a certain designated threshold number. The number of Variances associated with an Application can certainly be reviewed, analyzed, and utilized so that the Board and the Public can determine how many elements / features of a particular proposal comply, or do not comply, with the prevailing zoning regulations.
- However, and importantly, the Board is aware that far more important than the number of variances requested, is the impact any granted variances may have on the development site, the neighborhood, and/or the community as a whole.
- The Board notes that, under certain circumstances, even one use variance or even one bulk variance can have more of an impact, let alone a detrimental impact, than a multiple number of variances.
- Thus, in conjunction with the within Application, the Board Members have focused on the impact of the overall variance relief, as opposed to the strict number of variances.

- The Board Members believe that any ultimate determination based strictly on the number of variances (and not the overall impact of the same) could be viewed by a reviewing court to be arbitrary, capricious, and unreasonable.

Mitigating Conditions of Approval

- After an extensive and lively Public Hearing process, 6 Members of the Zoning Board voted to conditionally approve the Application.
- Many of the reasons for the approval were set forth on the record (during the Public Hearing process), and are also more formally set forth herein.
- Importantly, the Board also imposed several significant conditions on the approval.
- Some of the aforesaid conditions of approval include the following:
 - a. *Compliance with the Board Engineer's Review Memoranda;*
 - b. *Confirmation that there shall be 5 dedicated Affordable Housing Units constructed on-site;*
 - c. *Confirmation for fair share contributions for necessary utility infrastructure improvements;*
 - d. *Confirmation that landscaping shall be perpetually planted / maintained / replaced as necessary; and*
 - e. *Confirmation that the Applicant execute a Developer's Agreement with the Borough of Red Bank, if so requested.*
- The Applicant's representative, on the record, consented to the referenced conditions of approval.
- The aforesaid conditions, among other conditions, are memorialized in the within Resolution.

- The Board finds that the imposition of the aforesaid conditions mitigates some of the potential detriments otherwise associated with the within Application.
- The Board finds that the imposition of the aforesaid conditions will minimize any adverse impact otherwise associated with the within development.
- The Board finds that the imposition of the aforesaid conditions will allow the subject proposal to more appropriately blend in with the neighborhood / community.
- The Board finds that the imposition of the aforesaid conditions will aesthetically improve the overall proposal.
- The Board finds that the imposition of the aforesaid conditions will minimize the overall visual impact of the within approval.

Better Overall Zoning Alternative

- In adjudicating the within Application, it is appropriate for Board Members to consider “what represents a better overall zoning alternative for the Borough of Red Bank”. The aforesaid analysis weighed very heavily on the minds of some Board Members. The issue of determining what represents a better overall zoning alternative for the Borough of Red Bank was of critical importance to the Board Members. There were some individuals who participated in the public hearing process who were of the belief that the balancing of factors clearly mandated an approval of the Application. Likewise, there were some individuals who were of the belief that the balancing of the equities did not justify approval of the Application. There also appeared to be some individuals in the audience who recognized the valid arguments made on both sides of the issue as well. The said issue is a critical issue, and the said issue was seriously debated / analyzed by the Board Members, based upon the testimony and information presented, based upon the legal arguments offered, and based upon the associated public comments. The said analysis was intense, thought-provoking, and challenging, and the same involved a very unique set of facts. The analysis was not easy – and the adjudication process was not lightly undertaken by the Zoning Board Members. Based upon the facts of the case, based upon the long-time depressed nature of the site, based upon the 5+ decades of stagnant activity/appearance at the site, and based upon the very positive impact the development will spur, the majority of the Board finds that the approval of the

within Application clearly represents a better overall zoning alternative for the Borough of Red Bank.

- Given all of the above-referenced facts, the Board finds that approval of the within Application will positively impact the site, the neighborhood, and the community at large.

Precedential Value of Decision

- During the public hearing process, one or more members of the public expressed concerns that approval of the within Application would automatically mean other applications (proposing mixed use development which exceeded the density regulations) would also need to be automatically approved as well.
- The said issue represented a fair and legitimate question and concern.
- As was explained on-the-record, there is no precedent associated with any particular Zoning Board of Adjustment decision. That is, the fact that one Application (to construct a mixed-use building) is approved does not mean another Application (requesting permission to construct a mixed-use building) will be approved as well. Moreover, if the within Application were denied, any other Application (also seeking approval to construct a mixed-use building) would not have to be automatically denied as well. Pursuant to the New Jersey Municipal Land Use Law, and associated case law, each Zoning Application needs to be adjudicated, approved, and/or denied, based upon the particular merits of the particular Application. Whether one particular zoning application is approved, approved with conditions, or denied, will depend upon several important factors which include, but are not necessarily limited to, the following:
 - i. The nature of the subject site;
 - ii. The nature of the subject Application;
 - iii. The nature of the surrounding uses;
 - iv. The nature of the zoning district in which the property in question is located;
 - v. The nature / extent of the zoning relief sought;

- vi. The nature / extent / reliability of the professional / lay testimony presented in support of the Application;
- vii. The nature / extent / reliability of the testimony presented in opposition to the Application, if any;
- viii. The nature of the zoning ordinance governing the property in question;
- ix. The nature of the proposed use, and the relevance of any associated Master Plan provisions;
- x. The impact the overall development will have on the subject property, the neighborhood, and the municipality as a whole;
- xi. The nature / size / shape / topography of the subject property;
- xii. The nature of any potential conditions which can potentially be imposed so as to mitigate / minimize certain elements of a particular proposal; and
- xiii. Other sufficient reasons.

As such, conditional approval of the within Application should not be interpreted as a sign that other Applications (involving a request to construct a non-conforming mixed-use development) will be automatically approved as well.

- All other Red Bank Zoning Board Applications, just like the within Application, will be vetted through the public hearing process, and held to, governed by, and adjudicated in accordance with, the applicable zoning standards established in the New Jersey Municipal Land Use Law, and associated case law.

Absence of Substantial Detriment to the Public Good

- As referenced, in order to satisfy Prevailing Legal Standards for Variance Relief, an Applicant's representatives are required to satisfy the so-called "Negative" criteria. That is, the Applicant's representatives are required to prove that the Application can be granted without causing "substantial" detriment to the public good. The word "substantial" is highlighted for obvious reasons. The

law certainly envisions that any approval for development will certainly lead to, or otherwise contribute to, some type of detriment – be it a use issue, a setback issue, a parking issue, a garbage issue, a traffic issue, a combination of the aforesaid issues, and the like. Quite frankly, the within approval is no different – as there certainly are some potential detriments associated with the subject proposal. However, the Prevailing Statute and Case Law suggest that in order for an Application to be denied (based upon the negative criteria) there must be some type of “substantial” detriment to the public good. Some detriment, or some potential detriment, or a mere detriment to the public good is not sufficient to deny an Application – for the same could, under certain circumstances, be interpreted by a reviewing Court as being arbitrary, capricious, and / or unreasonable. Throughout the Public Hearing Process, some objecting individuals set forth some legitimate and heartfelt concerns / objections associated with the Applicant’s proposal. While the Board Members can certainly understand, appreciate, and sympathize with the aforesaid objections, a majority of the Board finds that, subject to the conditions noted herein, and under the prevailing circumstances, approval of the within Application will not cause “substantial” detriment to the public good. Rather, with all due respect to those who oppose the Application, the permanent elimination / abandonment of the existing stagnant and underutilized eye-sore, and the construction of a brand-new mixed use building in its place will, in fact, be beneficial for the site, the neighborhood, and the community as a whole.

- The Board has imposed a number of conditions which will help further ensure the absence of any “substantial” detriment associated with the within approval – including, conditions regarding engineering revisions, infrastructure upgrades, and on-site Affordable Housing obligations. The aforesaid conditions helped mitigate any adverse impact otherwise associated with the within approval.

Non-Unanimous Nature of the Board Decision

- Perhaps fittingly, the ultimate decision of the Board (in conditionally approving the Application) was not unanimous. Rather, the Application was conditionally approved by a vote of 6-1.
- New Jersey Case Law requires Use / “d” Applicants to secure 5 affirmative / yes votes - and in that 5 such affirmative / yes votes

were obtained, the within Application was, in fact, conditionally approved.

- The non-unanimous nature of the vote was, in many ways, reflective of the intense Public Hearing process, and the compelling / eloquent / professional points raised by those who zealously advocated for approval of the Application, as well as those who zealously advocated for a denial of the Application.
- The non-unanimous nature of the ultimate Board decision is, in some respects, reflective of the many competing viewpoints expressed, argued, advocated, analyzed, and debated throughout the long public hearing process.
- In the spirit / tradition of American freedom / democracy, the Red Bank Zoning Board of Adjustment appreciates, respects, sanctions, and welcomes the fair, legitimate, and good faith viewpoints of all involved.
- The free and open debate fostered throughout the Public Hearing process only served to strengthen and embolden the ultimate Board decision.

Good Faith Debate and Analysis

- There was a good-faith debate as to the overall merits of the Application. Members of the public who attended the Public Hearing also participated in the discussion / debate as well. While there was essentially universal recognition that the subject site needs to be appropriately developed, there were vastly differing opinions as to whether the Applicant's proposed development constituted appropriate development. That is, there was a concern, among some, that the proposed development was just too large and just too intense, and too dense. Some others were not offended by the proposed density. Finally, there were some who thought they would have preferred a less dense site, but were concerned that if the within Application were not approved, the opportunity for development of the site would be lost forever.
- Those who were concerned by the size / density of the proposal argued that the Red Bank real estate market is a hot market, yielding profitable returns, in the midst of a pandemic-driven real estate frenzy. As such, those individuals who were opposed to the Application suggested that the Zoning Board did not need to desperately cling to the within Applicant as the only legitimate

source of potential development for the property. Those individuals argued that if the within Application were not approved, other developers, in this intense and profitable real estate market, would come forward with a less intense / less dense/more compliant development.

- The aforesaid rationale (i.e. a commitment to wait for a developer with a less intense proposal) represents a fair and valid concern, and the same was a legitimate topic of intense debate and discussion.
- Those individuals who were opposed to the size / density of the proposed development did nonetheless appreciate the willingness of the Applicant to develop in Red Bank, and did advocate that an outright denial of the within Application could nonetheless be a basis to springboard the Developer / Applicant into a smaller, less dense, and more compliant proposal.
- Those individuals who were concerned about the proposed size / density argued that denial of the Application would / could, essentially, correct or otherwise start to correct prior development-related decisions which, they suggest, should not have been granted.
- Those individuals who were opposed to the Application expressed concern that a 91% Lot Coverage (whereas 50% is otherwise allowed) does not represent a better overall zoning alternative for the Borough of Red Bank.
- Those individuals who were opposed to the Application recognized the architectural / aesthetic benefits associated with the proposal, but did not believe that the said aesthetic benefits out-weighed the detriments otherwise associated with the subject proposal.
- Those individuals who were opposed to the Application did not necessarily accept or agree with all of the conclusions of the Applicant's professional consultants.
- Those individuals who were opposed to the Application argued that approval of the within Application would, in fact, constitute an over-development of the subject property.
- Those individuals who were opposed to the Application argued that the subject property is not in the Borough's Transit Overlay Zone and, as such, the subject Applicant should not be entitled to receive the benefits / incentives/ bonuses otherwise associated with the Transit Overlay Zone.

- Those individuals who were opposed to the Application acknowledged that while the subject property was close to the Borough's Transit Overlay Zone, the subject property was not, in fact, located in the Borough's Transit Overlay Zone.
- Those individuals who were opposed to the Application were concerned that applying the transit overlay benefits / incentives to a property which was not actually in the Transit Overlay Zone could, under certain circumstances, constitute a negative and troubling precedent.
- Those individuals who were opposed to the Application were concerned that a 0 ft. setback for the site would detrimentally affect the greater Monmouth Street corridor.
- Those individuals who were opposed to the Application were concerned that approval of the Application would / could, forever, dramatically, and adversely change the nature of the Monmouth Street corridor.
- Those individuals who were opposed to the Application did not believe it was appropriate for a developer to reap any type of financial benefit from a non-conforming proposal.
- As indicated, there was an intense and good-faith debate and discussion on the overall merits of the Application.
- Not all Board Members brought into the "we can wait for a better and different developer" argument.
- Those individuals who endorsed the Application were concerned that the historic/chronic vacant, underutilized, stagnant, and depressed nature of the site screamed for immediate and appropriate development.
- Those members who were inclined to support the Application were concerned that the site has not been appropriately utilized / developed for over 50 years – and that, it would not be practical / appropriate to just assume, or otherwise hope, that another developer would submit a less intense / less dense proposal.
- Those individuals who were inclined to approve the Application believe that although the subject property is not located in the actual Transit Overlay Zone, under the circumstances, in that the subject development site is only half a block away from the Transit Overlay Zone, the same constituted sufficient reasons as to why the within Applicant should receive some of the benefits /

incentives which the Transit Overlay Zone otherwise offers / extends.

- Those individuals who were inclined to approve the Application were of the belief that the subject property is depressed, stagnant, underutilized, rundown, weathered, compromised, challenged, and, quite frankly, unsightly. Moreover, those same individuals recognized that approval of the application could actually eliminate some of the aforesaid depressing/unfortunate conditions.
- Those individuals who were inclined to approve the Application recognized that the subject property yearns for appropriate redevelopment.
- Those individuals who were inclined to approve the Application expressed frustration, shock, concern, and disbelief about the 5+ decades where the subject property has, essentially, remained depressed, stagnant, underutilized, rundown, weathered, compromised, challenged, unproductive, and unsightly.
- Those individuals who were inclined to support the Application believed that if other significant / realistic / practical / feasible developers were present who would / could offer a less intense / less dense development, then, in that event, they would have submitted some type of Application in the last 50+ years.
- Those individuals who were inclined to approve the Application were of the belief that the half century of blight associated with the development site is bad for the subject property, bad for the neighborhood, and bad for the community as a whole.
- Those individuals who were inclined to approve the Application were of the belief that the subject property looked like “crap” for approximately 50+ years, and that approval of the within Application represented an immediate opportunity for the appropriate clean-up and development of the site.
- Those individuals who supported the Application did not believe, under the circumstances, that it would be appropriate to deny the within Application just in the unverified “hope” that another developer might possibly submit a more conforming proposal.
- Those individuals who were inclined to approve the Application were concerned that over the last 5 decades (including economic booms) the subject property has never been appropriately developed.

- Those individuals who were inclined to approve the Application did not believe it would be appropriate to unnecessarily delay any appropriate redevelopment efforts.
- Those individuals who were inclined to approve the Application were of the belief that an outright denial of the within development would represent a realistic development opportunity which would be forever lost.
- Those individuals who were inclined to approve the Application were of the belief that the outright denial of the within Application, represented an opportunity lost, which would have a long-time and devastating impact on the site, the neighborhood, and the community as a whole.
- Those individuals who supported the Application recognized the positive impact development will have on the subject property, the neighborhood, and the community as a whole.
- Those individuals who were inclined to approve the Application were not willing to deny the Application on the unproven / risky theory / assumption that another Developer might come forward some day.
- Those individuals who were inclined to support the Application recognized that the proposed 91% Lot Coverage exceeded the maximum allowed Lot Coverage of 50%, but nonetheless recognized that the subject property already contains a non-conforming / excessive Lot Coverage.
- Those individuals who were inclined to support the Application recognized that if the Application were not approved, the site would continue to have a nearly 100% Lot Coverage – but that the same would continue in the midst of an underutilized / vacant / stagnant/ depressed property.
- Those individuals who were inclined to support the Application recognized the opportunity / benefits appropriate development would bring not only for the site, but for the neighborhood and the community as a whole.
- Those individuals who were inclined to support the Application were of the belief that based upon the testimony and evidence presented, there was, in fact, a sufficient basis to justify the conditional approval of the within Application.

- Those individuals who were inclined to support the Application did not believe it was appropriate to reject any portion of the testimony from the Applicant's representatives (even though Case Law allows a Board to do so, when appropriate).
- Those individuals who were inclined to support the Application recognized the non-conforming nature of the proposal. Those same individuals recognized that if the within subject site already contained a functional / appropriately utilized / constructed development, then, in that event, there would be no basis to grant Zoning relief to the Applicant's representatives. However, those individuals inclined to support the Application believe that in the within situation, and given the 5+ decades of stagnant / ugly / unproductive use, approval of the within Application does, in fact, represent a better overall zoning alternative for the Borough of Red Bank.
- Additionally, because of the 5+ decades of stagnant / ugly / unproductive / depressed use of the site, and given established case-law, there is little chance that any approval could constitute a precedent for any other development within the Borough of Red Bank.
- Moreover, those individuals who were inclined to support the Application recognized that, in the strict sense, under the Municipal Land Use Law, there really is no precedent associated with formal approval of one particular Application. Rather, those individuals recognized that any Board Approval, or denial for that matter, must live and die on the facts of the particular Application, and based upon the specific testimony and evidence presented to the Board in connection with a specific Application.
- After reviewing all the testimony and evidence presented, and after considering the 5+ decades of the underutilized and unproductive use at the site, there is no substantial detriment associated with the within conditional approval.
- Those individuals who were inclined to approve the Application recognized that a denial of the within Application would merely allow the stagnant / unproductive / aesthetically challenged site to continue its bleak existence.
- Those individuals who were inclined to approve the Application were of the firm belief that development of the site is long overdue.

- Those individuals who were inclined to approve the Application were of the belief that approval of the Application would, in fact, positively affect, and dramatically improve, the Monmouth Street corridor.
- The Applicant's representatives testified that a Zoning-compliant project (for the site) would yield approximately 5 Residential Units. The Applicant's representatives further testified that such a Zoning-compliant project would not likely ever be proposed for the site, as such a proposal was neither practical nor appropriate (particularly in that no such actual Application has ever actually been submitted).
- Those individuals who were inclined to support the Application were of the belief that appropriate redevelopment at the site was necessary and that the within approval did, in fact, constitute appropriate development.
- Those individuals who were inclined to approve the Application did not believe the Application was too large or too dense (as suggested by those individuals who did not support the Application).
- Those individuals who supported the Application were of the belief that, subject to the conditions contained herein, the development site would be consistent with the character of development in the area.
- Those individuals who were inclined to support the Application recognized that Monmouth Street essentially connects two different parts of the Town – and, those individuals were of the belief that approval of the within Application would constitute / create / foster a perfect transition area.
- Those individuals who were inclined to approve the Application also recognized the benefits associated with the fact that the parking would be enclosed and not fully visible to the public.
- Those individuals who supported the Application recognized that the project received an endorsement from the Red Bank RiverCenter Organization.
- As indicated, there was an intense public debate as to the overall merits of the Application – and, importantly, members of the public participated in the good-faith debate / discussion as well.

- The Public Hearing dialogue took place between the Board Members, Members of the Public, and the Applicant's representatives, and the same also included a discussion as to the nature of the requested Variance relief, the Variance Standards, and the impact the overall Variance relief would have on the site, the neighborhood, and the community as a whole.
- The Board Members very much appreciate the good-faith debate and discussion which ensued at / during the Public Hearing process.
- The Board Members appreciate the opinions of all individuals who spoke during the Public Hearing process.
- The Board Members recognize that all stake holders and residents of the community have an important voice in the matter – even if all members of the public and all Zoning Board Members do not necessarily share all of the exact same beliefs.
- Importantly, all Board Members, and all members of the public who participated in the Public Hearing process, share a passionate, sincere, and heartfelt concern for the Borough of Red Bank, the residents thereof, and the long-term viability of the Town.
- Though the public input on the proposal was limited to a small number of speakers, all speakers (both those in favor of the Application and those opposed) presented excellent points, all worthy of respect and consideration.
- The Board finds that approval of the within density/use (in conjunction with the conditions noted herein) will not impair the intent or purposes of the Borough's Master Plan.
- Although the proposed use herein is not specifically permitted, and though a density Variance is required, approval of the within use represents a less intense use than some other permitted uses. Thus, subject to the conditions contained herein, approval of the within use / density will not impair the intent of the Borough's Master Plan and /or Zoning Ordinance.
- Given the nature of the surrounding uses, subject to the conditions set forth herein, the proposed use/density is appropriate for the development site.
- Subject to the conditions set forth herein, approval of the within density/use will not impair the character of the existing area.

- Subject to the conditions noted herein, the benefits of the within Application outweigh any detriments associated with the same.
- Subject to the conditions contained herein, the proposed use/density will have no known negative impact on adjoining properties; thus, the Application can be granted without causing substantial detriment to the public good.
- Subject to the conditions set forth herein, approval of the within density will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- Subject to the conditions set forth herein, the Application as presented and modified satisfies the statutory requirements of N.J.S.A. 40:55D-70(d).

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicant's representatives have agreed, to comply with the following conditions of approval:

- a. The Applicant's Representatives shall comply with all promises, commitments, and representations made at or during the public hearing process.
- b. The Applicant shall comply with all terms and conditions of the Review Memoranda, issued by the Board Engineer and/or other agents of the Borough, including the T&M Associates Report, dated May 5, 2021 (A-10), and August 18, 2021.
- c. The Applicant shall arrange for the Plans to be revised so as to portray and confirm that 5 Affordable Housing Units shall be placed / maintained on the site (in accordance with Prevailing Borough Regulations).
- d. The Applicant's representatives shall cause the Plans to be revised so as to portray and confirm the following:
 - Confirmation that the southern parking spaces will be pre-wired for potential / future charging of electrical vehicles (so that the same can be accommodated without any further disruption to sidewalks / streets, etc.).

- The inclusion of a note confirming that upon completion of the construction process, the Applicant shall, at the Applicant's cost, repair / restore Pearl Street to its pre-disturbed condition.
 - The inclusion of a note confirming that the Applicant shall, at the Applicant's cost, repair / replace the sidewalk / curbing, as deemed necessary by the Board Engineer.
- e. The Applicant shall, if required from the Borough of Red Bank, execute a Developer's Agreement, which shall be approved as to form and substance by the Borough of Red Bank, the Borough Engineer, and the Borough Attorney.
 - f. Grading / drainage details shall be submitted to the Board Engineer for the review and approval of the Board Engineer.
 - g. The Applicant shall obtain any and all necessary demolition permits as may be required by the Borough of Red Bank.
 - h. The landscaping at the site shall be perpetually maintained / replaced / replanted, as necessary, so as to perpetually maintain the benefits associated with the benefits of landscaping approved herein.
 - i. The Applicant shall comply with the terms and conditions of the Shade Tree Commission Memorandum.
 - j. The Applicant shall, if required by the Borough of Red Bank, contribute its fair share for the construction / enhancement / replacement / upgrade of sewer lines. In conjunction with the above point, in the event the Borough of Red Bank does not require / authorize the construction of a new sewer, or new sewer upgrades, then, in that event, the Applicant shall, at the Applicant's cost, tie into the Pearl Street sewer system (and the details for the same shall be reviewed and approved by the Borough Engineer and / or the Board Engineer).
 - k. The Applicant shall, at the Applicant's cost, contribute its fair share to stormwater management improvements on Pearl Street, if required by the Borough of Red Bank.
 - l. Per the Prevailing Borough Ordinance, and per the Shade Tree Commission Memorandum, the Applicant shall contribute \$500.00 to the Borough of Red Bank for the cost of 1 Shade Tree.

- m. The Applicant shall comply with any Prevailing Ordinances regarding utility construction / contribution, as the Borough of Red Bank may require. Additionally, if requested by the Borough of Red Bank, the details for utility installation / hook-ups, etc. shall be memorialized in a Developer's Agreement with the Borough of Red Bank.
- n. The Applicant shall arrange for private garbage / recycling collection at the site. Additionally, if requested by the Borough of Red Bank, the Red Bank Zoning Board, or any Agency thereof, the Applicant shall arrange for more frequent trash / recycling pick-up.
- o. In conjunction with the within approval, and the successful expiration of any applicable appeal period, the Applicant shall knowingly, intentionally, and permanently abandon any prior approvals for the site and any prior pre-existing non-conforming uses associated with the site.
- p. The Applicant shall be required to obtain any and all approvals from applicable outside agencies.
- q. The Applicant shall comply with any and all applicable / prevailing C.O.A.H. related and Affordable Housing related Ordinances / Regulations / Contributions / Directives as required by of the State of New Jersey / the Borough of Red Bank, COAH, The Court System, and any Agency having jurisdiction over the matter
- r. If requested by the Borough Council of the Borough of Red Bank, and if applicable / appropriate, the Applicant shall provide the Borough of Red Bank with Title 39 jurisdiction over applicable portions of the site.
- s. The Site shall comply with all Prevailing Provisions of the Americans with Disability Act.
- t. The Applicant shall obtain any and all approvals (or letters of non-applicability) from applicable outside agencies - including, but not limited to, the Monmouth County Planning Board, the Freehold Soil Conservation District, the Red Bank Department of Public Utilities, the Northeast Monmouth Regional Sewerage Authority, the New Jersey Department of Environmental Protection, and any other Agency having jurisdiction over this matter.
- u. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate/required fees and taxes.

- v. If required by the Board Engineer, or the Borough's Director of Planning and Zoning, the Applicant shall submit appropriate performance guarantees in favor of the Borough of Red Bank.
- w. Unless otherwise agreed by the Zoning Board, the within approval shall be deemed abandoned, unless, within 36 months from adoption of the within Resolution, the Applicant obtains Building Permits for the construction approved herein.

Board Disclosure

Pursuant to Prevailing Borough Ordinances, the following disclosures are noted:

- Board Member Lauren Nicosia, and Board Member Bruce Maida recused themselves from participation in the within Hearing, as a result of a potential conflict of interest with the Applicant's representatives.

BE IT FURTHER RESOLVED, that the within application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

BE IT FURTHER RESOLVED, that the granting of the within application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate rules, regulations, and / or ordinances of the Borough of Red Bank, County of Monmouth, and State of New Jersey.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant or its agents shall be deemed conditions of the within approval, and any misrepresentations or actions by the Applicant's representatives contrary to the representations made before the Board shall be deemed a violation of the within approval.

BE IT FURTHER RESOLVED, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the project, nor does the Board of Adjustment of the Borough of Red Bank, the Borough of Red Bank, or their respective agents/representatives/employees accept any

responsibility for the structural design of the proposed improvements or for any damage which may be caused by the use / development.

FOR THE APPLICATION: Mass, Irwin, Murphy, Lee & Maida

AGAINST THE APPLICATION: N/A

ABSTENTIONS: Torre & Rothwell

FOR THE RESOLUTION: Mass, Irwin, Murphy, Lee & Maida

AGAINST THE RESOLUTION: N/A

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Red Bank Zoning Board of Adjustment on this 21st day of October, 2021.



ChrisAnn De Genaro, Zoning Board Secretary

KEK/dmp
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APPENDIX E-5

Affordable Housing Plan – 121 Monmouth Street

**121 Monmouth Street
Block 42, Lots 7, 8, 9, 10 and 11.01
Red Bank, Monmouth County, New Jersey
Affordable Housing Plan**

121 Monmouth Street is a proposed mixed-use building located along the southern side of Monmouth Street just west of its intersection with Pearl Street. The parcel is approximately 0.874 acres (~38,073 square feet) in size, located within the BR-1 and BR-2 Zoning Districts and is proposed to be improved with mixed-use building containing 1,315 square feet of first floor retail space, 690 square feet of first floor office and 45 residential units consisting of (6) studio units, (6) one-bedroom units, (33) two-bedroom units. A four-bedroom single-family home is located adjacent to the site at 36 Oakland Street and shall be used toward the satisfaction of the affordable housing obligation. The configuration of the mixed-use building will be three stories over a parking level containing 59 spaces, including 10 EV or EV ready spaces and 3 accessible spaces. The parking level will contain a secure lobby, mail room, secure package room, a refuse room a leasing office, utility space and commercial space oriented towards Monmouth Street. Vertical circulation will be provided by two stair wells and an elevator. The roof level will include private terraces, green areas and a common terrace open to all occupants as a common amenity. The roof amenities will be accessible by elevator.

Units will range in floor area as follows: Studio - ~772 square feet; two-bed - ~1,067 square feet; and a detached four-bedroom single family home located at 36 Oakland Street. In compliance with §205-3 of Red Bank's Affordable Housing Ordinance, 15%, or seven units (6.75 rounded up to 7), of the overall unit count (45) will be set aside on site and adjacent to the site to satisfy the Borough's affordable housing obligation. Units set aside within the mixed-use building to meet the obligation will be distributed on the second, third and fourth floors.

This Plan is submitted to the Borough of Red Bank in fulfillment of the requirement under §205-4 A. of the Affordable Housing Ordinance wherein Applicants for approval of an eleven-unit or greater residential development are required to present the planned method of affordable housing compliance based upon the full build-out of the property. In the furtherance of satisfying this obligation, 121 Monmouth Street will set aside 15% of the 45 proposed units, or seven (7) units, (six on site and one single family home adjacent to the site) as units with controls on affordability. No age-restricted units are proposed. The affordable units shall be distributed as follows:

121 Monmouth Street: Red Bank, New Jersey Affordable Unit Distribution					
Unit Type	~ SF of Unit	# of Units	# Very Low Income*	# Low Income*	# Moderate Income*
1-Bedroom	750.47 sf + 108.7 sf terrace	1	1		
2-Bedroom	~1067 sf	5		3	2
3+-Bedroom	4 BR Single -Family Home on 36 Oakland Street	1			1
Totals:		7	1	3	3
*A very low income unit is affordable to a household with an income of 30% or less of the median household income, a low-income unit is affordable to a household with total gross household income equal to 50% or less of the median household income and a moderate income unit is affordable to a household with an income in excess of 50% but less than 80% of the median household income. (Chapter 205, Red Bank Affordable Housing Ordinance)					

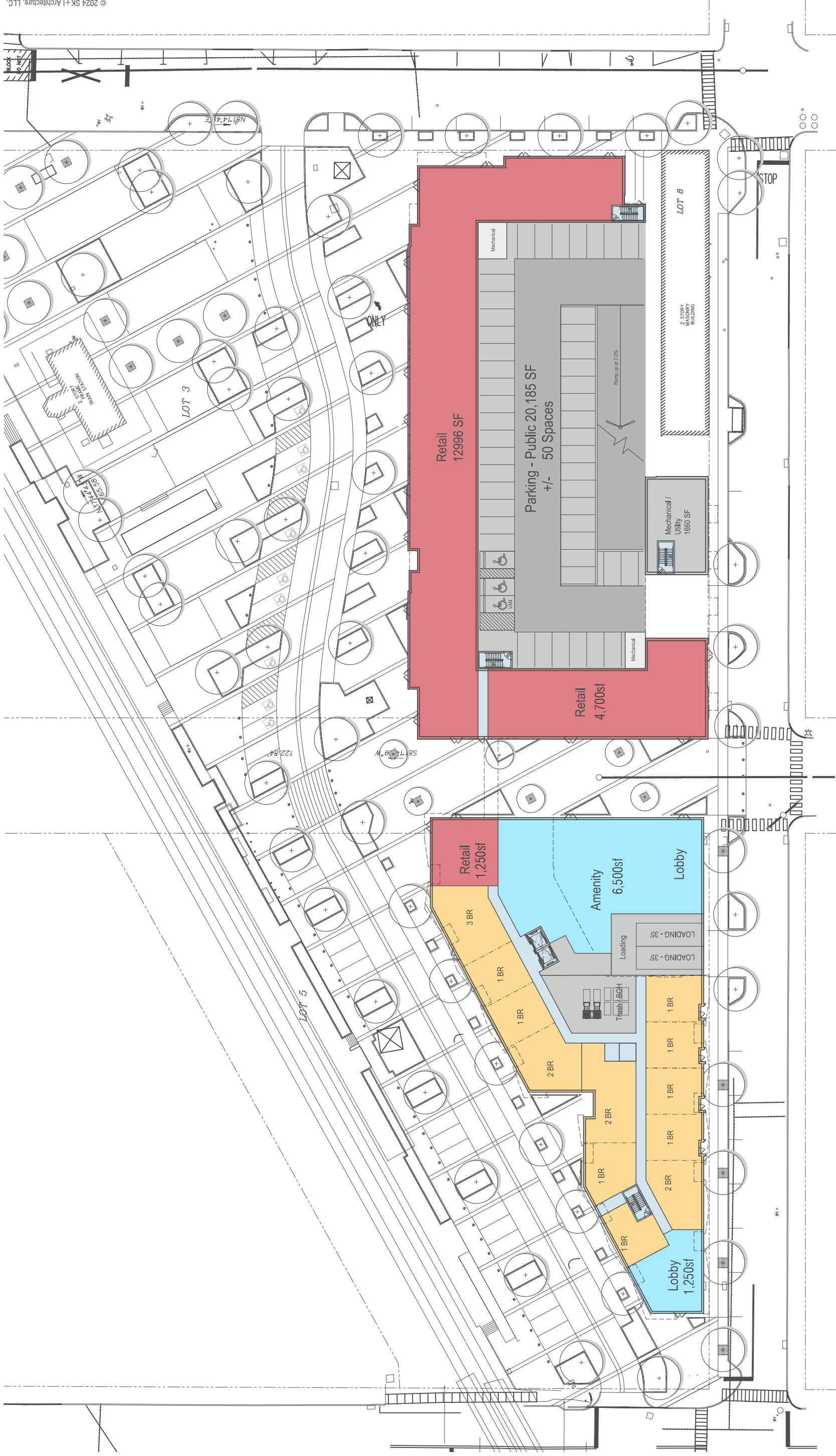
All units, including the affordable set aside, will be designed and constructed in accordance with all applicable codes and rules. Generally speaking, each unit will include the number of bedrooms indicated (each bedroom meeting code requirements for dimensions and overall floor area), a kitchen, and at least one full bathroom. All units will be provided with individual heat and air conditioning controls as well as access to common parking and amenities.

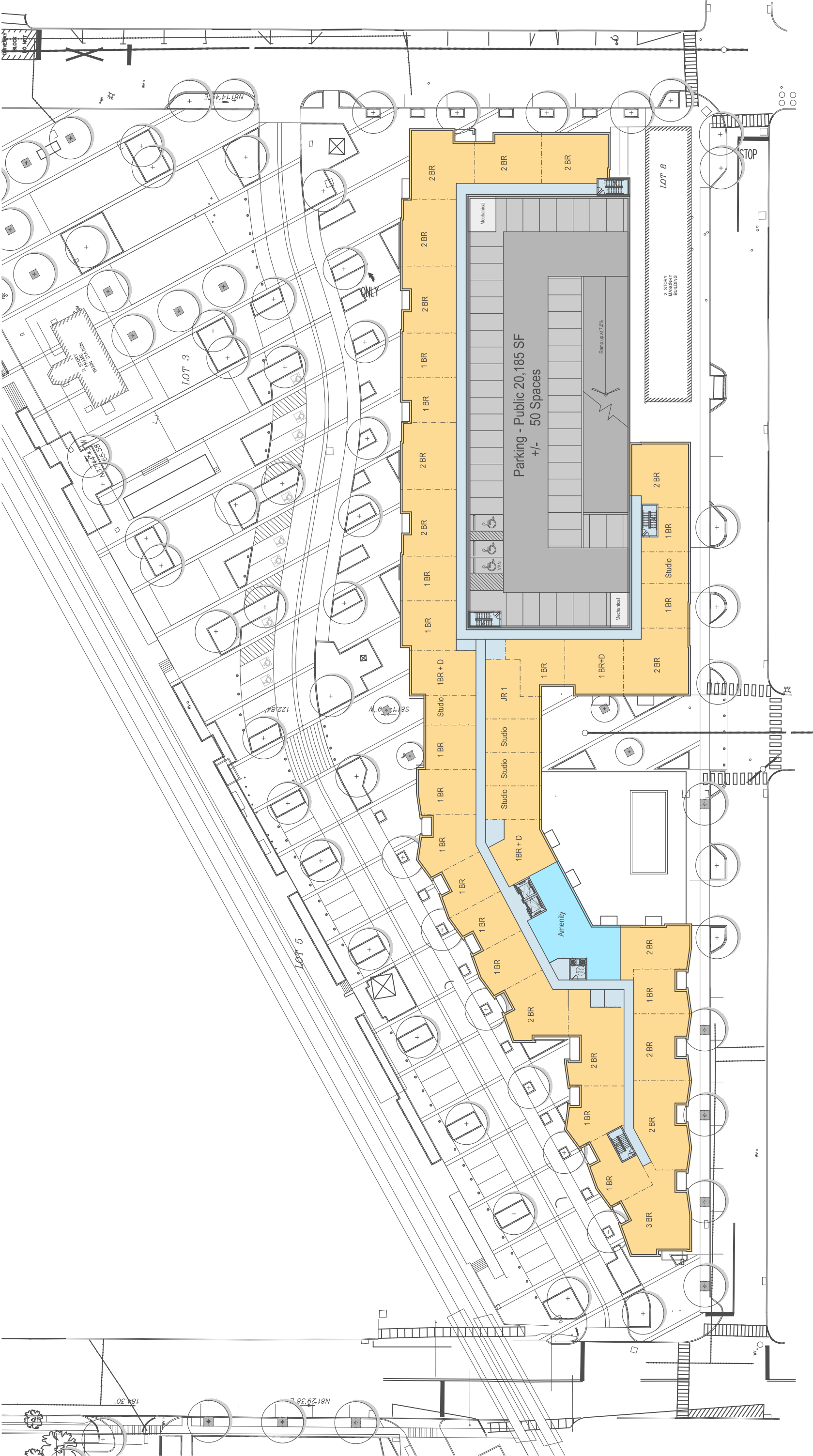
The location of the units set aside to fulfill the Borough's affordable housing obligation are depicted on the project architect's schematic plan sheets AC2.02 through AC2.04 attached hereto as Exhibit 1. The affordable housing units are designated on the plans as: Unit 2B, Unit 2C, Unit 2M, Unit 3B, Unit 3C, and Unit 4B. The second floor contains (1) studio affordable unit and (2) two-bedroom affordable units. The studio (Unit 2M) will be designated as a very low-income unit. The two-bedroom units on this floor will be set aside as a low-income unit (Unit 2C) and a moderate-income unit (Unit 2B). The third floor contains (2) two-bedroom affordable units. Unit 3C will be set aside as a low-income unit and Unit 3B will be set aside as a moderate-income unit. The fourth floor contains (1) two-bedroom unit (Unit 4B) which will be designated for low-income households. The 4-bedroom home on 36 Oakland Street will be set aside as a moderate-income unit.

Exhibit 1: 121 Monmouth Street Location of Affordable Units

APPENDIX E-6

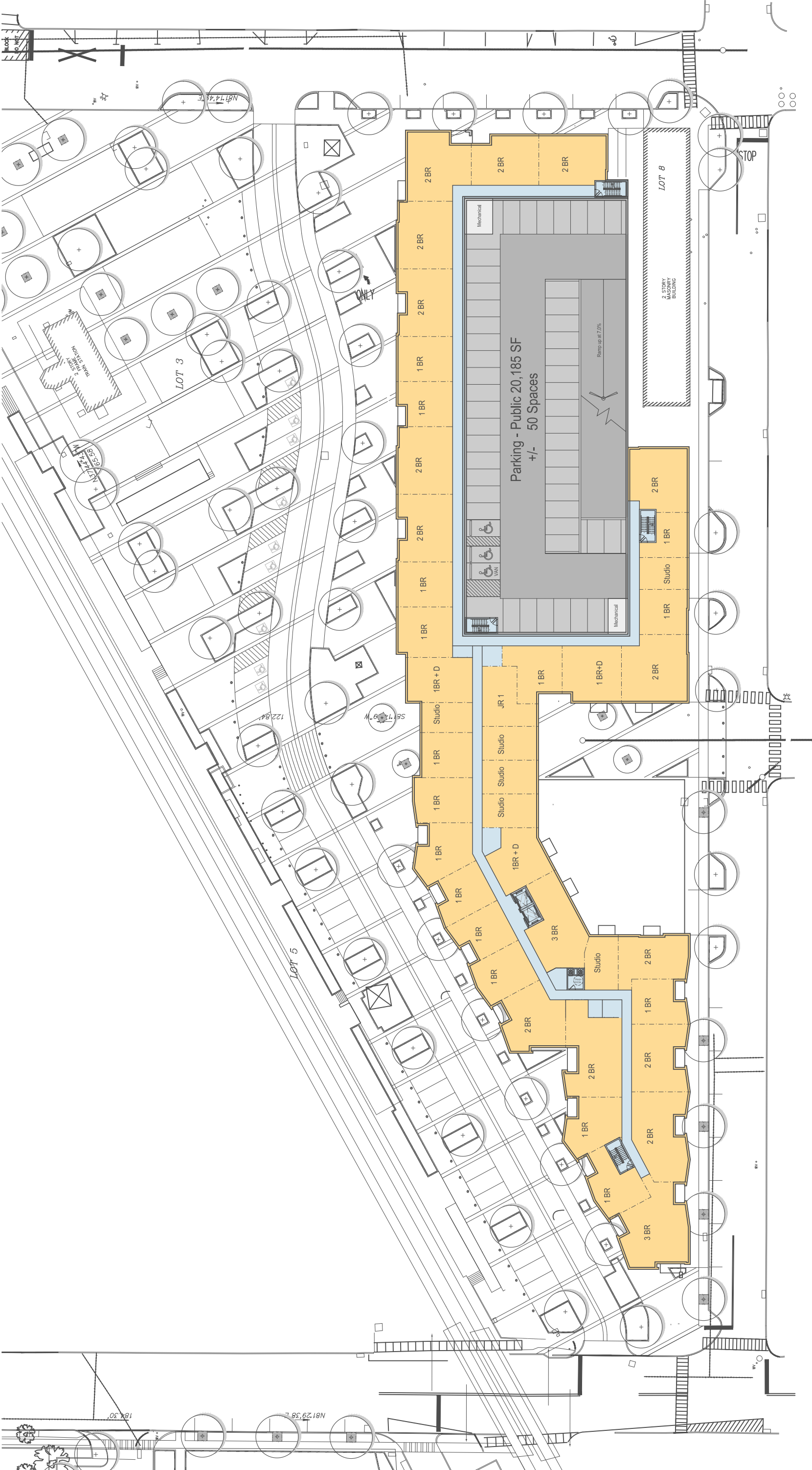
Concept Plan – Station North/South





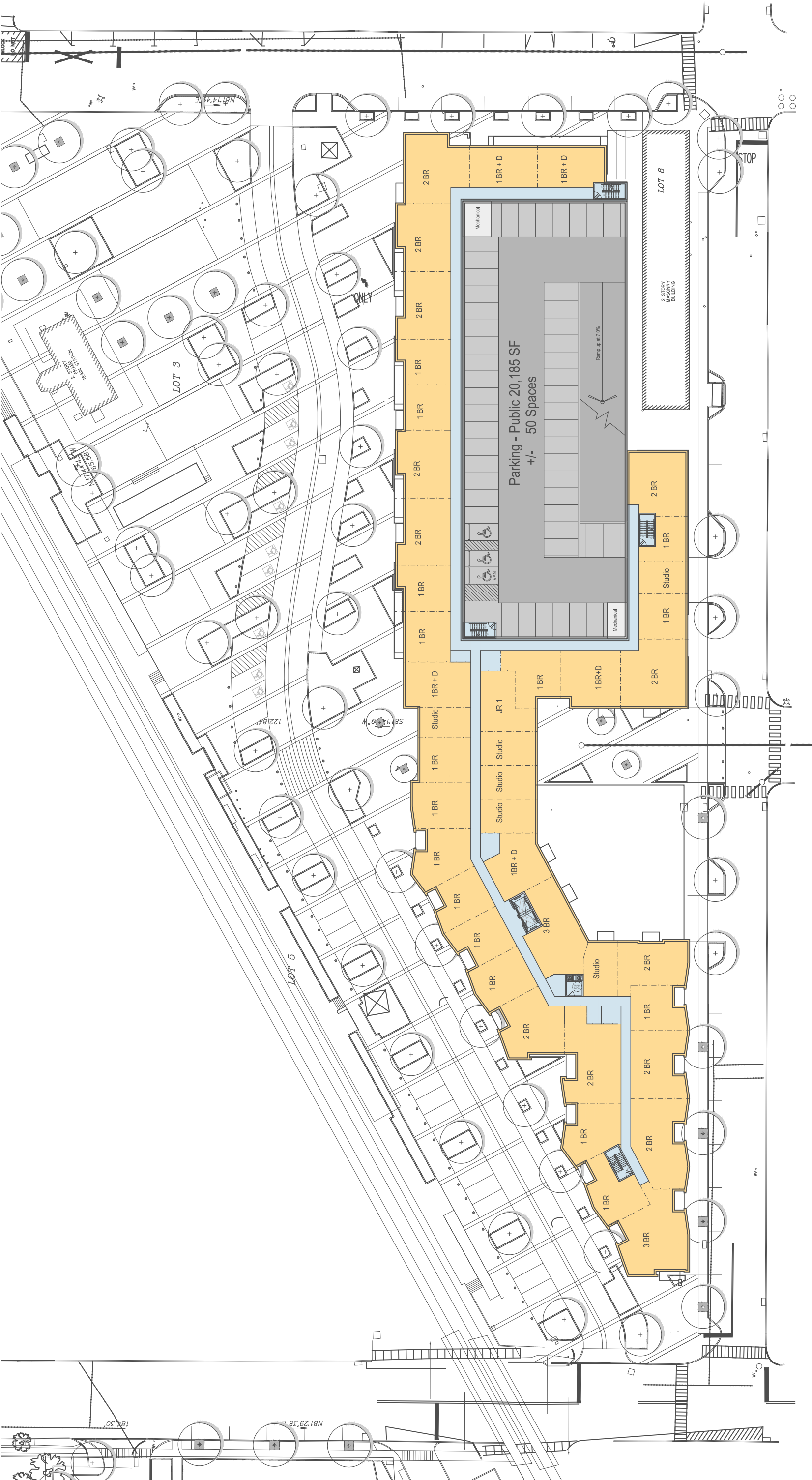
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SK + I ARCHITECTURE

Project :

The Rail North / The Rail South

Client :

Denholtz Properties

Job #:

DEN03

Date:

05.07.2025

TRAX NORTH

UNIT TYPES	STUDIO		1 BR		1BR +D		2 BR		3 BR		TOTAL
	STUDIO	1BR JR	1BR			1BR +D	2BR JR	2BR	3BR	3BR + Den	
6	0	0	0			0	0	0	0	0	0
5	6	1	16			5	0	12	2	0	42
4	6	1	16			3	0	14	2	0	42
3	5	1	16			3	0	14	1	0	40
2	5	1	16			3	0	14	1	0	40
1	0	0	8			0	0	3	1	0	12
Total	22	4	72			14	0	57	7	0	176
%	12.5%	2.3%	40.9%			8.0%	0.0%	32.4%	4.0%	0.0%	100%
Total perType	22		90				57		7		176
% per Type	12.5%		51.1%				32.4%		4.0%		100%
Avg. unit SF	0	0	0			0	0	0	0	0	0

* Note: Project Residential GSF is calculated by Residential + Amenity + Core + Service

** Note: Efficiency is total Resi net into Resi GSF and is assumed at 85%

*** Note: All GSF and NSF includes exterior skin in calculation

APPENDIX E-7

Affordable Housing Plan and MOU – THRIVE Red Bank

MEMORANDUM OF UNDERSTANDING & INTENT

SECTION I - BACKGROUND AND INTENT

_____ (hereinafter "**SSP**") with offices located at _____, agrees on this ____ day of _____, 2023 to assist **THRIVE RD, LLC** (hereinafter "**HP**") with offices located at 68 White Street, 7228, Red Bank, NJ 07701-1656 to provide access to supportive services (as defined in Section II) to the population residing at Thrive, Shrewsbury Avenue, Red Bank (the "**Property**") and to market these five (5) set aside apartments to the targeted population.

WHEREAS, the purpose of this Memorandum of Understanding ("**MOU**") is to lay out the intent of the parties to this MOU and to encourage complete cooperation between the HP and the SSP. Prior to obtaining a Certificate of Occupancy, a more comprehensive agreement between the parties will be memorialized to further detail all terms and conditions;

WHEREAS, the targeted population is households defined as Developmentally Disabled, per the New Jersey Department Division of Developmental Disabilities (the "**Residents**");

WHEREAS, the HP will make available the set aside units of affordable low-income housing to consumers of supportive services who are also able to live independently with supportive services, but who do not require any type of supervised living setting;

WHEREAS, the SSP agrees, contingent upon the project reaching completion, to enter into an agreement to provide supportive services to these Residents and SSP confirms it has trained and experienced staff who will work with the Residents;

WHEREAS, the parties to this MOU have agreed to work cooperatively as a team to meet the needs of these Residents and understand the critical level of communication that it is needed to make this Property extremely successful;

NOW, THEREFORE the following represents the understanding of both parties to this MOU regarding their respective roles and responsibilities and both parties agree, therefore, that it is in the best interests of all concerned to enter into this MOU which will be memorialized in the final agreement.

SECTION II - DESCRIPTION OF SSP SERVICES

Scope of Services: In accordance with the Supportive Services Plan (attached hereto as **Exhibit A**), SSP will employ and supervise a trained individual to be dedicated to the Property for a minimum of 10 hours per week (the "**Service Coordinator**"). That Service Coordinator will be paid by SSP, and will be funded by HP as part of the operating budget. The funding amount for the Service Coordinator is established in an addendum to this MOU as agreed upon by both parties. The Service Coordinator will be responsible for coordinating the delivery of the following services:

- A. Provide community and social service linkages to Residents upon request or as needed;
- B. Assist in developing screening criteria for tenant eligibility and occupancy;
- C. Assist in identifying and referring low-income persons in need of affordable, independent housing to HP's Property Manager;

- D. Assist HP's Property Manager in screening all potential tenants, specifically assessing tenants' ability to live independently;
- E. Perform the following program of support services functions:
 - 1. Provide case management services, which may include linkages to:
 - a) Mental health and physical counseling and services;
 - b) Rehabilitation, vocational and employment assistance;
 - c) General wellness, health and dental services;
 - d) Income support benefits; and
 - e) Substance abuse (alcohol, drugs) treatment.
 - 2. Conduct an initial needs assessment and develop an individual independent living strategy for each Resident, including quarterly evaluation and update of the independent living strategy as the needs of the Resident changes.
 - 3. Refer Residents, when needed or upon request by either HP or Resident, to treatment services or other needed social services.
 - 4. Provide crisis intervention as needed and when requested by HP's Property Manager, or provide consultation in the management of disputes or differences between Residents and the Property.
 - 5. Assist Residents in household disputes and in conflict resolution.
 - 6. Assist Residents in understanding their rights and responsibilities under the apartment lease. This includes the explanation of the eviction and appeal process.
- F. Provide the following administrative services:
 - 1. Keep all records regarding program support services as required by Federal and State regulations and those of other funding sources.
 - 2. Cooperate with HP in monitoring and/or conducting audits or other reporting requirements with respect to Project regulators, lenders, or investors.
 - 3. Assist in the development of House Rules with the HP.
- G. Upon thirty (30) days notification from HP that initial occupancy will begin, or when there are vacancies available for the targeted populations, SSP will perform the following marketing tasks:
 - 1. Immediately communicate apartment availability to SSP to determine if any existing clients are suitable for the unit(s);
 - 2. If no potential residents exist at this point in time, SSP shall inform the New Jersey Department of Human Services, Division of Developmental Disabilities of the availability of said unit(s).
 - 3. Inform other government and not-for-profit entities (including County Comprehensive Emergency Assistance Committees, other agency information

sharing meetings, as applicable) by providing information about the location, size, rental amounts and the contact information for the SSP;

The SSP is responsible for referring a qualified tenant within thirty (30) days of initial notice by HP. It is further understood by the parties that, should there be no appropriate referrals at the time of the vacancy, the HP can rent the apartment to the next individual on the Property's regular waiting list. However, the next available unit must then be offered to the next appropriate qualified individual on the SSP referral list for their specific population until all of the set-aside units are filled and maintained for the term of the affordability controls.

SECTION III- DESCRIPTION OF THE ROLES AND RESPONSIBILITIES OF THE HP

HP is the owner of the Property and will be responsible for property management and overseeing the ongoing duties of leasing, repair, maintenance, management and operation of the Property. HP will contract with _____ ("**Property Manager**") to provide activities and adopt the responsibilities outlined in the Property's Management Plan.

HP will be directly responsible for the following:

- A. Ensure that all regulatory and funding requirements are met;
- B. Prepare all budgets and cost estimates related to the Property;
- C. Arrange for all required liability and property insurance for the Property;
- D. Pay all taxes associated with the Property; and
- E. Oversee the contract and duties of the Property Manager.

SECTION IV- DESCRIPTION OF THE ROLES AND RESPONSIBILITIES OF THE PROPERTY MANAGER

In accordance with the Support Services and Property Management Plans, Property Manager will provide the following property management services:

- A. Determine eligibility of tenants;
- B. Pay project bills;
- C. Provide monthly financial reports and any other required information to the HP for regulatory, lending, and funding agencies;
- D. Maintain a fully leased building with the assistance with SSP;
- E. Carry out rent collections and administration;
- F. Oversee tenant relations with respect to the following:
 - 1. Notices
 - 2. Evictions
 - 3. Enforcement of house rules, policies and procedures;

4. Provide building and equipment maintenance and repair;
5. Provide janitorial services (common areas only); and\
6. Manage capital improvements including acquisition and maintenance of building-wide common areas and common area furnishings.

The HP and Property Manager will enter into a property management agreement, which governs these activities.

SECTION V- GENERAL TERMS

- A. This MOU is dependent upon Project completion. It is understood by both the HP and the SSP that any marketing and services provided are in conjunction with the full funding, development and completion of the residential housing development. If, for any reason, the Project is not completed, neither party will be responsible for meeting the obligations of this MOU.
- B. Terms: This MOU is effective as of the last date recorded on the signature page of this MOU between the parties and will automatically be renewed on an annual basis with the same terms and conditions unless amended by the parties or terminated under the termination section as outlined below.
- C. Fees/Costs: It is also understood that all services provided by the SSP to the Residents are to be provided at no cost to the HP and that these services are an extension of the SSP mission to empower the targeted population to lead more productive lives.
- D. Termination: Either party may terminate this MOU by giving the other party three (3) months prior written notice. However, it will be the responsibility of both the HP and SSP, to find a new service provider, with the understanding that this MOU will not terminate until such time as a replacement provider is found and established under a new contract. The party wishing to terminate this MOU for cause must provide written intent to terminate notice to the party in breach or default. The notice will provide thirty (30) for the party in breach or default to respond to said notice with an acceptable plan to cure the cause for termination. Under these circumstances, the termination of this MOU will not be effective until a replacement service provider is found and established under contract.
- E. Confidentiality: The HP and the SSP agree that by virtue of entering into this MOU they will have access to certain confidential information regarding the other party's operations related to this Project. The HP and the Property Manager agree that they will not at any time disclose confidential information and/or material without the consent of that party unless such disclosure is authorized by this MOU or required by law. Unauthorized disclosure of confidential information shall be considered a breach of this MOU. Where appropriate, Resident releases will be secured before confidential client information is exchanged. Confidential client information will be handled with the utmost discretion and judgment and in accordance with The Health Insurance Portability and Accountability Act (“**HIPAA**”).
- F. Amendments: This MOU may be amended only in writing and authorized by the designated representatives of the parties.

IN WITNESS WHEREOF, this MOU is executed as of the date first set forth above.

Housing Provider (HP)

BY: _____ Date: _____

_____,
Name: _____ Title _____

Social Services Provider (SSP)

BY: _____ Date: _____

_____,
Name: _____ Title _____

ADDENDUM TO MEMORANDUM OF UNDERSTANDING

_____(SSP) and _____(HP) for
_____(Project), on _____ day of _____, 2023;

The parties above hereby agree that the cost for the Social Services Coordinator for the program shall be \$_____/year for the first full year of operations, and evaluated on an annual basis within the scope of the operating agreement.

Housing Provider (HP)

BY: _____ Date: _____

_____, _____
Name: Title

Social Services Provider (SSP)

BY: _____ Date: _____

_____, _____
Name: Title

32 units

15% set aside

5 affordable units

	%
one bedroom	15.63%
two bedroom	0.00%
three bedroom	0.00%
Avg range of affordability	

VLI
one bedroom
two bedroom
three bedroom

	5 units
one bedroom	\$ -
two bedroom	\$ -
three bedroom	\$ -

	persons
Regional Income	1.50
Region 4	3
	4.5

	persons
Regional Income	1.50
Region 4	3
	4.5

Bedrooms	Units
1	1
2	0
3	0
1	2
2	0
3	0
1	2
2	0
3	0
TOTALS	5