

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), is made as of the 11<sup>th</sup> day of June, 2019 by and between:

**BOROUGH OF MADISON**, a municipal corporation of the State of New Jersey, having an address of 50 Kings Road, Madison, New Jersey 07940,

hereinafter called "**BOROUGH**" or "**MADISON**"; and

**FAIR SHARE HOUSING CENTER**, having an address at 510 Park Boulevard, Cherry Hill, New Jersey 08002,

hereinafter called "**FSHC**";

### WITNESSETH:

**WHEREAS**, on July 8, 2015, the Borough filed an action in Morris County Superior Court (Docket #MRS-L-1694-15) pursuant to the "Mount Laurel I" V Supreme Court Decision reported at 221.NJ.1, (2015), seeking, among other things, a judicial declaration that its proposed Housing Element and Fair Share Plan (hereinafter "Fair Share Plan") satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the Mount Laurel doctrine; and

**WHEREAS**, the Borough simultaneously sought and ultimately secured an Order protecting Madison from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

**WHEREAS**, the trial court appointed Michael P. Bolan, P.P., as the "Special Master" in this case as is customary in Mount Laurel matters; and

**WHEREAS**, with Mr. Bolan's assistance, Madison and FSHC have engaged in good faith negotiations and have reached conceptual agreement on various substantive provisions, terms and conditions delineated herein but a critical component of the settlement requires approval from another governmental entity; and

**WHEREAS**, the parties are entering into the MOU to provide time to determine whether the third party governmental approval required for the use of "MRC Site" (as defined in paragraph 6 below) for affordable housing can be achieved; and

**WHEREAS**, the purpose of this MOU is to generally outline the understanding and intent of the parties that will be incorporated in the final settlement agreement if it is determined that the MRC Site is available and will provide a realistic opportunity for the development of affordable housing; and

**WHEREAS**, the Honorable Michael C. Gaus, J.S.C., issued a Case Management Order on May 6, 2019 which extended the immunity granted to the Borough until June 11, 2019, and, upon execution of this MOU, that immunity will be extended until September 16, 2019 to allow time to enter into a written final settlement agreement.

**NOW, THEREFORE**, the parties hereto wish to set forth their conceptual understanding of the terms of the proposed settlement as follows:

1. Madison's "Rehabilitation" obligation shall be 21, which will be satisfied through the Borough's continued coordination with the Morris County Rehabilitation Program, the Madison Housing Authority, and other public agencies for the rehabilitation of affordable housing units. The Borough may be eligible for a waiver of the rental rehabilitation requirement upon a showing of insufficient rental units in need of rehabilitation prior to the parties entering into a formal settlement agreement.

2. Madison's "Prior Round" obligation is 86.

3. For the purposes of settlement only, the Borough agrees to a Third Round obligation of 500 units, including a realistic development potential of 146 and an unmet need of 354 units. The Borough's unmet need will be satisfied as follows:

- 55 surplus or "unmet need" credits identified in Exhibit A.
- Inclusionary zoning mechanisms identified in Exhibit B.
- Mandatory set-aside ordinance. The Borough adopted a mandatory Borough-wide set-aside ordinance in 2016. That ordinance will be amended to require a 20% set aside for both rental and for-sale housing and to add an exception for single-family detached housing in residential zoning districts with gross densities of less than six ( 6 ) units per acre. The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement of legally pre-existing units or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. The Borough further proposes to modify the required bedroom mix so that the imbalance of non-family units is addressed over time.

4. FSHC acknowledges that Madison does not accept the basis of the methodology or calculations proffered by FSHC's consultant, David N. Kinsey, PhD, P.P.,F.A.I.C.P. The Parties agree that the third round obligation number (for the period of 1999 thru 2025) set forth in paragraph 3 above is solely for purposes of settlement of this action, and is not binding for any other purpose.

5. The Borough's RDP shall be deemed satisfied, and the Borough shall receive credits, as outlined in the table attached as Exhibit A. The credits claimed by the municipality may not conform or in the past have not conformed with applicable regulations regarding crediting of affordable housing, bedroom distribution and marketing practices/residency preferences. The parties contemplate as part of the effort to settle this matter formally that these issues will be addressed in a settlement agreement through, for instance, the municipality agreeing to retain

units as affordable housing for a minimum period of thirty years without a residency preference. The agreement will also address bedroom distribution adjustments needed to counterbalance the excess one- and two-bedroom units. Documentation for existing credits will be provided to FSHC and reviewed by FSHC prior to finalizing the settlement agreement. FSHC acknowledges that the Borough's receipt of all of these credits is a material element of any settlement.

6. The Borough anticipates providing a realistic opportunity for the development of affordable housing that will be developed or created through means other than inclusionary zoning as follows:

- a. Madison will sponsor the development of at least forty (40) new affordable units within the Borough at a site owned by the municipality.
- b. The development is anticipated to include at least 32 family units on a +/- 2.167 acre parcel accessed via Ridgedale Avenue (the "MRC Site"). The use of this site may require approval by Morris County and divestiture from the Madison Recreation Center. The parties at this time are not entering a formal settlement agreement because the process addressed in this paragraph has not been completed. The Borough will diligently continue to complete the process, which is outlined on the attached flow chart as Exhibit C. The Borough will provide an update on this diversion process no later than July 26, 2019.
- c. Not less than 32 of the 40 units shall be available to families and up to 8 units of supportive housing shall be created. The units shall not be composed of age-restricted housing but up to 50% of the units may consist of housing provided using a preference for veterans in accordance with applicable law.
- d. The parties contemplate that a formal settlement of this matter will include terms related to the municipality's compliance with N.J.A.C. 5:93-5.5. Pursuant to that rule, 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, municipal surplus funds, affordable housing trust funds, other available funding, (or a combination of the foregoing) in the event that the funding request is not approved. 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 30 months of court approval of the Agreement in this matter, except that the Borough shall not be required to provide a stable alternate funding source for the development of its municipally sponsored site until 30 days after the awards are announced in the third Low Income Housing Tax Credit (LIHTC) application period established by NJHMFA after the date of the Agreement in this matter, even if that period of time is greater than 30 months,

provided that in no circumstance shall the date by which the Borough is required to begin construction exceed October 1, 2022. The municipality shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. The Borough shall show how these obligations will be met as part of the Housing and Fair Share Plan prepared pursuant to the earlier Agreement in this matter and prior to the Compliance Hearing in this matter. In the event that the project is unable to secure 9% tax credits within the timeframes contemplated by this Agreement, the Borough may utilize other available funds, including 4% tax Credits, bonding for the project, municipal surplus funds, affordable housing trust funds, other available funding (or a combination of the foregoing). N.J.A.C. 5:93-5.5 provides also that the municipality shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity.

7. Nothing in this MOU express or implied, is intended or shall be construed to confer upon or give to any person, firm, corporation or legal entity, other than the parties hereto, any rights, remedies, or other benefits under or by reason of this MOU.

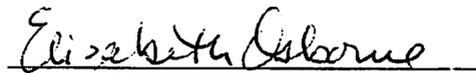
8. This MOU is the result of a compromise of disputed claims and is not and shall not be construed as an admission or concession of any obligation or responsibility of any of the Parties. No part of this MOU, its negotiation or performance may be used in any manner in any action, suit or proceeding as evidence of either the rights, duties or obligations of the Parties with respect to matters, persons or entities outside the scope of this MOU.

9. This non-binding MOU outlines the general terms of which the parties intend to pursue a final settlement of the matter by entering into a formal Settlement Agreement by September 15, 2019. No binding agreement shall arise unless and until the formal Settlement Agreement is executed. This MOU shall expire upon execution of the Settlement Agreement. If no Settlement Agreement is reached, this MOU shall expire on September 15, 2019.

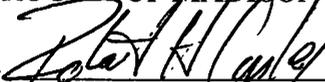
10. This MOU may be executed in multiple counterparts, all of which, taken together, shall constitute an original document.

**IN WITNESS WHEREOF**, the parties have caused this MOU to be effective as of the day and year first above written.

ATTEST:

  
Elizabeth Osborne, Clerk

BOROUGH OF MADISON

By:   
Robert H. Conley, Mayor

WITNESS:



FAIR SHARE HOUSING CENTER

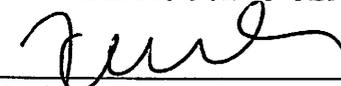
By:   
Kevin D. Walsh, Esq.

EXHIBIT A

Satisfaction of Madison's Obligation

ID	Name	Program Type	Unit Type	Sale / Rental	Total Afford. Units	Prior Round: 86			Third Round RDP: 146			Unmet Need
						Units	Bonus Credits	Credits	Units	Bonus Credits	Credits	
1	Community Place 1	Prior Cycle Credits	Family	Not applicable	10	10	10	20	0	0	0	0
2	Park Avenue	Prior Cycle Credits	Family	Not applicable	4	4	4	8	0	0	0	0
3	John Avenue	Prior Cycle Credits	Family	Not applicable	10	10	8	18	0	0	0	0
4	Belmont Avenue	Prior Cycle Credits	Family	Not applicable	6	6	0	6	0	0	0	0
5	44 Cook Avenue	Municipal Sponsored	Age-restricted	Rental	12	0	0	0	12	0	12	0
6	80 Park Avenue	Municipal Sponsored	Family	Rental	8	0	0	0	8	0	8	0
7	Rexford Tucker Apts.	Prior Cycle Credits	Age-restricted	Rental	80	21	0	21	10	0	10	49
8	30 Loantaka Way	Municipal Sponsored	Family	Rental	12	11	0	11	1	1	2	0
9	John Avenue	Municipal Sponsored	Family	Rental	1	0	0	0	1	1	2	0
10	Community Place 2	Municipal Sponsored	Family	Rental	3	0	0	0	3	3	6	0

Satisfaction of Madison's Obligation

ID	Name	Program Type	Unit Type	Sale / Rental	Total Afford. Units	Prior Round: 86		Third Round RDP: 146		Unmet Need		
						Units	Bonus Credits	Units	Bonus Credits			
11	Sunrise	Assisted Living	Age-restricted	Rental	8	0	0	0	8	0		
12	27 Elm Street	Municipal Sponsored	Family	Sale	5	0	0	0	5	0		
<i>Post 2010 Projects</i>												
13	24 Central Avenue	Municipal Sponsored	Age-restricted	Rental	12	0	0	0	6	0		
14	Strickland Place	Municipal Sponsored	Family	Sale	3	2	0	2	1	0		
15	Walnut Street	Inclusionary Zoning	Family	Sale	1	0	0	0	1	0		
16	Millenium	Inclusionary Zoning	Family	Sale	2	0	0	0	2	0		
17	Madison Mall Apartments	Inclusionary Zoning	Family	Rental	7	0	0	0	7	0		
18	30 Central Avenue	Municipal Sponsored	Family	Rental	4	0	0	0	4	0		
19	Municipal Project	Municipal Sponsored	Family	Rental	40	0	0	0	40	0		
Total					228	64	22	86	109	37	146	55

Satisfaction of Madison's Obligation

ID	Name	Program Type	Unit Type	Sale / Rental	Total Afford. Units	Prior Round: 86			Third Round RDP: 146			Unmet Need
						Units	Bonus Credits	Credits	Units	Bonus Credits	Credits	

Prior Round Obligation:	86
Rental Obligation:	22
Proposed Rental Units:	32
Maximum Age-restricted Units:	21
Proposed Age-restricted Units:	21
Maximum Bonus Credits	22
Proposed Bonus Credits	22
Third Round Obligation	146
Rental Obligation:	37
Proposed Rental Units:	100
Maximum Age-restricted Units:	36
Proposed Age-restricted Units:	36
Maximum Bonus Credits	37
Proposed Bonus Credits	37

Proposed Unmet Need Strategies - Borough of Madison - January 11, 2019 (numbering revised April 26, 2019)

EXHIBIT B

1	R-4 Overlay	Park Ave, South Side James Park to Elm Street	4.5	R-4	This portion of the R-4 District consists of twelve parcels located on the south side of Park Ave, from Elm St down to James Park. These narrow lots area mix of single-family and two-family dwellings with a commercial building (that includes the Chabad of SE, Morris Count), on a large parcel closer to James Park.	The R-4 District currently permits single family detached and two family dwellings. The Overlay Zone would allow multifamily residential development within this portion of the R-4 District.	12	10.8	54.0
2	Overlay to allow ground floor resid	CC District Park Ave/Loveland Street	1.9	CC	This portion of the CC District consists of three parcels (two with existing restaurants and residential developments) at the intersection of Park Ave and Loveland Street.	The CC District currently permits apartment units above office spaces, with a maximum height of 2.5 stories. The proposed CC Overlay Zone in this location would allow ground floor residential development and increase permitted height to 3 stories.	18	6.8	34.2
3	CBD-1 with Overlay	Corner Park/Ridgedale	1.5	R-5	The lot is located at the corner Park Ave and Ridgedale Ave and currently within the R-5 District. However, the property is proposed to be rezoned as the lot is adjacent to the CBD-1 District. The lot consists primarily of open space with existing barn structures at the rear of the site.	Residential spaces are only permitted in the CBD-1 District as apartment units over commercial space with a maximum height of 3 stories. The proposed Overlay District would change CBD-1 to allow ground floor residential development (a total of 3-stories residential).	20	6.0	30.0
4	Overlay to allow ground floor resid	CBD-1 east of Alexander on Main Street	0.9	CBD-1	This portion of the CBD-1 District is located at the Corner of Alexander Ave and Main St and consists of two parcels. Currently the lots are actively used as a car service center and a Verizon office. The surrounding parcels on the same block consist of single family dwellings and the Madison Junior School. There is commercial development on the opposite side of Alexander Ave.	The CBD-1 District currently permits apartments above commercial spaces. The maximum permitted height is 3 stories. The Overlay District would modify CBD-1 regulations to allow ground floor residential development, increasing the numer of allowable residential stories to 3.	20	3.6	18.0

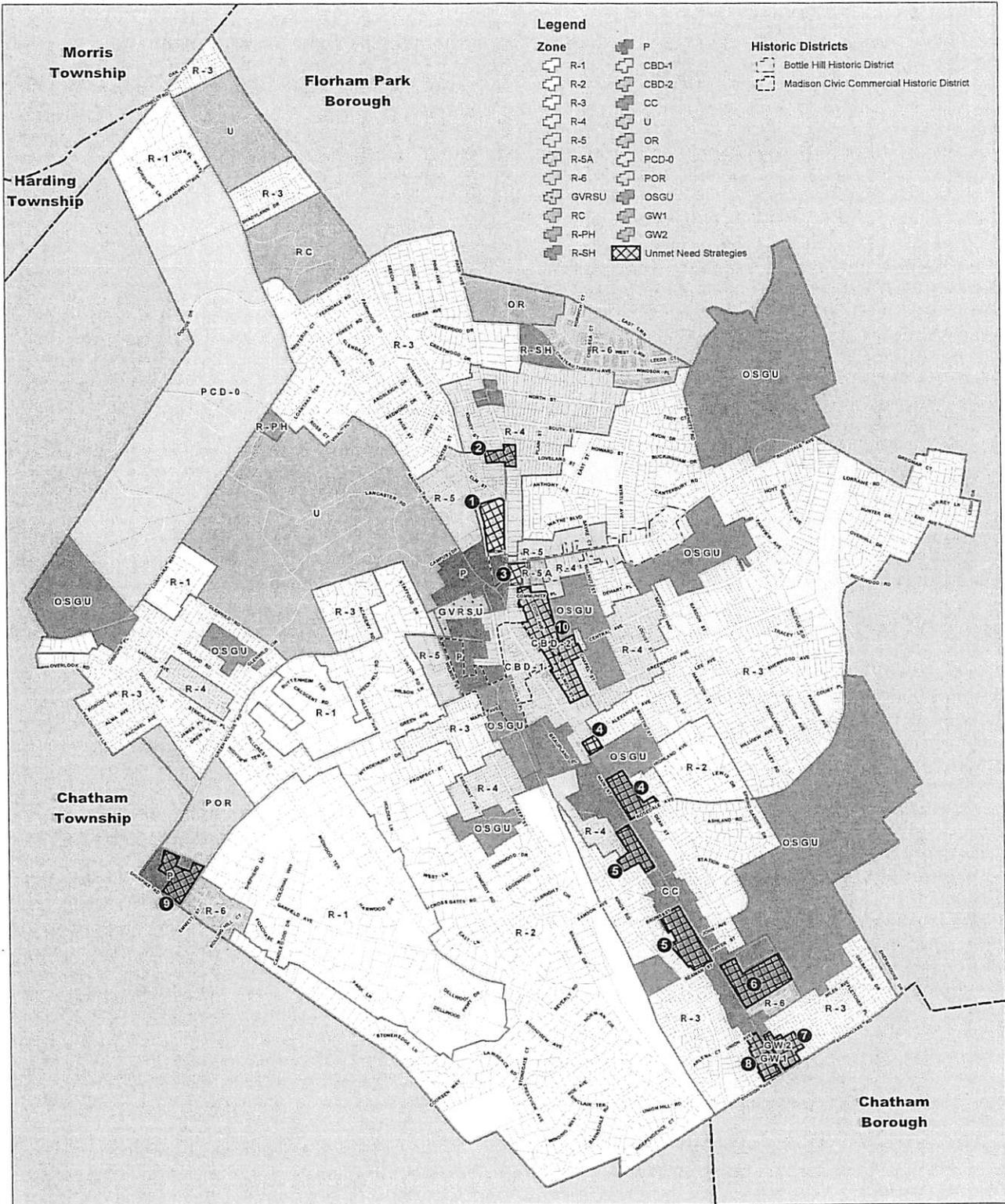
Proposed Unmet Need Strategies - Borough of Madison - January 11, 2019 (numbering revised April 26, 2019)

4	Overlay to allow ground floor resid	CC District, Masonic Temple to Rosedale	3.76	CC	<p>This portion of the CC District is located on the north side of Main St, consisting of eight parcels from Rosedale Ave up to and including the Masonic Temple. Currently the Elks Lodge, Coldwell Banker, two partially vacant dwellings, and the Masonic Lodge are located on the properties. The District is bordered by the Madison Junior School and single family residential dwellings on the same block.</p>	<p>The CC District currently permits apartment units above office spaces, with a maximum height of 2.5 stories and 8 units per lot. The proposed CC Overlay Zone on the north side Main St. (Masonic Temple to Rosedale) would allow ground floor residential development and increase the permitted height to 3-stories of height.</p>	18	13.5	67.7
5	Overlay to allow ground floor resid	CC District, south side Main, Cross St to Samson	3.2	CC	<p>This portion of the CC District is located on the south side of Main Street from Cross St to Samson Ave, consisting of twelve parcels. Approximately 0.6 acres land in this zone falls within the Flood Hazard Area. Currently a deli, pet spa, a garden center, and eight multi family dwellings are located on site.</p>	<p>The CC District currently permits apartment units above office spaces, with a maximum height of 2.5 stories and 8 units per lot. The proposed CC Overlay Zone on the south side Main St. (Cross St to Samson Ave) would allow ground floor residential development and increase permitted multi-family development to 3 stories.</p>	18	11.5	57.6
5	Overlay to allow ground floor resid	CC District, Bruns to Seaman	6.4	CC	<p>This portion of the CC District is located on the south side of Main Street from Bruns St down to Seaman St. These seven parcels currently have a garden center, apartment buildings, bank building, and a car dealership on site.</p>	<p>The CC District currently permits apartment units above office spaces, with a maximum height of 2.5 stories and 8 units per lot. The proposed CC Overlay Zone on the south side Main Street, from Bruns to Seaman, would allow ground floor residential development, allowing for 3-story residential buildings.</p>	18	23.0	115.2
6	Overlay to redevelop shopping center	Staples Plaza	7.53	CC	<p>The shopping center is located on a 7.53 acre site (.43 ac is FHA). It is a single story building with parking along the rear.</p>	<p>The CC District currently permits apartment units above office spaces, with a maximum height of 2.5 stories and 8 units per lot. The proposed Overlay Zone would allow a 3-story multi-family residential structures.</p>	20	30.1	150.6

Proposed Unmet Need Strategies - Borough of Madison - January 11, 2019 (numbering revised April 26, 2019)

7	Allow non-age restricted resid	Gateway II District	3.57	Gateway II	The Gateway II District is comprised of three parcels totaling 3.57 acres. Currently a Lukoil Gas and Service Station, a combined bank and office building, and a home office are located in the District.	The existing Gateway II District permits age restricted or senior citizen multifamily dwellings at 18-22 developable units per acre. The proposed amendment to Gateway II would delete age-restricted/senior use restrictions and allow general multifamily use across the district.	20	14.3	71.4
8	Allow non-age restricted residential	Gateway I District	3.5	Gateway I	The Gateway I District is comprised of seven parcels totaling 3.5 acres. Currently a nail salon, the Madison Professional Center, two single family residences, Rothenberg Orthodontics, and Harmony House Adult Care are located in the District.	The existing Gateway I District permits age restricted or senior citizen multifamily dwellings at 16-22 developable units per acre. The proposed amendment to Gateway I would delete age-restricted/senior use restrictions and allow general multifamily use across the district.	20	14.0	70.0
9	Overlay to permit TH	Baptist Church - Block 4501, Lot 3	4.9	P	The parcel is currently owned by the Madison Baptist Church. There is a worship facility on site for the New Life Fellowship as well as surrounding open space. This irregularly shaped parcel is surrounded by single family and office development.	The P District currently allows single family detached development throughout the district. The proposed Overlay Zone would permit Townhouse development on some or all of site.	12	11.8	58.8
10	Modify CBD-2	CBD-2 Central Business District 2 Zone	13.86	CBD-2	The CBD-2 District consists of the properties fronting along portions of Cook Ave, Elmer St, and Central Ave. These 53 parcels consist of single and multi family homes, office spaces, places of worship, parking lots for business fronting along Main St, and local businesses. Some commercial and residential structures are partially vacant.	The CBD-2 District currently permits single family and two family residential dwellings, as well as apartments above office spaces. The maximum permitted height is 3 stories. The Overlay Zone would modify CBD-2 regulations to allow ground floor residential development and increase the permitted number of residential stories to 3.	20	55.4	277.2
13	Mandatory set-aside ordinance	All locations with a density of 6 du/ac or greater		Various			n/a	n/a	n/a
			<b>Total Area</b>	<b>55.5</b>			<b>Total Units</b>	<b>200.9</b>	<b>1004.7</b>

\*\* Madison Borough does not utilize maximum density to regulate building intensity, with the exception of the Gateway Districts. The proposed density with the exception of the Gateway Districts, represents the anticipated density that can be achieved from the proposed zoning changes. However, site-specific densities may vary with lot size.



**Legend**

- |             |                       |
|-------------|-----------------------|
| <b>Zone</b> | P                     |
| R-1         | CBD-1                 |
| R-2         | CBD-2                 |
| R-3         | CC                    |
| R-4         | U                     |
| R-5         | OR                    |
| R-5A        | PCD-0                 |
| R-6         | POR                   |
| GVRSU       | OSGU                  |
| RC          | GW1                   |
| R-PH        | GW2                   |
| R-SH        | Unmet Need Strategies |

- Historic Districts**
- Bottle Hill Historic District
  - Madison Civic Commercial Historic District



Clarke Caton Hintz ● ● ●  
 Architecture  
 Planning  
 Landscape Architecture

SETTLEMENT DISCUSSION

# Unmet Need Strategies

LOCATION:  
 Madison Borough, Morris County, NJ

DATE:  
 November 2018

EXHIBIT C



**Diversion Schedule**

**Project:** Madison Recreation Complex – Morris County Diversion

**Location:** Block 601, Lot 1.01; Madison Borough (Morris County)  
184 Ridgedale Avenue

Overview: Madison Borough is undertaking a Morris County Open Space diversion. The Borough will make application to Morris County for a “major diversion” per Morris County’s Trust Fund Rules, specifically Chapter 3, Section 3.3.8.

Task	Status	Date Due
Verify jurisdiction with NJDEP Green Acres Program	Completed	March 27, 2019
Determine Diversion Type: Major	Completed	By Ray Codey consult w/County staff.
Alternatives Analysis	Pending	June 24, 2019
Have appraisal prepared to value diverted land	Pending	July 10, 2019
Set Public Hearing Date	To Do	June 24, 2019
Have Sign Posted at Park Entrance	To Do	July 10, 2019
Post Public Hearing Notice on Borough Website	To Do	July 10, 2019
Written Notice of Public Hearing	To Do	July 10, 2019
Press Release Issued	To Do	July 10, 2019
<b>Public Hearing</b>	To Do	<b>August 12, 2019</b>
Public Comment Period	To Do	August 30, 2019
Summary of public comments and responses	To Do	September 4, 2019
Borough Resolution authorizing diversion application	To Do	September 9, 2019
Submission of Diversion Application to Morris County.	To Do	September 12, 2019
County Open Space Committee Review	To Do	October 22, 2019 or December 4, 2019
Freeholder Action on OS Comm Recommendation	To Do	Meets 2 <sup>nd</sup> and 4 <sup>th</sup> Wednesday of each month. Nov 13 & 25, Dec 11 & 23

<https://www.rosenet.org/>

## The Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund

### A. Purpose

To establish procedures for all grant recipients seeking to divert preserved open space properties funded entirely or in part through the Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund.

### B. Applicability

All grant recipients shall abide by these requirements.

### C. Determination of Jurisdiction

1. Prior to making an application to the County Open Space Committee the applicant must verify with NJDEP Green Acres Program ("Green Acres") that Green Acres does not have jurisdiction over the proposed diversion regardless if it is funded or unfunded parkland. The determination of Green Acres must be in writing.
2. If Green Acres claims jurisdiction over the diversion, Green Acres will take the lead in the process. In such case:
  - a. Applicant shall copy the County on all submissions to Green Acres.
  - b. The County shall review the applicant's submissions and any public hearing transcripts.
  - c. Applicant shall make a presentation to the Open Space Committee regarding its diversion request for the Committee's recommendation to the Board of Chosen Freeholders prior to the applicant's hearing before the Statehouse Commission.
3. If Green Acres declines jurisdiction over the proposed diversion or disposal application, the applicant shall be required to comply with the Morris County Open Space Diversion Rules and Regulations.

### D. Morris County Diversion Requirements

1. The applicant must demonstrate that any land acquired by the applicant with County Open Space funds would be better served by, or is required for, another public use.
2. The County shall determine if the diversion is a major or minor diversion. The County shall use the Green Acres rules to define major and minor diversion (see N.J.A.C. 7:36-26.2(b) 1-5).

### Minor Diversion

- a. The applicant must provide an ordinance or resolution authorizing the application for the diversion and the proposed use of the property.
- b. The applicant must have one public hearing on the proposed diversion and use of the property. The public hearing must be advertised in accordance with Green Acres requirements. The applicant must submit a summary of the public comments received at the public hearing and the applicant's response to the public comments. In addition the applicant shall post on its website its request for the diversion and its supporting documentation. The applicant shall issue at least one press release at least ten (10) days prior to the public hearing describing the proposed diversion.
- c. The applicant shall submit to the County a survey and description of the property showing the diversion and a survey and description of any replacement property.
- d. The land shall be replaced by land of at least equal fair market value and of equivalent usefulness size, quality and location to the land conveyed and monies derived from the conveyance shall be used to reimburse the Morris County Preservation Trust Fund for its share of the purchase cost of the land. If the applicant conveyed the property as part of an exchange, the land and

The Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund

improvements shall be of at least equal fair market value and reasonably equivalent usefulness, size, quality and location.

Major Diversion

- a. The applicant must provide an ordinance or resolution authorizing the application for the diversion stating the proposed public use of the property and the reason setting forth need and benefit of the diversion.
- b. The applicant shall provide an alternative analysis as set forth in N.J.A.C. 7:36-26.9.
- c. The applicant must have at least one public hearing on the proposed diversion and accept public comment. The applicant shall accept public comment for a minimum of two (2) weeks after the hearing. The hearing shall detail the proposed use of the property and the need for the diversion. The public hearing must be advertised in accordance with Green Acres requirements (N.J.A.C. 7:36-26.8). This includes but is not limited to the applicant (government or non-profit) providing the following:
  1. At least thirty (30) days prior to the hearing:
    - i. Publish legal notice of the hearing in the official newspaper of the municipality where the parkland is located; and
    - ii. Post notices on the official website; and
    - iii. Provide written notice to the County, the Governing Body, local Planning Board, Environmental Commission, and Open Space Advisory Committee of the Municipality where the parkland is located;
    - iv. Provide written notices to all easement holders;
    - v. Provide written notice to all property owners within 200 feet of the parkland; and
    - vi. Post and maintain a sign to advise the public of the proposed diversion, the public hearing, and the opportunity for all public comment. The sign shall be placed at the entrance to the parkland and shall remain posted and maintained until the conclusion of the public comment period.
  2. The information included in this notice shall conform to N.J.A.C. 7:36-26.8(c) 3.
- d. The applicant must submit a summary of the public comments received at the public hearing and the applicant's response to each of the public comments. In addition, the applicant shall post on its official website its request for the diversion and its supporting documentation. The applicant shall issue at least one press release at least ten (10) days prior to the public hearing describing the proposed diversion.
- e. The applicant shall submit any additional information the County deems necessary to fully consider the applicant's request.
- f. The applicant shall provide compensation for a major diversion or disposal. The primary objective is to prevent a net loss of parkland, including, but not limited to quantity, quality and accessibility of parkland and to discourage the use of parkland for other than recreation and conservation purposes, especially when a feasible alternative is available. Compensation shall meet the Green Acres guidelines as set forth N.J.A.C. 7:36-26.10.