Affordable Housing
New Jersey’s Requirements & What they Mean for Madison Borough
December 6, 2016 Joint Borough Council & Planning Board Meeting

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Planning Team

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Susan Blickstein AICP/PP, PhD
Madison Borough Planner
Clarke Caton Hintz

Over 30 years of Municipal Planning & Design Experience

• Planning
• Architecture
• Landscape Architecture
• Community Design
• Historic Preservation
• GIS / Graphic Design

Extensive Affordable Housing Expertise

• Municipal Planning
• Special Master to the Court
New Jersey System

Participating Municipalities: Voluntary Process with Incentives

- Housing Plan approval:
  - COAH “Substantive Certification” or
  - Court “Judgment of Repose”
- Immunity from litigation for 10 years

Non-participating Municipalities: Risk of “Builder’s Remedy”

- Developer awarded higher density housing with affordable housing via litigation
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>1975</td>
<td>Mount Laurel I</td>
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<td>Each municipality has a constitutional obligation to provide affordable housing</td>
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<td>1983</td>
<td>Mount Laurel II</td>
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<td>Obligations assigned. Court approves Housing Plans</td>
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<tr>
<td>1985</td>
<td>Fair Housing Act</td>
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<td>COAH created to administer FHA</td>
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<td>1986-2014</td>
<td>COAH Rule Making</td>
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<td>COAH administered the FHA and promulgated first, second and third round rules</td>
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COAH Rulemaking “Rounds”

1st Round
1987-1993

2nd Round
1993-1999

3rd Round
1999-2025

known now as PRIOR ROUND 1987-1999
Third Round History

2004 - 2013
3rd Round Rules
“Growth share” rules are adopted twice and overturned

2013
Supreme Court Decision
"Growth share" rules are adopted twice and overturned

2014
COAH Fails to Adopt
COAH fails to adopt 3rd round rules

2014
FSHC Motion
Fair Share Housing Center (FSHC) files motion to compel the State to adopt rules

2015
Mount Laurel IV
Supreme Court transfers approval of housing plans to Courts
The Obligation

Rehabilitation
(present need)

Prior Round
(1987-1999)

Third Round
(1999-2025)

New Construction Obligation

25% min rental

25% max senior

50% min low income

13% min very low income

25% min rental

25% max senior

50% min low income

13% min very low income
The Obligation

Three Calculations

- Econsult
- Reading
- FSHC

Final determination by Court or Settlement with FSHC

Rehab.:
- Third Round (1999-2025): 6, 21

- 86

Third Round (1999-2025):
- 95
- 280
- 862
Madison’s History & Status

- 1995: Second Round Substantive Certification
- 2005: Extended Prior Round Substantive Certification
- 7/2015: Declaratory Judgement
- 11/2015: Draft Housing Plan Submitted
- 10/2016: Intervenor Status
- 11/2016: Judge Brennan Newly Assigned
Housing Element/Fair Share Plan

Consideration of lands for affordable housing

Satisfaction of rehabilitation obligation

Satisfaction of prior round & third round obligations

Probable future affordable housing stock

Trust Fund: spending plan, development fee ordinance

Housing, demographic, employment analysis

Resolutions, draft ordinances, administration manuals

Housing Plan
Satisfying the Rehabilitation Obligation

Confirm or Adjust 21 Unit Obligation

- Structural Conditions Survey

Rehabilitation Program

- Morris County Housing Rehabilitation Program
- Municipal Rehabilitation Program
Satisfying the Prior Round Obligation

86 Units: Satisfied with 174 Existing Affordable Units & Bonuses

- Madison Housing Authority
- Madison Affordable Housing Corporation

Verification Ongoing

- Construction
- Administration
Third Round Vacant Land Adjustment

Realistic Development Potential (RDP)

- Anticipated to be 95-120 units
- Theoretical exercise
- Identify “vacant and developable” lands
- Calculate potential capacity for affordable housing

Unmet Need

- Anticipated to be maximum of 742-767 units
- Difference between RDP and third round obligation
- Must create opportunities where they arise
Satisfying the Third Round RDP

Utilize Prior Round Surplus

- Madison Housing Authority
- Madison Affordable Housing Corporation
- Other

Address any Deficit with New Sites

- Analysis ongoing
Create Affordable Housing Opportunities

- Most common: overlay inclusionary housing
- Alternatives: by-right zoning, accessory apartments
Work Plan

Complete Vacant Land Adjustment & Verify Credits
- CCH & SGB
- Borough Staff

Determine Third Round Obligation
- Court Determination; or
- FSHC Settlement

Settlement Agreement?
- CCH & SGB
- Borough Professionals
- Council Approval

Coordinate with Court Master & FSHC

Approve Housing Plan
- Planning Board Adoption
- Council Endorsement

Seek Court Approval
- Court Hearing
- Judgment of Repose
Court Approval of Housing Plan

Court Hearing on Adopted Housing Plan

- Public comment
- Does it meet applicable rules?

Judgment of Repose

- Compliance finding
- Ongoing monitoring
- Immunity from builder’s remedy litigation
- Implementation of Housing Plan
Questions?

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