

3. The Borough has been diligent in its efforts to fulfill its constitutional obligation to create a realistic opportunity for producing a fair share of the regional present and prospective need for low and moderate income housing as set forth in So. Burlington Cty. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) and its progeny ("Mount Laurel"), and the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA").

4. The FHA created the Council on Affordable Housing ("COAH") and assigned COAH to establish municipal fair share obligations on a periodic basis.

5. In 1986, COAH determined that the Borough had no fair share obligation for the First Round ending in 1993.

6. In 1993, COAH determined that the Borough had a fair share obligation for the Second Round ending in 1999 consisting of twenty-seven (27) units, including twenty-five (25) new units and two (2) rehabilitation units.

7. In 2001, COAH granted the Borough Second Round Substantive Certification as follows:

<u>Components</u>	<u>Credits or Units</u>
a. Rehabilitation program	2
b. Regional Contribution Agreement with the City of New Brunswick	9
c. Group home known as Eden Acres	4
d. Group home by the ARC of Somerset	6

e. Rental bonus 6

Total credits or units 27

8. All of the components described in Paragraph 7 above were implemented and no Second Round units remain to be addressed.

9. The Planning Board, on November 11, 2008, adopted a Housing Element and Fair Share Plan ("Third Round Plan") to meet the Borough's Third Round fair share obligation under Mount Laurel and the FHA of eleven (11) new units and four (4) rehabilitation units.

10. Attached as Exhibit A is a true copy of the Third Round Plan.

11. The Borough Council, on December 1, 2008, adopted a Resolution endorsing the Third Round Plan and authorized the submission of a Petition for Third Round Substantive Certification to COAH.

12. The Third Round Plan included drafts of the following Ordinances:

- a. An Ordinance Amending the Development Regulations of the Borough of Rocky Hill to Permit Accessory Apartments in Fulfillment of the Borough's Revised Third Round Housing Element & Fair Share Plan;
- b. An Ordinance Modifying Article 8 (Affordable Housing) of the Development Regulations of the Borough of Rocky Hill so as to be in Compliance with the Rules of the New Jersey Council on

Affordable Housing and State of New Jersey
Uniform Housing Affordability Controls; and

- c. An Ordinance Repealing Article 9 of the Borough of Rocky Hill Development Regulations Ordinance Titled "Development Fees Section" and Adopting an Affordable Housing Development Fee Ordinance for the Borough of Rocky Hill.

13. On May 14, 2009, COAH granted the Borough Third Round Substantive Certification as follows:

<u>Components</u>	<u>Credits or Units</u>
a. Rehabilitation program	4
b. Accessory apartment program	10
c. Group home (Eden Acres) expansion	<u>1</u>
Total credits or units	15

14. Attached as Exhibit B is a true copy of the Third Round Substantive Certification.

15. On June 15, 2009, the Borough adopted the Ordinances described in Paragraph 12 above.

16. On June 17, 2009, the Borough submitted certified copies of adopted Ordinances Nos. 6, 2009; 7, 2009; and 8, 2009 to COAH.

17. The fair share obligation for the Third Round was originally calculated in the Third Round Plan as fifteen (15) units, four (4) rehabilitation units and eleven (11) Third Round new units.

18. The Borough is prepared to supplement its Third Round Plan, if necessary, to comply with its constitutional obligation to provide for the realistic opportunity for producing a fair share of the regional present and prospective need for low and moderate income housing consistent with all credits, adjustments, including physical and environmental factors.

19. The Borough is working diligently to determine the Borough's Third Round fair share obligation. To that end, the Borough retained the services of an expert to assist the Borough in calculating the Borough's current Third Round fair share obligation now ending 2024.

20. While the Third Round Plan that was adopted, and for which COAH granted the Borough Third Round Substantive Certification may need to be supplemented in accordance with the Decision, the Plan is entitled to be "view[ed] more favorably" by the Courts of New Jersey. [Decision at 27.]

21. The Borough is currently exploring the mechanisms to supplement the Third Round Plan, including but not limited to:

- a. Special needs housing;
- b. Accessory apartments program;
- c. Residential rehabilitation program; and
- d. Affordable housing overlay.

22. In accordance with the Decision, the Borough seeks a determination declaring that its Third Round Plan, as it is or

as may be supplemented, meets the Borough's constitutional fair share obligation under Mount Laurel.

23. During the period that the Courts of New Jersey are reviewing whether the Borough met its constitutional fair share obligation, the Borough is entitled immunity from suit by any party or entity, including any claim for builder's remedy.

24. Once the Courts of New Jersey declare that the Third Round Plan of the Borough satisfies the Borough's fair share obligation, the Borough is entitled to further repose and immunity from litigation challenging the Third Round Plan, including any claim for builder's remedy for the duration of the adopted and approved Plan, which the Decision held at least until June 30, 2025.

25. In accordance with the Decision, interested parties are to be noticed of this action. The Borough shall serve the identified parties and others that have requested notice with the filed pleadings; other possibly interested parties will be provided notice of the proceedings.

WHEREFORE, the Borough requests judgment declaring that:

- a. The Borough be granted a Judgment of Compliance;
- b. The Third Round Plan meets the Borough's constitutional fair share obligation under Mount Laurel and the FHA;
- c. The Borough is entitled to immunity and repose from litigation challenging any aspect of its

Third Round Plan, including any claim for builder's remedy at least until June 30, 2025, or as otherwise directed by the Courts of New Jersey; and

d. Such other relief as is proper and just.

**COUNT TWO APPROVING DEVELOPMENT
FEE ORDINANCE AND SPENDING PLAN**

26. The Borough repeats and relies upon each and every allegation set forth in Paragraphs 1-25 herein.

27. The Third Round Plan includes a Development Fee Ordinance ("Fee Ordinance") as well as a Spending Plan in accordance with the FHA.

28. On May 6, 2009, the Fee Ordinance was approved by COAH.

29. Attached as Exhibit C is a true copy of the Fee Ordinance and COAH's approval.

30. On May 6, 2009, the Spending Plan was approved by COAH.

31. Attached as Exhibit D is a true copy of the Spending Plan and COAH's approval.

32. In accordance with the Fee Ordinance and the Spending Plan, the Borough collected fees from developers for use by the Borough in implementing certain aspects of its Plan.

33. The Decision removed all aspects of implementation of the FHA from COAH.

34. In order to continue to meet the provisions of the Third Round Plan, the Fee Ordinance and the Spending Plan may need to be amended and approved in accordance with the Decision.

35. In the absence of COAH, this determination must be made by the Courts of New Jersey.

WHEREFORE, the Borough requests judgment declaring that:

- a. The Fee Ordinance and Spending Plan meet the Borough's requirements under the FHA and further fulfill the Borough's constitutional obligation under Mount Laurel and the FHA; and
- b. Such other relief as is just and proper.

**COUNT THREE PRESERVING THE MUNICIPAL
HOUSING TRUST FUNDS OF THE BOROUGH**

36. The Borough repeats and relies upon each and every allegation set forth in Paragraphs 1-35 herein.

37. In accordance with the Fee Ordinance and the Spending Plan, the Borough collected development fees that are to be used to advance affordable housing programs that are components of the Third Round Plan.

38. The FHA provided, in part, that the funds collected must be committed within four (4) years of collection or be forfeited to the New Jersey Housing Trust Fund. N.J.S.A. 52:27D-329.2(d).

39. COAH failed to adopt regulations defining "commit to expend" funds, and the circumstances under which the funds could be forfeited.

40. In In Re Failure of the Council on Affordable Housing to Adopt Trust Fund Commitment Regulations, 440 N.J. Super. 220 (App. Div. 2015), the Appellate Division ruled that in the absence of appropriate direction from COAH, the determination of the use of a municipality's collected funds is part of this action.

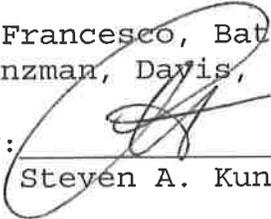
41. The Fee Ordinance and Spending Plan prepared by the Borough are components of the Third Round Plan that will enable the Borough to meet its constitutional fair share obligation.

42. A forfeiture of those funds to the New Jersey Affordable Housing Trust Fund is contrary to the interests of the Borough, the citizens of the State of New Jersey, and would impede the ability of the Borough to implement the Third Round Plan and comply with its constitutional fair share obligation.

WHEREFORE, the Borough requests judgment declaring that:

- a. Any development fees collected by the Borough not be forfeited to the New Jersey Affordable Housing Trust Fund;
- b. Any development fees collected by the Borough are permitted to be used in accordance with the Spending Plan; and
- c. Such other relief as is just and proper.

DiFrancesco, Bateman, Coley, Yospin,
Kunzman, Davis, Lehrer and Flaum, P.C.

By: 
Steven A. Kunzman

Date: July , 2015

DESIGNATION OF TRIAL COUNSEL

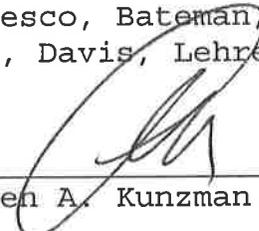
Pursuant to R. 4:25-4, Steven A. Kunzman, Esq. is hereby designated as Trial Counsel for the Borough of Rocky Hill.

Dated: July __, 2015

R. 4:5-1 CERTIFICATION

Pursuant to R. 4:5-1, the undersigned hereby certifies that at the time of filing the within, the matter in controversy is not the subject of any other action pending in any court and/or arbitration proceeding, and no other action or arbitration proceeding is contemplated, and the undersigned is unaware of any other party who is potentially responsible to any party on the basis of the facts set forth herein and who should be joined in this action pursuant to R. 4:28 and 4:29-1 et seq. However, many of the issues to be presented in the matter in controversy and to be addressed by the court will be the subject of similar matters that have been or will be filed by other municipalities and, as such, many of these issues may be required to be addressed by the court in conjunction or simultaneously with other such actions.

DiFrancesco, Bateman, Coley, Yospin,
Kunzman, Davis, Lehrer and Flaum, P.C.

By: 

Steven A. Kunzman

Date: July 1, 2015

Exhibits to Complaint

- A - 2008 Housing Element and Fair Share Plan
- B - Third Round Substantive Certification
- C - Fee Ordinance and COAH Approval
- D - Spending Plan and COAH Approval

Exhibit A

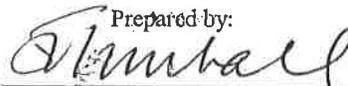
BOROUGH OF ROCKY HILL

SOMERSET COUNTY, NEW JERSEY

MASTER PLAN Housing Element & Fair Share Plan

Adopted by the Rocky Hill Planning Board
November 11, 2008

Prepared by:



Susan C. Kimball, PP (LI # 2280)

KIMBALL & KIMBALL

Professional Planners

A signed and sealed copy of this Master Plan amendment is on file with the Planning Board Secretary and Borough Clerk.

Borough of Rocky Hill

Housing Element & Fair Share Plan

Introduction

This plan is comprised of two parts consistent with revised regulations of the New Jersey Council on Affordable Housing (COAH) and the New Jersey Fair Housing Act. Part 1 is the *Housing Element*, which contains information on the Borough's housing stock, demographics, employment characteristics and a determination of the Borough's fair share obligation. Part 2 is the *Fair Share Plan*, which describes how the Borough of Rocky Hill will provide a realistic opportunity for the rehabilitation and construction of affordable housing consistent with COAH rules.

Background

COAH establishes municipal fair share obligations on a periodic basis. In 1986 COAH determined that the Borough had no fair share obligation for the "first round" ending in 1993. In 1993 COAH determined that the Borough's "second round" fair share obligation, for the period ending in 1999, was comprised of 25 new units and 2 units of rehabilitation. The Planning Board adopted a plan addressing the 27-unit obligation, which COAH certified in 2001, and all components of the plan have been implemented.

In 2006, in response to COAH's original third round rules adopted in 2004, the Borough submitted a new Housing Element & Fair Share Plan addressing its third round fair housing obligation. COAH's regulations were challenged by developers and subsequently invalidated by the Appellate Court in 2007. In response to the Court Decision, COAH has adopted new regulations requiring the submission of this revised third round plan addressing the Borough's affordable housing obligation.

Goals & Objectives of this Plan

The goal of this plan is to comply with the constitutional fair housing mandate within the practical limitations of the available land capacity of the Borough and in a manner consistent with the Borough's Master Plan. The following objectives are intended to fulfill this important goal:

1. Maintain COAH credit for the units implemented as part of the Borough's prior round certified affordable housing plan (2 group homes) and cooperate with a sponsor of Special Needs Housing to provide the opportunity for additional housing in the Borough for persons with special needs.
2. Provide opportunities for new affordable housing to be constructed in the Borough as part of an accessory apartment program.
3. Provide funding for residential rehabilitation in the Borough.
4. Comply with applicable fair housing regulations enabling COAH to grant substantive certification to the Borough's fair share plan.

Executive Summary of the Housing Obligation and the Fair Share Plan

COAH's third round rules are intended to address the need for affordable housing from 1987 through 2018. Three components comprise the fair share obligation according to COAH rules. The *rehabilitation share* represents COAH's determination, based on the 2000 Census, of the number of substandard dwellings within the community occupied by low or moderate income households that are in need of rehabilitation. The new construction component or *growth share obligation* represents the municipality's share of the region's need for new housing for low and moderate income households for the period 1999-2018. In addition, every municipality's *prior round fair share obligation* (the new construction portion of the cumulative first and second round obligations) is a continuing obligation and any units not completed must be addressed.

Rehabilitation Share

COAH has determined that at the time the 2000 Census was taken, four dwelling units in the Borough occupied by low or moderate income households, were deficient and in need of rehabilitation. Under COAH rules, the Borough may address the 4-unit rehabilitation share with credits for units completed since the Census, and either a rehabilitation program or new construction. Three dwellings in the Borough were rehabilitated since the 2000 Census and meet COAH crediting criteria, thus leaving one unit in need of rehabilitation.

Growth Share Obligation

COAH calculates the new construction component of the fair share obligation based on its projection of total growth that it anticipates will take place from 2004 through 2018. Known as the "growth share" portion of the obligation, the affordable housing requirement is calculated on the basis of one affordable unit among five new COAH-projected dwellings and one affordable unit for every 16 COAH-projected new jobs (created hypothetically), as measured by new or expanded nonresidential development from January 1, 2004 through December 31, 2018. COAH's growth projections require that the Borough develop a plan to create a realistic opportunity for the construction of 11 new affordable units.

Prior Round Obligation

Rocky Hill's prior round obligation was 27 units: two units of rehabilitation and 25 units of new construction. The Borough satisfied that obligation based on the housing plan that was certified by COAH on January 3, 2001. The Borough has complied with the obligation and fully implemented the plan as summarized in the table below.

CERTIFIED PRIOR ROUND FAIR SHARE PLAN

Plan Component	Credits or Units
Rehabilitation Program	2
Regional Contribution Agreement: \$180,000 transferred to the City of New Brunswick in 2001	9
Credit for 4 bedroom group home (EDEN Acres) established in 1996	4
6 bedroom Group Home (ARC of Somerset) completed in 2002	6
Rental Bonus	6
TOTAL	27

Summary of Third Round Fair Share Plan

Since the prior round obligation has been satisfied and no units remain to be addressed, the Borough's third round fair share plan, as summarized below, addresses the rehabilitation share (4 units) and the growth share obligation (11 units) for a total obligation of 15 units.

1. Rehabilitation (4 units): The Borough has submitted documentation to COAH demonstrating that 3 dwelling units rehabilitated after April 2000 meet COAH's third round crediting criteria. The Borough will provide funding for the rehabilitation of 1 additional unit to complete the rehabilitation obligation.
2. New Construction (11 units): The Borough will enact an ordinance subsidizing the development of 10 affordable accessory apartments. In addition, the Borough is cooperating with a provider of special needs housing to promote the construction of a 1-bedroom addition to an existing group home located on Princeton Avenue (EDEN Acres). Since each bedroom in group homes count as one unit of credit, this plan will satisfy the full 11-unit new construction obligation. If construction of an addition to EDEN's existing home should not prove feasible, the Borough will cooperate with EDEN to promote the establishment of another home in the Borough for persons with special needs.

PART 1 THE HOUSING ELEMENT

The Municipal Land Use Law (MLUL) was amended in 1985 to require a Housing Element as a mandatory part of the municipal Master Plan. Under the law, every Housing Element must contain the following information.

1. An inventory and analysis of the municipality's housing stock, demographic characteristics, and existing and future employment characteristics;
2. A projection of future housing construction;
3. A determination of the municipality's present and prospective fair share of low and moderate income housing and its capacity to accommodate low and moderate income housing; and

4. A consideration of land that is most appropriate for the construction of low and moderate income housing including land owned by developers who have expressed a commitment to provide affordable housing.

COAH's revised third round rules contain the following additional requirements that must be addressed in the Housing Element.

1. COAH's household projection for the Borough in accordance with Appendix F(2) of COAH's revised rules.
2. The employment projection for the Borough in accordance with Appendix F(2) of COAH's revised rules.
3. The Borough's prior round obligation from Appendix C of COAH's revised rules.
4. The Borough's rehabilitation share from Appendix E of COAH's revised rules.
5. The projected growth share obligation in accordance with the formulae and procedures contained in COAH's revised rules.

Inventory of Housing Stock

Comprised of about 410 total acres, the Borough of Rocky Hill is a small, primarily residential community, which since 1970, has experienced significant declines in population. Most of the Borough's central core is listed on the State and National Register of Historic Places and is a designated Historic District. The Borough's housing stock is comprised primarily of owner-occupied single-family detached dwellings that are typically large and well-kempt. There is little privately owned vacant land; future growth is largely limited to the build-out of one remaining vacant site and a few under-developed parcels of land.

Age of Housing

The Borough of Rocky Hill constitutes an early development in Somerset County. According to the 2000 Census, out of a total of 295 dwelling units, over one-third of its homes were constructed prior to 1940, as displayed in the following table.

AGE OF HOUSING

Source: 2000 Census

Year Structure Built	Number	Percentage
1999 – March 2000	-	-
1995 - 1998	8	2.7
1990 - 1994	8	2.7
1980 – 1989	34	11.4
1970 – 1979	13	4.3
1960 – 1969	96	32.1
1940 – 1959	28	9.4
Prior to 1940	112	37.5

NOTES:

1. The total above reflects 299 units due to sampling methods and calculations contained in the 2000 Census Profile of Selected Housing Characteristics.
2. Percentages may not total 100 due to rounding.

Condition of Housing

The Borough's housing stock is generally in good condition. The Census contains data that gives an indication of the incidence of substandard conditions within a community by counting the number of units reporting a lack of plumbing, heating or complete kitchen facilities. According to the 2000 Census, there were three units in the Borough that lacked complete kitchen and plumbing facilities. COAH has determined that four units in the Borough were deficient and occupied by low or moderate income households.

Housing Values

The Census also provides information about housing values. The median value of owner-occupied housing in the Borough was \$271,400 in 2000. The median monthly rent was reported to be \$914. The following tables display the estimated values for owner-occupied housing and monthly rental costs for rented units.

HOUSING VALUES

Source: 2000 Census

Value of Owner-Occupied Housing	Number	Percentage
< \$50,000	0	-
\$50,000 - 99,000	5	2.2
\$100,000 - 149,000	12	5.4
\$150,000 - 199,000	36	16.1
\$200,000 - 299,000	90	40.4
\$300,000 - 499,999	74	33.2
\$500,000 - 999,999	6	2.7
\$1,000,000 or more	0	-
Median Value	\$271,400	

NOTE: 223 units reported.

MONTHLY RENTAL COSTS

Source: 2000 Census

Gross Monthly Rent	Number	Percentage
< \$500	0	-
\$500 - 749	12	21.4
\$750 - 999	28	50.0
\$1,000 - 1,499	5	8.9
\$1,500 or more	4	7.1
No cash rent	7	12.5
Median Rent	\$914	

NOTES:

1. 56 units reported
2. Percentages may not total 100 due to rounding.

Occupancy Characteristics

The overwhelming majority of dwellings in the Borough are owner-occupied. The breakdown between owner-occupied and rental units is displayed in the following table.

OCCUPANCY CHARACTERISTICS

Source: 2000 Census

Housing Occupancy		
Owner-occupied units	229	80.6
Renter-occupied units	55	19.4
Vacant units	11	-

Housing Types

As shown in the tables below, the majority of dwellings in the Borough are single-family detached units and the median size is 7.1 rooms, representing a fairly large home size.

HOUSING TYPES

Source: 2000 Census

Housing Type ¹	Number	Percentage
1 unit - detached dwelling	218	72.9
1 unit - attached dwelling	40	13.4
2 units	17	5.7
3 or 4 units	8	2.7
5 - 9 units	14	4.7
10 - 19 units	2	0.7
20 or more units	0	-
Mobile homes	0	-

NOTES:

1. The total of units by Housing Type above reflects 299 units due to sampling methods and calculations contained in the 2000 Census Profile of Selected Housing Characteristics.
2. Percentages may not total 100 due to rounding.

SIZE OF DWELLINGS

Source: 2000 Census

Number of Rooms	Number	Percent
1 room	3	1.0
2 rooms	11	3.7
3 rooms	13	4.3
4 rooms	15	5.0
5 rooms	32	10.7
6 rooms	53	17.7
7 rooms	38	12.7
8 rooms	66	22.1
9 rooms	68	22.7
Median rooms per dwelling	7.1	

NOTE: Percentages may not total 100 due to rounding.

¹ Year-round dwellings.

Number of Affordable Units

Two group homes in the Borough are reserved for occupancy by low income households. One is located on Princeton Avenue and houses four individuals. The other is located on Young Drive and houses six individuals. Both homes are licensed by the State of New Jersey Department of Human Services, Division of Developmental Disabilities, and all bedrooms are occupied by low income individuals.

Substandard Housing Capable of Being Rehabilitated

As indicated previously, most of the housing in the Borough is in good condition. In 2000, several units were reported to be deficient and, according to COAH, four were occupied by low or moderate income households and in need of rehabilitation. Since the Census was taken, seven homes have been rehabilitated with funding provided by Somerset County. Three of those units meet COAH criteria for credit in the third round.

Demographic Characteristics

The Master Plan contains a separate section entitled "Demographic Characteristics" which was updated in 2002 based on the 2000 Census. Since the Municipal Land Use Law and COAH require demographic information to be contained in a housing element as a basis for developing a fair share plan, some of the Borough's demographic material is repeated below.

Population Trends

In 2000 the Borough's population was 662 persons according to the US Census. This represented a *decrease of 31 persons or 4.5%* from the 1990 Census. The Borough's population was relatively stable for the four decades preceding 1960, but during the following decade the population grew by almost 75%, to a high of 917 persons. Since then, the Borough has experienced a declining population. The table below displays population from 1930 to 2000. It illustrates the periods of population decline during the Great Depression, growth following World War II and the development of central New Jersey in the 1960's, and the decline of population since 1970.

POPULATION: 1930-2000

Source: 1996 Master Plan Reexamination Report and 2000 Census

Year	Population	% Change
1930	512	-
1940	404	-21.1%
1950	537	+32.9%
1960	528	-1.7%
1970	917	+73.7%
1980	717	-21.8%
1990	693	-3.3%
2000	662	-4.5%

Household Size and Type

The household characteristics of the Borough's population are displayed in the following table. Based on a total of 284 occupied housing units,² the Borough's average household size was 2.33 persons in 2000.³

HOUSEHOLD SIZE AND TYPE

Source: 2000 Census

Households by Size	Number	Percentage
1 person	79	27.8
2 persons	113	39.8
3 persons	34	12.0
4 persons	39	13.7
5 persons	16	5.6
6 persons	2	0.7
7+ persons	1	0.4
Average household size	2.33	
Households by Type	Number	Percentage
Family households	190	66.9
Non-family households	94	33.1

NOTE: Percentages may not total 100 due to rounding.

Age Characteristics

A breakdown of the Borough's population by age groups is displayed below. The largest percentage is in the 45-54 age group with the next two largest groups being 65+ and 35-44 years of age. These figures reflect an aging population with a significant group of residents of retirement age: over 17% compared to slightly over 11% countywide and 13.2% statewide.⁴ The median age of the Borough's population is 43.8 years.⁵

POPULATION AGE CHARACTERISTICS

Source: 2000 Census

Persons by Age	Number	Percentage
Under 5 years	38	5.7
5-19 years	102	15.4
20-24 years	16	2.4
25-34 years	74	11.2
35-44 years	112	16.9
45-54 years	126	19.0
55-64 years	80	12.0
65+ years	114	17.2

NOTE: Percentages may not total 100 due to rounding.

² The 2000 Census indicates that 284 out of 295 housing units were occupied at the time of the Census in April 2000.

³ Source: 2000 Census.

⁴ Source: 2000 Census and Somerset County Planning Board.

⁵ Source: 2000 Census.

Income Level

According to the 2000 Census, in 1999 the median household income in Rocky Hill was \$79,469. This was about 3% higher than the countywide median household income of \$76,933.⁶ The 2000 Census also reported that in 1999 five families and 18 individuals lived below the poverty level.⁷ The following table displays a breakdown of the Borough's households by income.

HOUSEHOLD INCOME

Source: 2000 Census

Households by Income	Number	Percentage
Under \$10,000	11	3.8
\$10,000-14,999	7	2.4
\$15,000-24,999	8	2.8
\$25,000-34,999	17	5.9
\$35,000-49,999	41	14.2
\$50,000-74,999	51	17.7
\$75,000-99,000	37	12.8
\$100,000-149,000	63	21.9
\$150,000-199,999	21	7.3
\$200,000 or more	32	11.1
Median Household Income: \$79,469		

NOTE: Percentages may not total 100 due to rounding.

Employment Status of Borough Residents

The 2000 Census reported that there were 376 Rocky Hill residents employed (16 years and older). The following table displays the occupation categories reported by residents.

EMPLOYMENT STATUS OF RESIDENTS

Source: 2000 Census

Occupation	Number
Management, professional and related occupations	230
Service occupations	30
Sales and office occupations	70
Farming, fishing, and forestry occupations	-
Construction, extraction and maintenance occupations	25
Production, transportation, and material moving	21

⁶ Source: 2000 Census.

⁷ Source: 2000 Census.

Employment Characteristics (Job Availability) in Rocky Hill

Data concerning employment in each municipality in New Jersey is available from the New Jersey Department of Labor (DOL). The data provide an indication of the number and types of jobs available in the community.

Employment by Industry Sectors

The most recent breakdown of private sector jobs for municipalities available at the DOL website dates to 2003 and is shown in the table below. DOL's website notes that where there were very few units (establishments) or the number of jobs was low, the data may be suppressed.

EMPLOYMENT IN ROCKY HILL BY INDUSTRY SECTOR: 2003

Source: NJ Department of Labor

Private Sector Classification	Average Number of Jobs in Private Sector
Construction	-
Manufacturing	69
Wholesale trade	23
Retail trade	-
Information	-
Finance and insurance	-
Professional and technical services	62
Administrative and waste services	17
Health care and social assistance	28
Accommodation and food services	33
Other services except public administration	19
Unclassified entities	-
Sum total of jobs by sector reported above	251
Private sector total reported by DOL	327

NOTE: The total number of jobs reported exceeds the sum of reported jobs in each category by 76 jobs.

Number of Persons Employed and Employment Trends

Employment trends in the Borough have generally been very stable. This is largely due to the fact that the Borough's business districts are nearly fully developed. DOL has published the number of jobs that were available in Rocky Hill in each of the last three years as shown in the table below.

According to DOL, an average of 394 jobs were available in Rocky Hill during 2006, an increase of 58 jobs compared to 2005.⁸ DOL reports that there were, on average, 320 private sector and 74 government (local, state and federal) jobs in 2006. However, 70 of the

⁸ Source: NJDOL website of available municipal data as of 8/5/08. The DOL data is based on "covered employment" (i.e. employment covered by workman's compensation).

government jobs were attributed to local government employment in 2006 as compared to just 10 to 12 jobs in the two preceding years. DOL also indicates that 2 units (government entities) reported the data, as compared to one unit in previous years. In September 2008 the Borough advised the Department of Labor that the 2006 local government employment data must be incorrect given the small scope of Rocky Hill's municipal government and its low level of employment, as indicated in 2004 and 2005. There is no school and there are no county offices located within the Borough that would explain the increase of jobs in the "local government" category in 2006. In letters to the Borough and to COAH dated September 29, 2008 the Department of Labor and Workforce Development advised that a coding error led to this mistake and that the data should be corrected in COAH's files.

Since there was an error in the reporting for government employment, it is more appropriate to compare private sector employment available in the Borough. The table below confirms a stable level of private sector employment from 2004-2006 (italicized figures). Prior to that, DOL reported a total of 327 jobs in 2003 (see table on previous page) and COAH reported a total of 335 jobs in 2002.⁹

EMPLOYMENT TRENDS

Source: NJ Department of Labor

Covered employment	2006	2005	2004
Total Average Covered Employment	394	336	343
<i>Total Average Private Sector Employment</i>	<i>320</i>	<i>320</i>	<i>329</i>
Federal Gov't Employment	3	3	3
State Gov't Employment	1	1	1
Local Gov't Employment	70	12	10
Private Sector units reporting	60	61	62
Government Sector units reporting:			
Federal	1	1	1
State	1	1	1
Local	2	1	1

NOTE: Covered employment refers to jobs covered by NJ unemployment compensation.

Another indication of employment trends, which is utilized by COAH to determine housing needs, is the amount of new or expanded construction of nonresidential uses. Over the last ten years there has been negligible nonresidential development in the Borough. Department of Community Affairs' new construction reports available on the department's website indicate that in the last ten years there has been a total of about 1,100 square feet of nonresidential space, most of which was categorized as storage, constructed in the Borough.¹⁰

Employment Outlook

From a land use planning perspective, future employment growth in the Borough is expected to continue to be stable because the Borough is a nearly fully developed community. The

⁹ NJAC 5:97 Appendix F(2).

¹⁰ DCA also reported the construction of a new group home as nonresidential (dormitory category) space. It is not included in the reference above since it is actually a residential use.

number of jobs available in connection with existing businesses may fluctuate slightly due to economic conditions or changes in business operations. COAH should adjust its projection of employment growth through 2018 based on corrected 2006 employment data as recommended by the Department of Labor. If correction of the data results in a lower projected fair share obligation, the Borough should amend this plan to address the revised obligation.

On a much longer time horizon, there is only one area where new business development is possible, which is an under-developed property located on the south side of Washington Street that is zoned in part for nonresidential development. Most of the property lies within the airport hazard zone of nearby Princeton Airport. The property has been in agricultural use for decades and the Borough does not anticipate development of this parcel during the third round housing cycle.

Determination of Present and Prospective Need for Affordable Housing and Capacity to Accommodate Growth

COAH has determined the *present need* or *rehabilitation share* for all communities and developed projections of housing construction and employment growth by which a municipality may calculate its *prospective need* or *growth share*. The Borough's Fair Share Plan will address the rehabilitation share determined by COAH and the growth share obligation derived by applying COAH's formulae to the agency's projections.

Present Need (Rehabilitation Share)

According to Appendix B of the revised third round rules, based on the 2000 Census, COAH determined that the Borough's *present need* for affordable housing, i.e. its *rehabilitation share* (units within the Borough that are occupied by lower income households and in need of rehabilitation) is 4 units. This may be offset by housing rehabilitated after April 2000, which meets COAH criteria.

Prospective Need (Growth Share)

Appendix F of the revised third round rules contains projections of household and employment growth upon which the Borough's *prospective need* or *growth share* obligation is based. COAH forecasts that between 2004 and 2018 25 new housing units will be constructed and 97 new jobs will be created. Based on COAH rules, this translates into a growth share obligation of 11 new units as follows:

25 dwellings divided by 5 = 5 affordable units
97 new jobs divided by 16 = 6 affordable units
Growth share obligation = 11 new units

The Borough's Capacity to Accommodate Residential and Nonresidential Growth

The Municipal Land Use Law requires that the Housing Element address whether the community has the capacity to accommodate its present and prospective housing needs, including its fair share of low and moderate income housing. Present need, which COAH

refers to as the rehabilitation share, refers to existing housing that is deficient and occupied by low or moderate income households. There is no physical constraint on the Borough in addressing this portion of the obligation.

With respect to prospective need, or the growth share portion of the obligation, the Borough intends to establish a 10-unit accessory apartment program and cooperate with a group home provider to provide one additional bedroom in an existing group home to fulfill the 11-unit obligation. The Borough has an existing housing stock that is conducive to the production of accessory apartments and is willing to subsidize their creation, as described in greater detail in Part 2, the Fair Share Plan.

COAH also requires an assessment of the Borough's capacity to accommodate growth consistent with COAH's projections. Such an assessment should be made in recognition that there is very little privately owned vacant or underutilized land available for development in the Borough. The following responds to COAH's checklist of the factors that comprise this analysis.

1. Existing and Planned Infrastructure: Public water and sewer systems are available throughout the Borough of Rocky Hill and there is adequate capacity to serve the small amount of development permitted under current zoning and for the accessory apartments intended to address the Borough's growth share obligation.
2. Anticipated Demand for Uses Permitted by Zoning: Since the Borough is nearly fully developed, current zoning of vacant or underutilized land provides for limited growth, consistent with the Borough's Land Use Plan. No new zoning is anticipated with the exception of an amendment to the Land Use Ordinance to permit affordable accessory apartments on properties with existing homes.
 - Residential: The largest parcel of privately owned vacant land in the Borough (Schafer/Pulte site) is zoned for a 34-unit age-restricted residential development. When the property was zoned for this use the prospective developer indicated a strong demand for this type of housing. Although Rocky Hill is a very small community with a population in 2000 of 662 persons, an analysis of the Borough's demographic characteristics shows that the largest age group in 2000 was 45-54 years of age (126 persons) and that a total of 194 additional persons, 29% of the population, were over 55 years of age.
 - Nonresidential: COAH's projection of 97 new jobs by 2018 was based at least in part upon erroneous DOL data, which, as indicated previously, showed an increase in total covered employment between 2005 and 2006. The Borough does not anticipate actual growth in employment to be substantial in the Borough during the third round. Past trends in employment confirm that there have been minor fluctuations in the number of private sector jobs available in the Borough. Similarly, very little nonresidential development has taken place over the past decade. The largest underutilized parcel of land that is zoned for nonresidential uses is largely located within the airport hazard zone of Princeton Airport and is currently in agricultural use. The Borough does not anticipate development of this parcel within the third round.

- Anticipated Land Use Patterns: The Borough's current zoning is consistent with the Land Use Plan element of the Master Plan. The only zoning anticipated to affect future growth is an ordinance permitting the construction of ten affordable accessory apartments to address the Borough's growth share requirement. Since the number of apartments is limited by COAH regulations to ten units, there should not be a substantial change in the Borough's land use pattern.
- 3. Municipal Economic Development Policies: The Borough is a nearly fully developed community with a relatively small commercial/employment base. The Borough does not anticipate any substantial changes to its commercial base in the near term. Zoning is in place to permit additional commercial development in the Village Office Zone, but the Borough is not aware of any proposal to develop this area.
- 4. Constraints on Development: The principal constraints on growth in the Borough are the lack of developable land and the recent downturn in the state and national economy. The Borough is not aware of any significant or unusual constraints on development as a result of land use compatibility, land ownership patterns, or environmental conditions. The proximity of Princeton Airport (located in adjacent Montgomery Township) creates a regulated airport hazard zone affecting one parcel of land, which precludes residential development on that portion of the property.
- 5. Existing or Planned Measures to Address Constraints: Based on the above, the Borough of Rocky Hill does not plan any special measures to address growth constraints. Proposed zoning for accessory apartments and existing zoning for development of the few remaining privately owned parcels is compatible with surrounding land uses and consistent with the Borough's Master Plan.

Consideration of Lands Appropriate for the Construction of Affordable Housing

The Municipal Land Use Law requires that the Borough take under consideration the commitments of developers who have expressed an interest in constructing affordable housing in the Borough. There are two parcels in the Borough that have any significant development potential. One has already been approved for development (Schafer/Pulte site) and the other is precluded from residential development by its designation within the airport hazard zone of Princeton Airport. Since the Borough is nearly fully developed, there are no realistic opportunities to rezone sites for inclusionary development to produce affordable housing.

As discussed in the Fair Share Plan below, accessory apartments are the most appropriate means by which to promote new affordable housing construction in the Borough. Given the older and generous size of homes in the Borough, the potential to create apartments is realistic and, with a municipal subsidy, feasible for interested homeowners. Implementing an accessory apartment program is fully consistent with the Land Use Plan element of the Borough's Master Plan.

In addition to promoting affordable housing by enacting an accessory apartment program, the Borough will provide funding for the rehabilitation of deficient housing in accordance with COAH rules.

Planning Area Designation

The Borough is designated within Planning Area 2 by the State Planning Commission. In addition, the State Planning Commission approved a Village Center designation largely consistent with the Borough's historic central core in 2001. Continued center designation is available to communities participating in the State Planning Commission's *plan endorsement* process. The Borough is not currently seeking plan endorsement from the State Planning Commission.

PART 2 THE FAIR SHARE PLAN

A Fair Share Plan describes the completed or proposed mechanisms and funding sources that will be utilized to address the rehabilitation share, prior round obligation and growth share obligation. The plan outlines the credits addressing any portion of the fair share obligation, the mechanisms intended to address the prior round and growth share obligations, and includes an implementation schedule for the submission of documentation to COAH and the time frame for providing affordable housing. The governing body is responsible for enacting ordinances and, if necessary, providing funding to implement the plan.

Determining the Total 1987-2018 Fair Share Housing Obligation

According to COAH rules, the Borough's third round affordable housing obligation covers the entire period from 1987 through 2018 and is the sum of three components:

1. Rehabilitation share;
2. Prior round obligation; and
3. Growth share.

These three components comprising the Borough's obligation are displayed in the table below. The prior round obligation at this point represents only the new construction portion of the cumulative first and second round obligations (25 units) which has been fully satisfied.

TOTAL FAIR SHARE OBLIGATION: 1987-2018

Component	Units
Rehabilitation Share (Third Round)	4
Prior Round Obligation (Prior Round New Construction)	25
Growth Share (See calculations below)	11
Total 1987-2018 Fair Share Obligation	40

Determining the Growth Share Obligation

The growth share obligation is calculated by applying growth share ratios to COAH's projection of household and employment growth commencing January 1, 2004 through

December 31, 2018. The following table displays the growth share calculations based on COAH's revised rules.

COAH'S THIRD ROUND GROWTH PROJECTIONS: 2004-2018

Source: NJAC 5:97 Appendix F

Type of Growth	Units	Type of Growth	Jobs
Household growth	25	Employment growth	97
Divide by 5	25/5	Divide by 16	97/16
Projected Residential Obligation	5	Projected Nonresidential Obligation	6
Total Projected Growth Share Obligation: 11			

Summary of the Plan for Total 1987-2018 Fair Share Obligation

The total fair share obligation may be offset by credits for rehabilitation completed after April 2000 and affordable units completed (including bonus credits) as part of the prior round certified plan. The following table displays the three components of the total obligation, offset by credits and the plan to address the growth share obligation.

SUMMARY OF PLAN TO ADDRESS THE TOTAL 1987-2018 FAIR SHARE OBLIGATION

Housing Component	Units/Credits
Rehabilitation Share (Third Round)	4
Rehabilitation Credits (Post April 2000 Rehabilitation)	3
Remaining Rehabilitation Share	1
Prior Round Obligation (Prior Round New Construction)	25
Prior Round Credits (Sub. Cert. granted 1/3/01)	
--RCA funds transferred in 2001	9
--Credit for Existing Group Home (EDEN)	4
--Credit for Completed Group Home (ARC)	6
--Rental Bonus	6
Remaining Prior Round Obligation	0
Third Round Projected Growth Share	11
Credits and Adjustments to Growth Share	0
Proposed Units Addressing Growth Share	
--Accessory Apartment Program	10
--Additional bedroom @ EDEN Group Home	1
Remaining Obligation or Surplus	0

NOTE: If the construction of an additional bedroom at the existing EDEN group home is not feasible, EDEN may establish another group home within the Borough for persons with special needs.

Fair Share Plan Parameters

According to COAH rules, family housing must comprise at least 50%, and rental units must comprise at least 25%, of the growth share obligation. In addition, at least 50% of the rental requirement must be addressed with housing for families. Housing for senior citizens is limited to 25% of the growth share obligation. At least 50% of the units addressed in a Fair Share Plan must be available to low income households, and under recently enacted legislation, at least 13% of the growth share obligation must be available to households with incomes less than 30% of median income. The following table displays these parameters based on the Borough's 11-unit projected growth share obligation.

Parameter (COAH requirements and limitations)	Units
Projected Growth Share (GS) Obligation	11
Family housing requirement (at least 50% of GS)	6
Rental requirement (at least 25% of GS)	3
-- Family rental requirement (at least 50% of rental req.): 2	
Low income housing (at least 50% of GS)	6
-- Very low income housing (at least 13% of GS): 2	
Maximum units that may be age-restricted (25%)	2

Summary of Built and Proposed Affordable Housing

Units Addressing the Rehabilitation Share

Since April 2000, three dwelling units (displayed in the table below) satisfying COAH's third round crediting criteria have been rehabilitated with funding provided by Somerset County. Information on these units was submitted to COAH on August 12, 2008. The Borough will continue to participate in the Somerset County rehabilitation program, but will also make municipal funds available for one unit of rehabilitation consistent with COAH's requirements that rehabilitation programs provide assistance for the rehabilitation of deficient units, whether owner occupied or renter occupied.

REHABILITATION SINCE APRIL 2000 MEETING THIRD ROUND CREDITING CRITERIA¹¹

Block/Lot	Location	Start Date	Completion Date	Amount Expended	Length of Afford. Controls	Property Status
10/16	45 Crescent	5/1/2000	11/1/2000	\$9,000	6 yrs. (Mortgage: Book 3397 Page 547)	No transfer of ownership; same owner.
4/12	1 Montgomery	5/1/2000	11/1/2000	\$9,000	6 yrs. (Mortgage: Book 3397 Page 543)	Transfer of ownership on July 14, 2007.
2/2	17 Montgomery	12/2/2006	8/30/2007	\$19,920	10 yrs. (Mortgage: Book 5964 Page 2819)	No transfer of ownership; same owner.

¹¹ COAH rules require that prior to 12/20/04 at least \$8,000/unit must have been expended on residential rehabilitation and each unit must have been governed by a 6-year lien. Subsequent to 12/20/04, rehabilitated units must be subject to a 10-year lien.

Units Addressing the Prior Round

As displayed in the table below, the Borough has fully satisfied its prior round obligation with a regional contribution agreement, two group homes and rental bonus credits. One group home was an existing facility established in 1996 and the other was constructed in 2002. All of the bedrooms in the group homes are occupied by low income individuals and none is age-restricted. All components of the Borough's prior round plan have been completed and reported to COAH on the required monitoring forms.

PROGRAMS, PROJECTS AND/OR UNITS ADDRESSING THE PRIOR ROUND OBLIGATION

Project/Program Name	Mechanism or Bonus Type	Proposed or Completed Units or Bedrooms	Units/Bedrooms Addressing Obligation	Units/Bedrooms Addressing Rental Obligation	Units/Bedrooms Subject to Age-restricted Cap
RCA with New Brunswick	RCA	Funds transferred 2001	9	0	0
EDEN Acres	Supportive & Special Needs Housing	Completed 1996	4	4	0
ARC of Somerset	Supportive & Special Needs Housing	Completed 2002	6	6	0
Rental Bonus	Rental Bonus	Certified Plan 2001	6	n/a	n/a
			25	10	0

Units Proposed to Address the Third Round Fair Share Obligation

The Borough will address the remaining rehabilitation share (1 unit) and the third round growth share obligation of 11 units with the following compliance mechanisms:

1. **Rehabilitation Program (1 unit):** Since three units rehabilitated since April 2000 should qualify for COAH credit, the Borough will make municipal funds available for one unit of rehabilitation. The rehabilitation process will be administered by the consultant retained by the Borough to administer accessory apartment program.
2. **Group Home (1 bedroom):** The Borough is cooperating with the owner of an existing group home (EDEN Acres) to promote the construction of an addition to its home on Princeton Avenue for occupancy by at least one individual with special needs. Should the construction of an addition not prove feasible, EDEN has expressed an interest in establishing another group home in the Borough for persons with special needs.
3. **Accessory Apartments:** The Borough will enact an ordinance to subsidize and permit the construction of 10 accessory apartments.¹² The Borough will retain an experienced consultant to conduct the program, which will be funded by Borough utilizing development fee revenue and municipal appropriations covering any shortfall in fees.

¹² An accessory apartment is defined by COAH as a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site. N.J.A.C. 5:97-1.4.

None of the units proposed to address the Borough's growth share requirement will be age-restricted and all units are rental dwellings, thus satisfying the rental requirement. An addition to EDEN's existing group home on Princeton Avenue will satisfy one of the two required very low income units (housing affordable to persons earning less than 30% of median). The other very low income unit will be addressed as part of the accessory apartment program.

**PROGRAMS, PROJECTS AND/OR UNITS
ADDRESSING THE THIRD ROUND OBLIGATION**

Project/Program Name	Mechanism or Bonus Type	Proposed or Completed Units/Bedrooms	Units/Bedrooms Addressing Obligation	Units/Bedrooms Addressing Rental Obligation	Units/Bedrooms Subject to Age-restricted Cap
Rehabilitation Program	Rehabilitation	Proposed	1	n/a	0
EDEN Acres addition (or new group home)	Supportive & Special Needs Housing	Proposed	1	1	0
Accessory Apartments Program	Accessory Apartments	Proposed	10	10	0

**Accessory Apartments Program:
Compliance with COAH Requirements**

COAH's requirements and limitations applicable to the implementation of an accessory apartment program (NJAC 5:97-6.8) are addressed below. A draft accessory apartments ordinance and resolution to fund the program will be submitted with the Borough's petition for substantive certification.

1. **Number of Units:** The Borough's plan involves the production of ten apartments, which is consistent with the COAH limitation for this type of program. All units will be available for family occupancy.
2. **Municipal Subsidy and Source of Funding:** The Borough will provide a subsidy to homeowners wishing to create an accessory apartment (\$20,000 for moderate income units and \$25,000 for low income units) plus sufficient funding (approximately \$5,000 per unit) for a qualified administrator to operate the program. The subsidy may be utilized by homeowners for the construction of an apartment or as a rental subsidy. Development fees provide a source of funding for the program, with a municipal guarantee to appropriate or bond for any shortfall. The projected cost of the program is approximately \$275,000.
3. **Infrastructure Capacity:** The entire Borough is served by public sewer and water supply systems. According to the Borough Engineer, there is sufficient water and sewer capacity to accommodate 10 accessory apartments and there is no requirement to construct a separate utility service line as long as the property is already served and the physical location of the apartment itself does not require a separate connection.
4. **Affordability Controls:** The accessory apartment ordinance will require homeowners to comply with affirmative marketing and affordability control requirements for a period of ten years.

5. Unit Size/bedroom distribution: Accessory apartments will not be limited in size and the number of bedrooms per unit will not be limited by ordinance.
6. Low/Moderate Income Split: Since the proposed additional bedroom in the group home addresses one of the six required low income units, the breakdown of low/moderate income accessory apartments will be 50% (5 units) for low income households (including 1 "very low income" unit) and 50% (5 units) for moderate income households.
7. Affordability Range (rental rates): The maximum rent permitted for 5 moderate income units shall be that which is affordable to households earning no more than 60% of median income. The maximum rent for 4 low income units shall that which is affordable to households earning no more than 44% of median. The maximum rent for 1 very low income unit shall be affordable to a household earning no more than 30% of median income, thus satisfying the very low income affordability requirement.¹³
8. Conducive Housing Stock: The Borough enjoys a housing stock of well-kempt older and large historic homes. Over one-third of the housing units in the Borough were constructed prior to 1940. Relatively low housing densities and development patterns suggest that the housing stock is conducive to the creation of accessory apartments. Many homes have detached garages that could be modified or expanded. Older large homes may accommodate modest interior alterations or the conversion of outbuildings to create apartments. Homes on larger lots outside the village center may easily accommodate alterations or additions. The Borough's population base, especially older residents, could benefit socially and financially by participating in the program. Apartments will be permitted in any residential zoning district.
9. Program Administrator: In 2007, the Borough Council solicited proposals from qualified housing consultants to administer the accessory apartment program proposed as part of the original third round plan. Prior to the grant of substantive certification the Borough will obtain updated proposals and select an experienced consultant to administer program, including the preparation of an operating manual and affirmative marketing plan for COAH approval. The administrator will undertake all of the functions of the Borough's "administrative agent" to operate the program, including application processing from homeowners, rent calculations, affirmative marketing and tenant qualification and certification. The administrator will report to the Borough's Municipal Housing Liaison, in accordance with COAH rules.

¹³ The proposed additional group home bedroom qualifies as the second required unit affordable to a very low income household.

Fair Share Plan Costs and Funding Mechanisms

The table below displays the estimated costs to implement this fair share plan and existing/projected development fee revenue. At present, there is little development fee revenue from which to draw to pay for the cost to implement this plan, so the Borough Council will adopt a resolution guaranteeing full program funding from municipal resources. When sufficient development fees are realized, the Borough will reimburse itself for funds expended to implement this plan.

1. Rehabilitation: The Borough will guarantee municipal funding in the amount of \$10,000 for the rehabilitation of one deficient dwelling unit (owner-occupied or renter occupied) that is occupied by an income-eligible household. The cost to administer the rehabilitation is estimated to be \$2,000.
2. Accessory Apartments: The Borough will guarantee municipal funding for the 10-unit accessory apartment program, estimated to cost \$275,000 over the period of substantive certification.

Projected Development Fee Revenue

In 1998 the Borough enacted a development fee ordinance as part of its prior round fair share plan. In July 2006 the Borough amended the ordinance to require higher fees in accordance with COAH's 2004 rules: 1% for residential and 2% for nonresidential development. Since there has been so little development in the Borough, just \$4,712 has been collected (as of 10/1/08). The Borough plans to enact an ordinance to increase the fees, consistent with COAH's revised third round rules, and the 2008 amendments to the Fair Housing Act, to 1.5% (residential) and 2.5% (nonresidential) including land value associated with new construction.

The build-out of the approved Schafer/Pulte development is subject to the payment of a 1% development fee for each dwelling in the proposed 34-unit development. If the average equalized assessed value of the dwellings is \$500,000/unit, the Borough could expect development fee revenue of approximately \$170,000 (34 units x \$5,000/unit).

FAIR SHARE PLAN COSTS AND FUNDING MECHANISMS

Compliance Mechanism	Estimated Cost	Funding Mechanism	Amount
1 unit of rehabilitation (hard costs)	\$10,000	Dev. Fees held in Trust Fund as of 10/1/08	\$4,712
Estimated administrative cost	\$2,000		
5 low income accessory apartments (including 1 very low income unit) @ \$25,000 each	\$125,000	Projected Dev. Fees: Donato Schafer/Pulte	\$2,940 \$170,000
Administration @ \$5,000 each	\$25,000		
5 moderate income accessory apartments @ \$20,000 each	\$100,000	TOTAL EST. DEV. FEES	\$177,652 ¹⁴
Administration @ \$5,000 each	\$25,000		
TOTAL EST. PLAN COST	\$287,000	Borough Council resolution guarantees funding of costs to implement Fair Share Plan	

NOTE: The projected development fees are estimated; actual fees will be calculated by the Tax Assessor based on a final determination of equalized assessed value. The above does not include interest earned on the trust fund.

Implementation Schedule

COAH requires that the Fair Share Plan include an implementation schedule with a detailed timetable that demonstrates the reasonable likelihood that the affordable housing included in the plan will be rehabilitated or constructed during the period of substantive certification. The Implementation Schedule displayed on the following page demonstrates that the fair share obligation will be addressed from 2009 through 2018.

Actual Growth: 2004-2008

The NJ Department of Community Affairs' website and the Borough's Construction Official (a DCA employee) provided the data reflected below concerning development in the Borough from January 1, 2004 through August 12, 2008. The data confirm that new development in the Borough of Rocky Hill has been negligible over the past four-plus years.

- 2004: No COs were issued for either new residential or nonresidential development.
- 2005: No COs were issued for new residential development. DCA indicates that COs were issued for 600 square feet of nonresidential development categorized by DCA under signs, fences, utilities or miscellaneous uses. The Construction Official indicates that no COs were issued for nonresidential uses that would contribute to the Borough's growth share obligation in 2005.¹⁵
- 2006: One CO was issued for a new single family dwelling. No COs were issued for nonresidential development.
- 2007: No COs were issued for either new residential or nonresidential development.

¹⁴ COAH rules require that at least 30% of development fee revenue be used for affordability assistance programs such as rent subsidies.

¹⁵ The Construction Official issued 3 building permits in 2005: one for a walk-in freezer; one for an open gazebo at the Municipal Building; and one for a platform for an irrigation system at the Somerset County Park. None of these uses required a CO according to the Construction Official.

- 2008: No COs were issued for either new residential or nonresidential development as of August 12, 2008.

Implementation of the Fair Share Plan

The Borough will engage an experienced consultant to administer the rehabilitation of 1 unit and the accessory apartment program during the period of substantive certification. The rehabilitation of one unit in the Borough could take place at any time during the period of substantive certification; it is displayed during 2011 for tracking purposes.

The only significant development anticipated to generate an *actual growth share obligation* during this period is the build-out of the Schafer/Pulte property. Although site plan approval has been granted, the project is being litigated by a group of residents. In addition, the slowing economy has also dampened residential construction throughout the state, as evidenced by the Legislature's enactment of the 2008 Permit Extension Act (C.40:55D-136.1 et seq.). Therefore, the Borough does not anticipate the issuance of COs for this development for several years.

On the basis of all of the above, the Borough should implement this plan in accordance with the schedule below, recognizing that COAH will monitor development activities every two years, and may require adjustments to the plan if the *actual fair share obligation* generated by growth is not adequately addressed within the period of substantive certification.

IMPLEMENTATION SCHEDULE

Time Frame	Growth (Completed and Projected)	Actual and Projected Growth Share	Fair Share Plan Activities	Anticipated Completion of Affordable Units
2004				
2005				
2006	1 market rate res. unit			
2007				
2008				
2009	1 market rate res. unit (Donato)		Borough petitions COAH for sub. cert. and adopts resolution committing to fund Rehabilitation and Accessory Apt. Program. Borough selects administrator for Accessory Apt. Program and enacts ordinance.	
2010			COAH grants substantive certification. <u>Group Home:</u> EDEN develops plans for construction of addition or seeks property to establish new home. <u>Accessory Apartments:</u> Administrator commences marketing and processing of applications from homeowners. Borough makes funding available for each accessory apartment.	
2011			<u>Group Home:</u> EDEN seeks financing for addition to group home or seeks property to establish new home. <u>Accessory Apartments:</u> Administrator continues to market program and process applications from homeowners. Borough continues to make funding available for accessory apartments. COAH Monitoring: COAH conducts first biennial review of Fair Share Plan.	2 accessory apartments 1 unit of rehabilitation
2012	34 market rate res. units (Schafer/Pulte)	9 (market rate units are divided by 4 to calculate growth share)	<u>Group Home:</u> EDEN constructs addition or establishes new group home. <u>Accessory Apartments:</u> Administrator continues to market program and process applications from homeowners. Borough continues to make funding available for accessory apartments.	1 bedroom (min.) @ group home 2 accessory apartments
2013			<u>Accessory Apartments:</u> Administrator continues to market program and process applications from homeowners. Borough continues to make funding available for accessory apartments. COAH Monitoring: COAH conducts second biennial review of Fair Share Plan.	
2014			<u>Accessory Apartments:</u> Administrator continues to market program and process applications from homeowners. Borough continues to make funding available for accessory apartments.	2 accessory apartments
2015			<u>Accessory Apartments:</u> Administrator continues to market program and process applications from homeowners. Borough continues to make funding available for accessory apartments. COAH Monitoring: COAH conducts third biennial review of Fair Share Plan.	
2016			<u>Accessory Apartments:</u> Administrator continues to market program and process applications from homeowners. Borough continues to make funding available for accessory apartments.	2 accessory apartments
2017			<u>Accessory Apartments:</u> Administrator continues to market program and process applications from homeowners. Borough continues to make funding available for accessory apartments. COAH Monitoring: COAH conducts fourth biennial review of Fair Share Plan.	
2018			<u>Accessory Apartments:</u> Administrator continues to market program and process applications from homeowners. Borough continues to make funding available for accessory apartments.	2 accessory apartments
TOTAL		9 units	TOTAL	11 new units 1 rehabilitated unit

Rocky Hill 3rd Round Housing Element Adopted 11-11-08.doc

Kimball & Kimball

From: "Kimball & Kimball" <kimball@hughes.net>
To: "Valerie J. Kimson" <valerie.kimson@comcast.net>
Cc: "Tom Bremner" <Bremnersinnj@aim.com>; "Tim Corlis" <tcorlis@rockyhill-nj.gov>; "Robert Ayrey" <Bobayrey@comcast.net>; "Linda Goldman" <lgoldman@rockyhill-nj.gov>; "Julia Hasser" <jhasser@rockyhill-nj.gov>; "George White" <george@georgewhitehomeimprovements.com>; "Ed Zimmerman" <ezimmerman@rockyhill-nj.gov>; "Ed Zimmerman" <ezimmerman@jobreq.com>; "Dan Kluchinski" <dankluchinski@gmail.com>; "Charles Pihokken" <Charlie.pihokken@infineum.com>; "Cathy Cann" <cannhome@gmail.com>; "Andy Youtz" <aa_youtz@comcast.net>; "Toby Whitlock" <TOBYWHITLOCKJR@aol.com>; "Toby Whitlock" <deputyclerk@rockyhill-nj.gov>; "Kerry Phillip" <kerrygreen810@yahoo.com>; "Bill Tanner" <btanner@vcea.org>; "Donna Griffiths" <clerk@rockyhill-nj.gov>; "Albert Cruz Esq." <acruz@newjerseylaw.net>
Sent: Wednesday, November 12, 2008 2:46 PM
Attach: Rocky Hill 3rd Round Housing Element Adopted 11-11-08.doc
Subject: Re: Rocky Hill Housing Element and Fair Share Plan: Amendment to Master Plan

Valerie:

The changes are accepted and a final version of the Housing Element and Fair Share Plan is attached for you, the Board members, and other professionals. Per our telephone conversation, I am mailing Donna 2 signed and sealed hard copies for her file and for transmittal to the county (should be a signed/sealed copy).

I recommend that a copy of the plan be distributed to the Borough Council for their consideration of a petition to COAH and filing before December 31, 2008.

Yours,
Susan Kimball, PP

----- Original Message -----

From: Valerie J. Kimson
To: Susan Kimball ; Donna M. Griffiths
Cc: Charlie Pihokken ; Albert Cruz Esq.
Sent: Wednesday, November 12, 2008 8:48 AM
Subject: Rocky Hill Housing Element and Fair Share Plan: Amendment to Master Plan

Donna and Susan

At the November 11 2008 meeting of the Rocky Hill Planning Board, the Board adopted a Resolution to adopt the Housing Element and Fair Share Plan ("Plan"), prepared by Kimball and Kimball and dated November 11 2008. Susan, all changes were accepted and approved by the Board.

Toby has three originally signed copies of the Resolution.

Susan : Would you kindly send to Donna the final version of the Housing Element and Fair Share Plan. Could you also send (an electronic) copy to all Board members so they have the final adopted version for their records. I will also fax to you a copy of the Resolution so you have it for your file.

Donna: Could you please send the November 11 Housing Element and Fair Share Plan, together with a copy of the November 11 2008 Planning board Resolution to the Somerset

County Planning Board, advising them that the Housing Element and Fair Share plan was adopted by the Planning Board on November 11. (By statute, the County must be sent the final adopted version, which Susan will send to you.)

Donna: Could you also please print a copy of the Plan and keep it on record with the municipal building with the other Master Plan documents.

Donna: I will also prepare a notice which should be published in the Newspaper regarding the adoption, and will send that to you shortly. Would you kindly publish the notice, and ask the paper for an Affidavit of Publication, which should be retained for permanent Borough files.

In the event there are any questions, please call me. Thank you

Val

Valerie J. Kimson Esq.
Attorney at Law
494 New Road
Monmouth Junction NJ 08852

732 329 0970

e mail: Valerie.Kimson@comcast.net

Exhibit B



State of New Jersey
COUNCIL ON AFFORDABLE HOUSING
101 SOUTH BROAD STREET
PO Box 813
TRENTON NJ 08625-0813
(609) 292-3000
FAX: (609) 633-6056
coahmail@dca.state.nj.us

JOSEPH V. DORIA, JR.
Commissioner

LUCY I. VANDENBERG
Executive Director

JON S. CORZINE
Governor

May 14, 2009

The Honorable Edward P. Zimmerman
Rocky Hill Borough
PO Box 188
Rocky Hill, NJ 08553-

RE: SUBSTANTIVE CERTIFICATION

Dear Mayor Zimmerman:

Congratulations!

Enclosed is a Resolution approved by the Council on Affordable Housing (COAH) granting third round substantive certification to Rocky Hill Borough/Somerset County.

Pursuant to N.J.A.C. 5:96-6.3(e), Rocky Hill Borough has 45 days from the grant of this substantive certification to adopt all implementing Fair Share Ordinances, or COAH's grant of substantive certification shall be void and of no force or effect.

If you have any questions, please contact Ngozi Obi, COAH Principal Planner at (609) 633-0597. We appreciate the opportunity to work with you on your affordable housing planning and thank you for your ongoing commitment to affordable housing.

Sincerely,

Lucy I. Vandenberg

Lucy Vandenberg, PP, AICP
Executive Director

Encls

cc: Attached Service List
Ngozi Obi, COAH planner
Sean Thompson, COAH manager of planning
Kathy McGlinchy, COAH monitor



The Honorable Edward P. Zimmerman
Mayor
Borough of Rocky Hill
P.O. Box 188
Rocky Hill, New Jersey 08553

Albert E. Cruz, Esq.
DiFrancesco, Bateman, Coley, et. al.
15 Mountain Blvd
Warren, New Jersey 07059-5886

Donna Griffiths
Municipal Clerk
Borough of Rocky Hill
P.O. Box 188
Rocky Hill, New Jersey 08553

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PO Box 600
Bath, Maine 04530-0600

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Charles Pihokken
Chairman, Planning Board
Borough of Rocky Hill
PO Box 188
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The ARC of Somerset County
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Kevin D. Walsh, Esq.
Fair Share Housing Center
510 Park Blvd
Cherry Hill, New Jersey 08002

Jamie Douglas
Director
Eden A.C.R.E.S. Inc.
One Logan Drive
Princeton, New Jersey 08540

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #11-09

Rocky Hill Borough, Somerset County

WHEREAS, Rocky Hill Borough, Somerset County, petitioned the Council on Affordable Housing (COAH) on December 30, 2008 for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, Rocky Hill Borough published notice of its petition on February 20, 2009 in the *Courier News*, which is a newspaper of general circulation within the county, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5; and

WHEREAS, no objections to the plan were received by COAH during the 45-day objection period, which ended April 16, 2009; and

WHEREAS, Rocky Hill Borough's fair share plan addresses a total 1987-2018 affordable housing obligation of 40 units, consisting of a 4-unit rehabilitation share, 25-unit prior round obligation and a 11-unit projected growth share obligation; and

WHEREAS, COAH staff has reviewed the Borough's Housing Element and Fair Share Plan; and

WHEREAS, Rocky Hill Borough proposes to address its 4-unit rehabilitation share with 4 rehabilitation credits; and

WHEREAS, the Borough proposes to address its 25-unit prior round obligation with four credits for the four-bedroom EDEN Acres Group Home; six credits and six rental bonuses for six bedrooms at the ARC of Somerset Group Home; and nine credits for a Regional Contribution Agreement with the City of New Brunswick; and

WHEREAS, Rocky Hill proposes to address its 11-unit projected growth share obligation with a ten-unit accessory apartment program and a one-bedroom addition to the EDEN Acres Group Home; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on April 24, 2009 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of Rocky Hill Borough's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received no comments; and

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by Rocky Hill Borough comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Rocky Hill Borough; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Rocky Hill Borough shall, within 45 days of this grant of substantive certification, adopt all implementing fair share ordinances, enter into a contract with an administrative agent for the accessory apartment program, and submit to COAH an operating manual and adopted affirmative marketing plan for the proposed accessory apartment program; and

BE IT FURTHER RESOLVED that if Rocky Hill Borough fails to adopt its fair share ordinances or submit the operating manual and adopted affirmative marketing plan for the accessory apartment program in a timely manner, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Rocky Hill shall submit all fair share ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Rocky Hill shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Rocky Hill's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Rocky Hill's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in

proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Rocky Hill and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation is less than the projected growth share obligation, Rocky Hill shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Rocky Hill's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Rocky Hill Borough to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Borough fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on May 14, 2009

Reneé Reiss, Secretary
Council on Affordable Housing

Exhibit A

*Council on Affordable Housing
Compliance Report
April 20, 2009*

Municipality: Rocky Hill Borough
County: Somerset County

COAH Region: 3
Planning Area: 2
Special Resource Area: None
Housing Element and Fair Share Plan Adopted: 11/11/2008
Petition for 3rd Round Substantive Certification: 12/30/2008
Completeness Determination: 2/9/2009
Date of Publication: 2/20/2009

Objections Received: No

Petition Includes:

VLA: *No*

GPA: *No*

Waiver: *No*

Section: N/A

Date of Site Visit: *May 7, 2009*

History of Approvals:

	COAH	JOC	N/A
First Round:			X
Second Round:	1/3/2001		
Extended Certification:			X

Plan Preparer: *Susan C. Kimball, PP, Kimball & Kimball*

Municipal Housing Liaison: *Donna Griffiths, Borough Clerk*

Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	4
Prior Round Obligation	25
Projected Growth Share Obligation (Net)	11

ACTUAL GROWTH and GROWTH SHARE through September, 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
1	0 units	1	0 units	0 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 4 units				
Credits	Post-April 1, 2000	4		4
Rehabilitation Subtotal				4
NEW CONSTRUCTION:				
Prior Round: 25 units				
Credits	Prior Cycle	---		---
	Post-1986	10		10
	RCA	9		9
Prior Round Bonus(es)	Rental	6		6
	Age-Restricted Rental	---		---
Prior Round Subtotal				25
Growth Share: 11 units				
Proposed Mechanism(s)	Accessory Apartment		10	10
	Supportive/Special Needs Housing		1	1
Growth Share Subtotal				11

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Rocky Hill Borough's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth Rocky Hill Borough's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Rocky Hill Borough has a rehabilitation share of four units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Rocky Hill Borough has a prior round obligation of 25.

C. Projected Growth Share

~~The projected growth share is initially calculated based on household (residential)~~
and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Rocky Hill Borough has a residential projection of 25 units and a non-

residential projection of 97 jobs, which results in an initial projected growth share obligation of 11 affordable units.²

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	4
Prior Round Obligation	25
Projected Growth Share Obligation (Net)	11

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Rocky Hill Borough's Fair Share Plan, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Rocky Hill Borough has submitted documentation for 8 units rehabilitated subsequent to April 1, 2000, through the Somerset County Rehabilitation Program. Rocky Hill is participating in the program at least through 2009, and the County expects to rehabilitate at least one additional unit in the Borough. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

² Pursuant to N.J.A.C. 5:97-2.2(d), Rocky Hill's residential projection of 25 is divided by 5 to yield 5 units and the non-residential projection of 97 jobs is divided by 16 to yield 6 units. Rocky Hill's total projected growth share is therefore 11 units (5 + 6).

Rehabilitation Credits

Rehabilitation Program	# Credits
Somerset Co. Rehabilitation Program	4
TOTAL	4

B. Plan to Address Prior Round Obligation

Prior Round Obligation Credits

Rocky Hill Borough is addressing the Prior Round Obligation with 25 post-1986 credits. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
EDEN Acres	1996	Alternative Living	4	---	---	4
ARC of Somerset	2002	Alternative Living	6	Rental	6	12
New Brunswick RCA	2001	Rehabilitation Project	9	---	---	9
TOTALS			19		6	25
TOTALS						25

Proposed Affordable Housing Mechanisms

Rocky Hill Borough is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its Prior Round Obligation.

Prior Round Obligation Parameters

Rocky Hill Borough has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:³ 6 Units

Development/Project Name	Type of Affordable Unit	# Units
ARC of Somerset	Alternative Living	6
EDEN Acres	Alternative Living	4
TOTAL		10

Prior Round Age-Restricted Maximum⁴: 4 Units

Development/Project Name	Type of Affordable Unit	# Units
N/A	N/A	N/A
TOTAL		N/A

Regional Contribution Agreement (RCA) Maximum⁵: 13 Units

Receiving Municipality	Type of Affordable Unit	# Units
New Brunswick	Rehabilitation Project	9
TOTAL		9

³ Rental Obligation: N.J.A.C. 5:97-3.10(b)1 → $.25(\text{Prior Rd Obligation} - \text{Prior Cycle Credits}) = .25(25 - 0) = 6.25$ or 6

⁴ Age-Restricted Maximum: N.J.A.C. 5:97-3.10(c)1 → $.25(\text{Prior Rd Obligation} + \text{Rehab Share} - \text{Prior Cycle Credits} - \text{Rehab Credits} - \text{Transferred RCAs addressing PRO}) = .25(25 + 4 - 0 - 3 - 9) = .25(17) = 4.25$ or 4

⁵ RCA Maximum: N.J.A.C. 5:97-3.10(d) → $.5(\text{Prior Rd Obligation} + \text{Rehab Share} - \text{Prior Cycle Credits} - \text{Rehab Credits}) = .5(25 + 4 - 0 - 3) = .5(26) = 13$

Prior Round Rental Bonus Maximum⁶ : 6 Units

Development/Project Name	Type of Bonus	# Bonuses
ARC of Somerset	Alternative Living	6
TOTAL		6

C. Plan to Address Projected Growth Share

Growth Share Obligation Credits

Rocky Hill Borough's Housing Element and Fair Share Plan does not include any growth share obligation credits.

Proposed Affordable Housing Mechanisms

Rocky Hill proposes to address the Borough's 11-unit Growth Share Obligation through the following mechanisms:

Accessory Apartment Program

Rocky Hill Borough will utilize an Accessory Apartment Program to address 10 units of its projected Growth Share Obligation. The Borough's housing stock, consisting of large historic homes at relatively low densities, is conducive to the creation of accessory apartments. Many also have detached garages that could be converted or enlarged.

The accessory apartment ordinance permits accessory apartments in the R-1 and R-2 zones, and affordability controls in the form of a deed restriction are required for not less than 10 years. There is no limitation on the number of bedrooms, but living space is limited to 1,200 square feet. According to the Borough Engineer, there is adequate water and sewer capacity to accommodate 10 accessory apartments, and there is no requirement to construct a separate utility line provided the property is already served and the location of the apartment is such that it does not require a separate connection.

⁶ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation

The Borough intends to provide subsidies to participating homeowners in the amount of \$20,000 per unit for moderate-income units and \$25,000 for low-income units, plus administrative funding, for a projected total cost of approximately \$275,000. The Borough will contract with an experienced consultant to administer the program, including the preparation of an operating manual and affirmative marketing plan required by COAH. A draft RFP for the administrative agent was submitted by the Borough. The Borough intends to enter into a contract for services within 45 days of substantive certification. Projected development fee revenue provides a source of funding for the program, and the Borough has adopted a resolution committing to make up for any shortfall in funding through municipal appropriations or bonding.

It should be noted that Kevin D. Walsh, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated April 6, 2009 (subsequently corrected and resubmitted on April 9, 2009) commenting on Rocky Hill Borough's Fair Share Plan, with specific reference to its proposed Accessory Apartment Program. FSHC's comments and COAH's response are included under Section IV of this report. **[10 family rental units]**

Supportive & Special Needs Housing

Rocky Hill Borough will rely on a one-bedroom addition to EDEN Acres, an existing group home, to address the remainder of its projected Growth Share Obligation as well as its one-unit very low-income housing requirement. As evidenced by a letter dated October 29, 2008, from Thomas McCool, President and CEO of The Eden Family of Services, the Borough is cooperating with the owner to promote the construction of an additional bedroom, or if an addition is not feasible, the owner has an interest in establishing another group home within the Borough for persons with special needs. In accordance with N.J.A.C. 5:97-6.10(e), Rocky Hill has submitted an implementation schedule for this proposed expansion, which anticipates completion in 2012. **[1 supportive and special needs bedroom]**

Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Accessory Apartment Program	Family Rental	10	---	---	10
Supportive and Special Needs Housing	Rental	1	---	---	1
TOTALS		11		---	11

Growth Share Parameters

Rocky Hill Borough has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:⁷ 3 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Family Rental	10
EDEN Acres- Addition	Rental	1
TOTAL		11

Growth Share Family Rental Requirement⁸ : 2 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Family Rental	10
TOTAL		10

⁷ Projected Growth Share Rental Obligation: N.J.A.C. 5:97-3.10(b)3 → .25(Projected Growth Share) or .25(11)= 2.75 or 3 units

⁸ Projected Growth Share Family Rental Requirement: N.J.A.C. 5:97-3.10(b)3 → .5(Projected Growth Share Rental Requirement) or .5(3)= 1.5 or 2 units

Growth Share Minimum Family Requirement⁹ : 6 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Family Rental	10
TOTAL		10

Very Low Income Minimum Requirement¹⁰ : 1 Unit

Development/Project Name	Type of Affordable Unit	# Units
EDEN Acres-Addition	Rental	1
TOTAL		1

Age-Restricted Maximum¹¹ : 2 Units

Development/Project Name	Type of Affordable Unit	# Units
N/A	N/A	---
TOTAL		---

Bonus Maximum¹²: 2 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
N/A	N/A	---
TOTAL		---

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will

⁹ Projected Growth Share Family Requirement: N.J.A.C. 5:97-3.9 → .5(Units Addressing the Growth Share Obligation) or .5(11) = 5.5 or 6 units

¹⁰ Growth Share Very Low Income Requirement: P.L.2008, c.46 → .13(Projected Growth Share Obligation) or .13(11) = 1.43 or 1 unit

¹¹ Projected Growth Share Age Restricted Maximum: N.J.A.C. 5:97-3.10(c).2 → .25(Projected Growth Share) or .25(11) = 2.75 or 3 units

¹² Projected Bonus Maximum: N.J.A.C. 5:97-3.20(b) → .25(Projected Growth Share) or .25(11) = 2.75 or 2 units

compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Rocky Hill Borough issued certificates of occupancy for one housing unit and for the nonresidential square footage equivalent of one job, yielding an actual growth share obligation through September 30, 2008, of 0 affordable units.¹³

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 4 Units

Program Name	# Units
Somerset County Rehabilitation Program	4
TOTAL	4

PRIOR ROUND SUMMARY

Prior Round Obligation: 25 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	RCA	9	---	---	9
	Alternative Living	4	---	---	4
	Alternative Living	6	Rental	6	12
	Subtotal	19		6	
			TOTAL		25

¹³ The number of residential COs (1) is divided by 5 to yield .2 units and the number of jobs (1) is divided by 16 to yield .06 units. Rocky Hill Borough's total projected growth share is therefore .26 or 0 units (.2 + .06). Note: This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

GROWTH SHARE SUMMARY

Projected Growth Share Obligation: 11 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Proposed Mechanisms	Accessory Apartment Program	10	---	---	10
	Special Needs Housing	1	---	---	1
	Subtotal	11		---	
TOTAL					11

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Rocky Hill Borough's certified plan included a development fee ordinance that was approved by COAH on November 4, 1998 and adopted by the Rocky Hill Borough on September 21, 1998. COAH granted Rocky Hill Borough approval of an amendment to its development fee ordinance on October 24, 2006 which was adopted by the municipality on December 18, 2006. Rocky Hill Borough submitted an amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance will be reviewed by COAH in a separate report.

B. Third Round Spending Plan

Rocky Hill Borough prior round spending plan was approved by COAH on January 3, 2001. A revised third round spending plan was submitted by Rocky Hill Borough with the municipality's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

Rocky Hill Borough has submitted a revised draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has also been amended to include compliance with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.)

and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

A draft Affordable Housing Ordinance that includes provisions establishing the position of a municipal housing liaison was submitted by the Borough with its petition and must be adopted within 45 days of substantive certification. Rocky Hill adopted a resolution appointing the Borough Clerk, Donna Griffiths, as municipal housing liaison on October 15, 2007.

Rocky Hill Borough is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the municipality and must identify an experienced administrative entity for that purpose by the contract, agreement or letter. Rocky Hill has submitted a draft Request for Proposals (RFP) for the implementation and administration of its proposed accessory apartment program. The RFP indicates that the program administrative agent must commit to utilizing COAH's model operating manual for the accessory apartment program required pursuant to N.J.A.C. 5:80-26.14(b). This operating manual must be submitted to COAH within 45 days of substantive certification.

D. Affirmative Marketing Plan

Rocky Hill Borough must provide an affirmative marketing plan that comports with the requirements of the Uniform Housing Affordability Controls N.J.A.C.5:80-26.1 et seq and ensures the units in the Rocky Hill Borough 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. As noted above, Rocky Hill Borough has submitted a draft RFP regarding its accessory apartment program. The RFP requires the administrative agent to develop an affirmative marketing plan consistent with COAH's model. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the municipality within 45 days of COAH's grant of substantive certification and submitted to COAH.

IV. COMMENTS

Kevin D. Walsh, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated April 6, 2009 (subsequently corrected and resubmitted on April 9, 2009) commenting on Rocky Hill Borough's Fair Share Plan. FSHC states that the letter is not intended as an objection to the Borough's plan pursuant to N.J.A.C. 5:96-4.1; however FSHC does express concerns regarding the use of a ten-unit accessory apartment program, along with one special needs unit, to address its projected growth share obligation of 11 units. According to FSHC, the use of the accessory apartment program "may result in the Borough's failing to satisfy the COAH 50 percent family minimum, much less provide the 10 family units the Borough projects."

In response to FSHC's comment, COAH notes that a ten-unit accessory apartment program is an allowable affordable housing mechanism under N.J.A.C. 5:97-6.8 and may be used to address the Borough's family obligation pursuant to N.J.A.C. 5:97-3.9. In addition, as pointed out by FSHC, Rocky Hill Borough intends the accessory apartments for family occupancy, and the proposed accessory apartment ordinance does not limit the number of bedrooms per unit. Consequently, COAH believes Rocky Hill's Fair Share Plan provides a realistic opportunity for family housing and is consistent with COAH's third round rules.

V. MONITORING

Rocky Hill Borough must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Rocky Hill Borough Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the

difference between the number of affordable units constructed or provided in Rocky Hill Borough and the number of units required pursuant to N.J.A.C 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the Borough is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

VI. RECOMMENDATION

COAH staff recommends that Rocky Hill Borough be granted third round substantive certification. Rocky Hill Borough must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. Also within 45 days of the grant of substantive certification, the Borough must enter into a contract with an administrative agent for the accessory apartment program and submit to COAH a program operating manual and affirmative marketing plan for the accessory apartment program.

Exhibit C

EXPLANATION: This Ordinance repeals Article 9 of the Borough of Rocky Hill Development Regulations Ordinance titled "Development Fees Section" and adopts an Affordable Housing Development Fee Ordinance for the Borough of Rocky Hill.

**BOROUGH OF ROCKY HILL
ORDINANCE No. 6, 2009**

AN ORDINANCE REPEALING ARTICLE 9 OF THE BOROUGH OF ROCKY HILL DEVELOPMENT REGULATIONS ORDINANCE TITLED "DEVELOPMENT FEES SECTION" AND ADOPTING AN AFFORDABLE HOUSING DEVELOPMENT FEE ORDINANCE FOR THE BOROUGH OF ROCKY HILL.

BE IT ORDAINED, by the Council of the Borough of Rocky Hill, in the County of Somerset and State of New Jersey, as follows:

Section 1. Article 9 of the Borough of Rocky Hill Development Regulations Ordinance titled "Development Fees Section" is hereby repealed in its entirety and replaced as follows:

Affordable Housing Development Fees

1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 ("Act"), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust

funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

- c) This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This Ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic Requirements

- a) This Ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- b) The Borough of Rocky Hill shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

- a) The following terms, as used in this Ordinance, shall have the following meanings:
 - i) "**Affordable housing development**" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
 - ii) "**COAH**" or the "**Council**" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
 - iii) "**Development fee**" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

- iv) **"Developer"** means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v) **"Equalized assessed value"** means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi) **"Green building strategies"** means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development Fees

a) Imposed fees

- i) Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1.5%) percent of the equalized assessed value of land and improvement for new residential construction on an unimproved lot or lots provided no increased density is permitted.
- ii) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two (2) year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two (2) year period preceding the filing of the variance application.

Example: If an approval allows four (4) units to be constructed on a site that was zoned for two (2) units, the fees could equal one and one-half (1½%) percent of the equalized assessed value on the first two (2) units; and the specified higher percentage up to six (6%) percent of the equalized assessed value for the two (2) additional units, provided zoning on the site has not changed during the two (2) year period preceding the filing of such a variance application.

- b) Eligible exactions, ineligible exactions and exemptions for residential development
- i) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - ii) Developments that have received preliminary or final site plan approval prior to the adoption of the original Borough of Rocky Hill Development Fees Ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
 - iii) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
 - iv) Development fees shall be imposed where a Certificate of Occupancy is issued for an owner-occupied residential structure that has been issued a demolition permit provided the unit for which the demolition permit was issued was occupied by its current owner for at least one (1) year prior to the demolition and no change in

use has occurred. In that event, the Borough shall subtract these units from actual growth share and impose a development fee based on the increase in equalized assessed value that results from reconstruction. However, residential structures demolished and replaced as a result of a fire, flood or natural disaster shall be exempt from paying development fees. The purpose of this Section is to be consistent with N.J.A.C. 5:97-2.5(1)(v).

- v) Additions or improvements to existing dwellings by an owner who has lived in the dwelling for the prior twelve (12) months, including the construction of additions to or replacement of accessory buildings or other structures on the same lot as the principal dwelling shall be exempt from paying development fees. Also exempt from paying development fees are decks, garages and patios.
- vi) Houses of worship shall be exempt from paying development fees.
- vii) Other exemptions may be established by amendment to this Ordinance.

5. Non-residential Development Fees

- a) Imposed fees
 - i) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii) Development fees shall be imposed and collected when an existing structure is demolished and

replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b) Eligible exactions, ineligible exactions and exemptions for non-residential development

- i) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half (2.5%) percent development fee, unless otherwise exempted below.
- ii) The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change of use within existing footprint, reconstruction, renovations and repairs.
- iii) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- iv) A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

- v) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property

taxation, the owner of the property shall remit the fees required pursuant to this section within forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Rocky Hill as a lien against the real property of the owner.

6. Collection Procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the construction official shall provide the Developer with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." The Developer shall complete Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the Tax Assessor of the application for a building permit for a development which is subject to a development fee.
- d) Within ninety (90) business days of receipt of notice from the construction official, the Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) Fifty (50%) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- f) The construction official shall notify the Tax Assessor of any and all requests for the scheduling of

a final inspection on property which is subject to a development fee.

- g) Within ten (10) business days of a request for the scheduling of a final inspection, the Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the final amount of the fee.
- h) Should the Borough of Rocky Hill fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- i) Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Rocky Hill. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Rocky Hill. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within ninety (90) days after the date of such determination.

Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing Trust Fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds, if applicable, shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - i) payments in lieu of on-site construction of affordable units;
 - ii) developer contributed funds to make ten (10%) percent of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - iii) rental income from municipally operated units;
 - iv) repayments from affordable housing program or rehabilitation loans;
 - v) recapture funds;
 - vi) proceeds from the sale of affordable units; and
 - vii) any other funds collected in connection with the Borough of Rocky Hill's affordable housing program.
- c) If applicable, within seven (7) days from the opening of the trust fund account, the Borough of Rocky Hill shall provide COAH with written authorization, in the form of a three (3) party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8. Use of Funds

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough of Rocky Hill's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse the Borough of Rocky Hill for past housing activities.
- c) At least thirty (30%) percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty (30%) percent or less of median income by region.
 - i) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.

- ii) Affordability assistance to households earning thirty (30%) percent or less of median income may include reducing the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income.
- iii) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Borough of Rocky Hill may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than twenty (20%) percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to COAH's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a) The Borough of Rocky Hill shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Rocky Hill's housing program, as well as to

the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing Collection of Fees

- a) The ability for the Borough of Rocky Hill to impose, collect and expend development fees shall cease with the expiration of its substantive certification unless the Borough of Rocky Hill has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Rocky Hill fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). In the event that the Borough of Rocky Hill's substantive certification has expired and the Borough has not petitioned COAH for a new substantive certification, the Borough of Rocky Hill shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification, nor shall the Borough of Rocky Hill retroactively impose a development fee on such a development. The Borough of Rocky Hill shall not expend development fees after the expiration of its substantive certification unless the Borough has petitioned COAH for new substantive certification.

Section 2. Severability.

Should any provision of this Ordinance be determined invalid by a court or administrative tribunal of competent jurisdiction, such determination shall not affect the remaining provisions.

Section 3. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such

conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Ordinance of the Borough of Rocky Hill, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Development Regulations Ordinance of the Borough of Rocky Hill are hereby ratified and confirmed except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Somerset County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63, if required.

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the this Ordinance to the Planning Board of the Borough of Rocky Hill for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

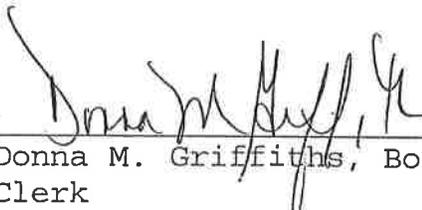
Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; (3) filing of the final form of adopted



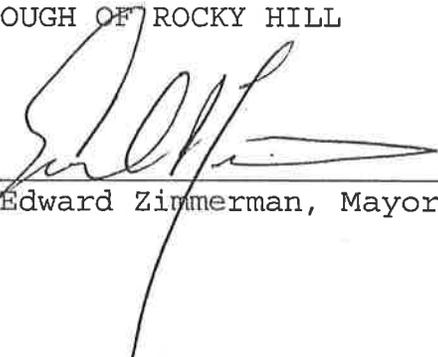
Ordinance by the Clerk with (a) the Somerset County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1; and (4) approval from COAH pursuant to N.J.A.C. 5:96-5.1.

ATTEST:

BOROUGH OF ROCKY HILL



Donna M. Griffiths, Borough
Clerk

By: 

Edward Zimmerman, Mayor

Introduced: 5/18/09
Adopted: 6/15/09

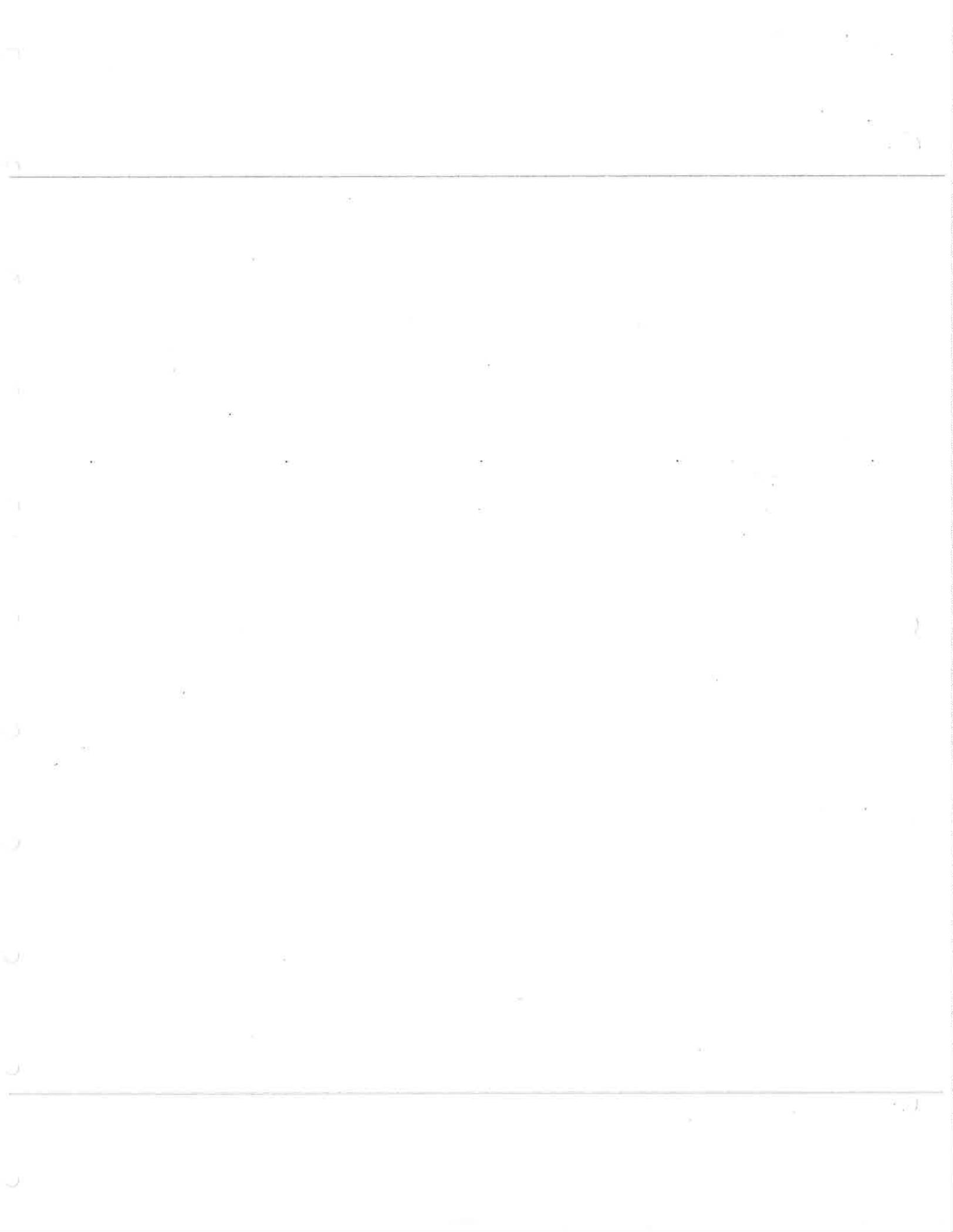
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CERTIFICATION

I, Donna M. Griffiths, Clerk, of the Borough of Rocky Hill do hereby certify the foregoing to be a true and correct copy of an ordinance adopted by the Borough Council of the Borough of Rocky Hill on June 15, 2009.



Donna M. Griffiths, RMC
Borough Clerk





State of New Jersey
COUNCIL ON AFFORDABLE HOUSING
101 SOUTH BROAD STREET
PO Box 813
TRENTON NJ 08625-0813
(609) 292-3000
FAX: (609) 633-6056
coahmail@dca.state.nj.us

JON S. CORZINE
Governor

JOSEPH V. DORIA, JR.
Commissioner

LUCY I. VANDENBERG
Executive Director

May 13, 2009

The Honorable Edward P. Zimmerman
Rocky Hill Borough
PO Box 188
Rocky Hill, NJ 08553

RE: Development Fee Ordinance Amendment
Rocky Hill Borough, Somerset County

Dear Mayor Zimmerman:

The Council on Affordable Housing (COAH) is in receipt of an amendment to the Rocky Hill Borough's development fee ordinance and an accompanying resolution requesting COAH's review and approval of the amended ordinance.

We are pleased to provide a copy of a COAH report and resolution approving Rocky Hill Borough's development fee ordinance amendment as adopted. Please note that your municipality may not expend any funds until a spending plan has been approved by COAH.

Please call Ngozi Obi at (609) 633-0597 if you have any questions. We look forward to working with you to implement your Housing Element and Fair Share Plan.

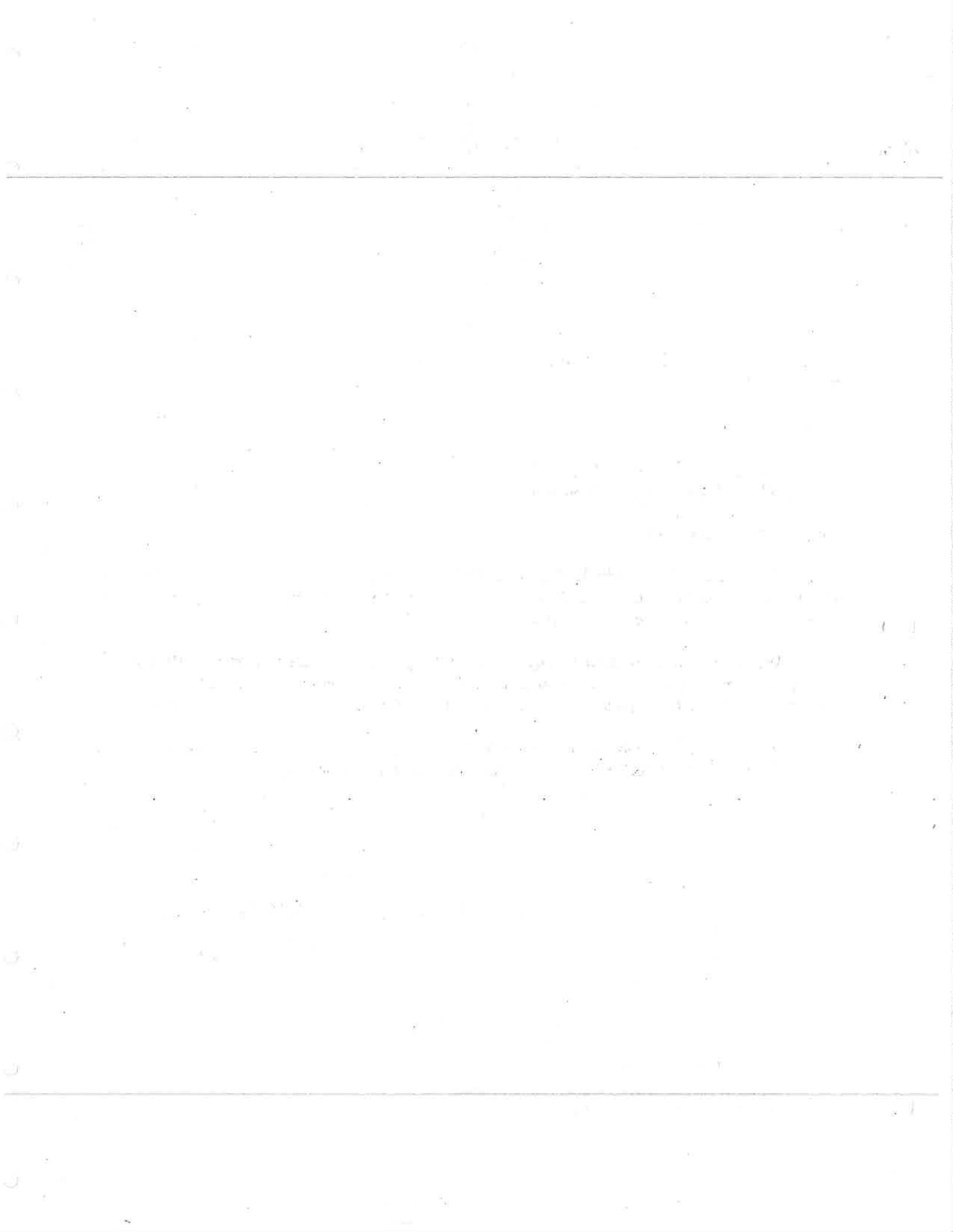
Sincerely,

Lucy Vandenberg, PP, AICP
Executive Director

Enc.

cc: Attached Service List
Joanné Wiggins, COAH Supervising Planner
Ngozi Obi, COAH Planner
Larissa DeGraw, COAH





The Honorable Edward P. Zimmerman
Mayor
Borough of Rocky Hill
P.O. Box 188
Rocky Hill, New Jersey 08553

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Chairman, Planning Board
Borough of Rocky Hill
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Jamie Douglas
Director
Eden A.C.R.E.S. Inc.
One Logan Drive
Princeton, New Jersey 08540

**RESOLUTION APPROVING DEVELOPMENT FEE ORDINANCE AMENDMENT
ROCKY HILL BOROUGH, SOMERSET COUNTY**

WHEREAS, Rocky Hill Borough ("Rocky Hill" or "the Borough"), Somerset County, received second round substantive certification of its Housing Element and Fair Share Plan from the Council on Affordable Housing (COAH) on January 3, 2001; and

WHEREAS, the Borough received approval of a development fee ordinance from COAH on November 4, 1998; and

WHEREAS, on October 24, 2006, COAH approved an amendment to the Borough's development fee ordinance; and

WHEREAS, Rocky Hill petitioned COAH for third round substantive certification on December 30, 2008; and

WHEREAS, the Borough submitted a new development fee ordinance amendment based on COAH's model as part of its December 30th petition; and

WHEREAS, after discussions with COAH staff, Rocky Hill made further revisions to the ordinance and submitted another amended development fee ordinance (Exhibit A) on April 23, 2009; and

WHEREAS, pursuant to N.J.A.C. 5:97-8.3(c), the Borough of Rocky Hill proposes to impose a mandatory development fee of one and one-half percent (1.5%) of the equalized assessed value of all new residential development within all zoning districts, provided no increase in density is permitted; and

WHEREAS, the Borough also proposes to impose a development fee when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the requirement, in which case the fee shall be collected on the increase in the equalized assessed value of the improved structure; and

WHEREAS, if a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(5), then the additional residential units realized (above what is permitted by right under the existing zoning) will incur a development fee of six percent (6%) of the equalized assessed value of the additional residential development; and

WHEREAS, Rocky Hill has exempted all affordable housing developments, developments where the developer has made a payment in lieu of constructing affordable units,

and residential developments that have received preliminary and/or final approval prior to the adoption of a municipal development fee ordinance amendment (unless the developer seeks a substantial change in the approval); and

WHEREAS, a development fee shall not be imposed on additions or improvements to existing dwellings by an owner who has lived in the dwelling for the prior twelve (12) months; additions to or replacement of accessory buildings or other structures on the same lot; or decks, garages, and patios; and

WHEREAS, developers of residential structures demolished and replaced as a result of natural disaster and additions are exempt from paying a development fee; and

WHEREAS, the proposed ordinance applies a mandatory development fee of two and one-half percent (2.5%) of the equalized assessed value of the land and improvements for all new non-residential construction on an unimproved lot(s) within the Borough; and

WHEREAS, the non-residential development fee applies to the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes, or resulting from the replacement of a demolished building, in which cases the fee is based on the difference in equalized value of the pre-existing land and improvements and the equalized value of the newly improved or replaced structure (i.e., land and improvements); and

WHEREAS, the ordinance exempts from the non-residential development fee the following: an increase in equalized assessed value resulting from alterations; change in use within an existing footprint; reconstruction, renovations and repairs; and other exemptions required pursuant to P.L.2008, c.46; and

WHEREAS, fifty percent of the development fees shall be collected at the time of issuance of a construction permit, and the remaining portion shall be collected at the issuance of a certificate of occupancy, in accordance with the procedure for development fee collection outlined in the ordinance; and

WHEREAS, Rocky Hill Borough has an existing separate interest bearing housing trust fund for the purpose of depositing development fees collected in accordance with the ordinance, which shall at all times be identifiable by source and amount; and

WHEREAS, development fees that are contested will be placed in an interest bearing escrow account by the Borough, and any part of fees returned to a developer will include interest accrued on the returned amount; and

WHEREAS, Rocky Hill has executed a three-party escrow agreement with the institution in which the funds are deposited and COAH; and

WHEREAS, the expenditure of funds must be consistent with a spending plan to be approved by COAH, and in case of non-conformance with COAH's rules, COAH may direct the manner in which the housing trust fund shall be expended; and

WHEREAS, at least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the Borough's Fair Share Plan, one-third of which shall be used to provide affordability assistance to very low-income households; and

WHEREAS, the Borough of Rocky Hill will complete and return to COAH all monitoring forms, including the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and any other funds collected in connection with the Borough's housing program, and the expenditure of revenues and implementation of the plan certified by COAH; and

WHEREAS, Rocky Hill has completed its latest trust fund monitoring report; and

WHEREAS, COAH has reviewed Rocky Hill' development fee ordinance amendment for compliance with N.J.A.C. 5:97-8 and P.L.2008, c.46 (C. 52:27D-329.2 and C. 40:55D-8.1-8.7) and has determined that the ordinance complies with all the requirements set forth in these sections, as outlined in the COAH report dated April 27, 2009 (Exhibit B).

NOW THEREFORE BE IT RESOLVED that COAH hereby approves Rocky Hill Borough's amended development fee ordinance; and

BE IT FURTHER RESOLVED that COAH's approval of the amended development fee ordinance and the adoption of the ordinance by Rocky Hill' governing body will enable the Borough to begin imposing development fees at the higher percentages permitted pursuant to N.J.A.C. 5:97-8.3(c.) and continue to collect fees as required pursuant to P.L.2008, c.46 (C. 52:27D-329.2) and (C. 40:55D-8.1 through 8.7); and

BE IT FURTHER RESOLVED that the development fee ordinance must be submitted to COAH within seven days of adoption by the governing body; and

BE IT FURTHER RESOLVED that Rocky Hill must receive approval of a development fee spending plan prior to the grant of third round substantive certification and before it may disburse any of these funds; and

BE IT FURTHER RESOLVED that in the event Rocky Hill withdraws its petition, fails to obtain substantive certification, allows its certification to lapse, or its substantive certification is revoked, this ordinance shall be null and void.

Date: ^{5/1/88}
Lucy Vandenberg

Lucy Vandenberg, Executive Director
Council on Affordable Housing

Exhibit A

(Revised May 5, 2009)

EXPLANATION: This Ordinance repeals Article 9 of the Borough of Rocky Hill Development Regulations Ordinance titled "Development Fees Section" and adopts an Affordable Housing Development Fee Ordinance for the Borough of Rocky Hill.

**BOROUGH OF ROCKY HILL
ORDINANCE No. _____**

AN ORDINANCE REPEALING ARTICLE 9 OF THE BOROUGH OF ROCKY HILL DEVELOPMENT REGULATIONS ORDINANCE TITLED "DEVELOPMENT FEES SECTION" AND ADOPTING AN AFFORDABLE HOUSING DEVELOPMENT FEE ORDINANCE FOR THE BOROUGH OF ROCKY HILL.

BE IT ORDAINED, by the Council of the Borough of Rocky Hill, in the County of Somerset and State of New Jersey, as follows:

Section 1. Article 9 of the Borough of Rocky Hill Development Regulations Ordinance titled "Development Fees Section" is hereby repealed in its entirety and replaced as follows:

Affordable Housing Development Fees

1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 ("Act"), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and

enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

- c) This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This Ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic Requirements

- a) This Ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- b) The Borough of Rocky Hill shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

- a) The following terms, as used in this Ordinance, shall have the following meanings:
 - i) "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
 - ii) "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
 - iii) "Development fee" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

- iv) "Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v) "Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi) "Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development Fees

a) Imposed fees

- i) Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1.5%) percent of the equalized assessed value of land and improvement for new residential construction on an unimproved lot or lots provided no increased density is permitted.
- ii) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two (2) year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right

during the two (2) year period preceding the filing of the variance application.

Example: If an approval allows four (4) units to be constructed on a site that was zoned for two (2) units, the fees could equal one and one-half (1½%) percent of the equalized assessed value on the first two (2) units; and the specified higher percentage up to six (6%) percent of the equalized assessed value for the two (2) additional units, provided zoning on the site has not changed during the two (2) year period preceding the filing of such a variance application.

b) Eligible exactions, ineligible exactions and exemptions for residential development

- i) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- ii) Developments that have received preliminary or final site plan approval prior to the adoption of the original Borough of Rocky Hill Development Fees Ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- iii) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv) Development fees shall be imposed where a Certificate of Occupancy is issued for an owner-occupied residential structure that has been issued a demolition permit provided the unit for which the demolition permit was issued was

occupied by its current owner for at least one (1) year prior to the demolition and no change in use has occurred. In that event, the Borough shall subtract these units from actual growth share and impose a development fee based on the increase in equalized assessed value that results from reconstruction. However, Residential structures demolished and replaced as a result of a fire, flood or natural disaster shall be exempt from paying development fees. The purpose of this Section is to be consistent with N.J.A.C. 5:97-2.5(1)(v).

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- v) Additions or improvements to existing dwellings by an owner who has lived in the dwelling for the prior twelve (12) months, including the ~~rebuilding or replacement of an existing dwelling and the construction of additions to or replacement of accessory buildings or other structures on the same lot as the principal dwelling~~ shall be exempt from paying development fees. Also exempt from paying development fees are decks, garages, and patios ~~and additions~~.
- vi) Houses of worship shall be exempt from paying development fees.
- vii) Other exemptions may be established by amendment to this Ordinance.

5. Non-residential Development Fees

- a) Imposed fees
 - i) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b) Eligible exactions, ineligible exactions and exemptions for non-residential development

i) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half (2.5%) percent development fee, unless otherwise exempted below.

ii) The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change of use within existing footprint, reconstruction, renovations and repairs.

iii) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv) A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

- v) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Rocky Hill as a lien against the real property of the owner.

6. Collection Procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the construction official shall provide the Developer with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." The Developer shall complete Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the Tax Assessor of the application for a building permit for a development which is subject to a development fee.
- d) Within ninety (90) business days of receipt of notice from the construction official, the Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) Fifty (50%) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

- f) The construction official shall notify the Tax Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- g) Within ten (10) business days of a request for the scheduling of a final inspection, the Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the final amount of the fee.
- h) Should the Borough of Rocky Hill fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- i) Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Rocky Hill. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Rocky Hill. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, ~~R.S.~~N.J.S.A. 54:48-1 et seq., within ninety

(90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing Trust Fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds, if applicable, shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - i) payments in lieu of on-site construction of affordable units;
 - ii) developer contributed funds to make ten (10%) percent of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - iii) rental income from municipally operated units;
 - iv) repayments from affordable housing program or rehabilitation loans;
 - v) recapture funds;
 - vi) proceeds from the sale of affordable units; and
 - vii) any other funds collected in connection with the Borough of Rocky Hill's affordable housing program.
- c) If applicable, within seven (7) days from the opening of the trust fund account, the Borough of Rocky Hill shall provide COAH with written authorization, in the form of a three (3) party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8. Use of Funds

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough of Rocky Hill's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse the Borough of Rocky Hill for past housing activities.
- c) At least thirty (30%) percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty (30%) percent or less of median income by region.
- i) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or

condominium fees and special assessments, and assistance with emergency repairs.

- ii) Affordability assistance to households earning thirty (30%) percent or less of median income may include reducing the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income.
- iii) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Borough of Rocky Hill may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than twenty (20%) percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to COAH's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a) The Borough of Rocky Hill shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income,

repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Rocky Hill's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing Collection of Fees

- a) The ability for the Borough of Rocky Hill to impose, collect and expend development fees shall cease with the expiration of its substantive certification unless the Borough of Rocky Hill has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Rocky Hill fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). In the event that the Borough of Rocky Hill's substantive certification has expired and the Borough has not petitioned COAH for a new substantive certification, the Borough of Rocky Hill shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification, nor shall the Borough of Rocky Hill retroactively impose a development fee on such a development. The Borough of Rocky Hill shall not expend development fees after the expiration of its substantive certification unless the Borough has petitioned COAH for new substantive certification.

Section 2. Severability.

Should any provision of this Ordinance be determined invalid by a court or administrative tribunal of competent jurisdiction, such determination shall not affect the remaining provisions.

Section 3. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Ordinance of the Borough of Rocky Hill, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Development Regulations Ordinance of the Borough of Rocky Hill are hereby ratified and confirmed except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Somerset County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63, if required.

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the this Ordinance to the Planning Board of the Borough of Rocky Hill for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; (3) filing of the final form of adopted Ordinance by the Clerk with (a) the Somerset County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1; and (4) approval from COAH pursuant to N.J.A.C. 5:96-5.1.

ATTEST:

BOROUGH OF ROCKY HILL

Donna M. Griffiths, Borough
Clerk

By: _____
Edward Zimmerman, Mayor

Exhibit B



NEW JERSEY COUNCIL ON AFFORDABLE HOUSING
REVIEW OF DEVELOPMENT FEE ORDINANCE AMENDMENT
BOROUGH OF ROCKY HILL/SOMERSET COUNTY



REGION #2

Prepared by Ngozi Obi, Assistant Planner
April 27, 2009

I. BACKGROUND

The Borough of Rocky Hill, Somerset County, ("Rocky Hill" or "the Borough") received second round substantive certification of its Housing Element and Fair Share Plan from the Council on Affordable Housing (COAH) on January 3, 2001. Rocky Hill submitted a petition for third round substantive certification on December 30, 2008, which was deemed complete on February 9, 2009.

The Borough received approval of a development fee ordinance from COAH on November 4, 1998. On October 24, 2006, COAH approved an amendment to the Borough's development fee ordinance. The Borough subsequently submitted a new development fee ordinance based on COAH's model. The proposed development fee ordinance amendment was submitted to COAH as part of the Borough's December 30th petition. After discussions with COAH staff, the Borough of Rocky Hill made further revisions to the ordinance and submitted another amended development fee ordinance for review and approval on April 23, 2009. The April 23rd ordinance is the subject of this review.

II. ORDINANCE REVIEW

The Borough of Rocky Hill is proposing to amend its development fee ordinance in its entirety, in accordance with COAH's model development fee ordinance.

Pursuant to N.J.A.C. 5:97-8.3(c), the Borough of Rocky Hill proposes to impose a mandatory development fee of one and one-half percent (1.5%) of the equalized assessed value of all new residential development within all zoning districts, provided no increase in density is permitted. The Borough also proposes to impose a development fee when an existing structure

undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the requirement. The fee shall be collected on the increase in the equalized assessed value of the improved structure.

If a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(5), then the additional residential units realized (above what is permitted by right under the existing zoning) will incur a development fee of six percent (6%) of the equalized assessed value of the additional residential development.

Rocky Hill has exempted developers of affordable housing from development fees, including developments where the developer has made a payment in lieu of on-site construction of affordable units. An exemption also applies to developers that have received preliminary and/or final approval of a residential development prior to the effective date of the initial development fee ordinance, unless the developer seeks a substantial change in the approval. Furthermore, developers of residential structures demolished and replaced as a result of natural disaster and additions are exempt from paying a development fee. The fee shall not be imposed on additions or improvements to existing dwellings by an owner who has lived in the dwelling for the prior twelve (12) months. Also exempt from development fees are additions to or replacement of accessory buildings or other structures on the same lot, and decks, garages, and patios. Furthermore, developers of residential structures demolished and replaced as a result of fire or natural disaster are exempt from paying a development fee.

Within all zoning districts within the Borough, the proposed ordinance applies a mandatory development fee of two and one-half percent (2.5%) of the equalized assessed value of the land and improvements for all new non-residential construction on an unimproved lot(s). This fee also applies to the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes, or resulting from the replacement of a demolished building. In the case of expansion or replacement, the fee is based on the difference in equalized value of the pre-existing land and improvements and the equalized value of the newly improved or replaced structure (i.e., land and improvements).

The ordinance exempts from the non-residential development fee the following: an increase in equalized assessed value resulting from alterations; change of use within an existing

footprint; reconstruction, renovations and repairs; and other exemptions required pursuant to P.L.2008, c.46.

Fifty percent of the development fees shall be collected at the time of issuance of a building permit. The remaining portion shall be collected at the issuance of a certificate of occupancy. The procedure for development fee collection is outlined in the ordinance.

The Borough of Rocky Hill has created a separate interest bearing housing trust fund for the purpose of depositing development fees collected in accordance with the ordinance and other sources of funding, which shall at all times be identifiable by source and amount. Other sources of funding include: recapture funds, proceeds from the sale of affordable units, payments in lieu, developer contributed barrier free funds, repayments from affordable housing program loans, and other funds collected in connection with the Borough's affordable housing program. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

Development fees that are contested will be placed in an interest bearing escrow account by the Borough. Any part of fees returned to a developer will include interest accrued on the returned amount.

The Borough of Rocky Hill has executed a three-party escrow agreement with the institution in which the funds are deposited and COAH. In case of non-conformance with COAH's rules, COAH may direct the manner in which the housing trust fund shall be expended.

The expenditure of funds must be consistent with a spending plan to be approved by COAH. At least 30 percent of the development fees collected and interest earned shall be used for affordability assistance to low- and moderate-income households in affordable units included in the Borough's Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to very low-income households.

The Borough of Rocky Hill will complete and return to COAH all monitoring forms, including the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and any other funds collected in connection with the Borough's housing program, and the

expenditure of revenues and implementation of the plan certified by COAH. Rocky Hill has completed its latest trust fund monitoring report.

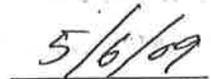
III. RECOMMENDATION

Based on this review, COAH staff recommends approval of the amendment to Rocky Hill Borough's development fee ordinance. COAH's approval of the development fee ordinance amendment and the adoption of the ordinance by Rocky Hill's governing body will enable the Borough to begin imposing development fees at the higher percentages permitted pursuant to N.J.A.C. 5:97-8.3(c.) and continue to collect fees as required pursuant to P.L.2008, c.46 (C. 52:27D-329.2) and (C. 40:55D-8.1 through 8.7). The Borough of Rocky Hill must receive approval of a development fee spending plan prior to the grant of third round substantive certification and before it may disburse any of these funds. In the event the Borough of Rocky Hill withdraws its petition, fails to obtain substantive certification, allows its certification to lapse, or its substantive certification is revoked, this ordinance shall be null and void.

Reviewed by:



Deputy Attorney General



Date

Exhibit D

Borough of Rocky Hill
Somerset County, New Jersey

AFFORDABLE HOUSING TRUST FUND
SPENDING PLAN

Submitted to the New Jersey Council on Affordable Housing
with the Borough's Petition for Third Round Substantive
Certification

November 6, 2008

Prepared for the Borough Council by:

Susan C. Kimball, PP
License # 2280
KIMBALL & KIMBALL
Professional Planners

BOROUGH OF ROCKY HILL
AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

INTRODUCTION

On November 11, 2008 the Rocky Hill Planning Board adopted a Housing Element and Fair Share Plan ("Fair Share Plan") addressing the Borough's affordable housing obligation for the cumulative period from 1987 through 2018 (referred to as the "third round"), in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). On December 1, 2008 the Borough Council adopted a resolution petitioning COAH for substantive certification of the Borough's Fair Share Plan.

COAH permits municipalities that have petitioned for substantive certification and are under its jurisdiction to enact an ordinance imposing a development fee, applicable to new development, to establish a dedicated revenue source for affordable housing programs. However, pursuant to N.J.A.C.5:97-8.10, prior to expending any development fee revenue, COAH must approve a "Spending Plan" containing a projection of the fees that the municipality anticipates will be collected and detailing the affordable housing programs for which development fees will be used. The Borough enacted a Development Fee Ordinance in 1998 and adopted a Spending Plan in 2000, both of which were approved by COAH as part of the Borough's "prior round" Fair Share Plan. The purpose of this new Spending Plan is to develop revised projections of development fee revenue and to describe the types of programs that will be funded by the funds, based on COAH's revised "third round" regulations for the period ending in 2018.

**APPROVED DEVELOPMENT FEE
ORDINANCE AND SPENDING PLAN**

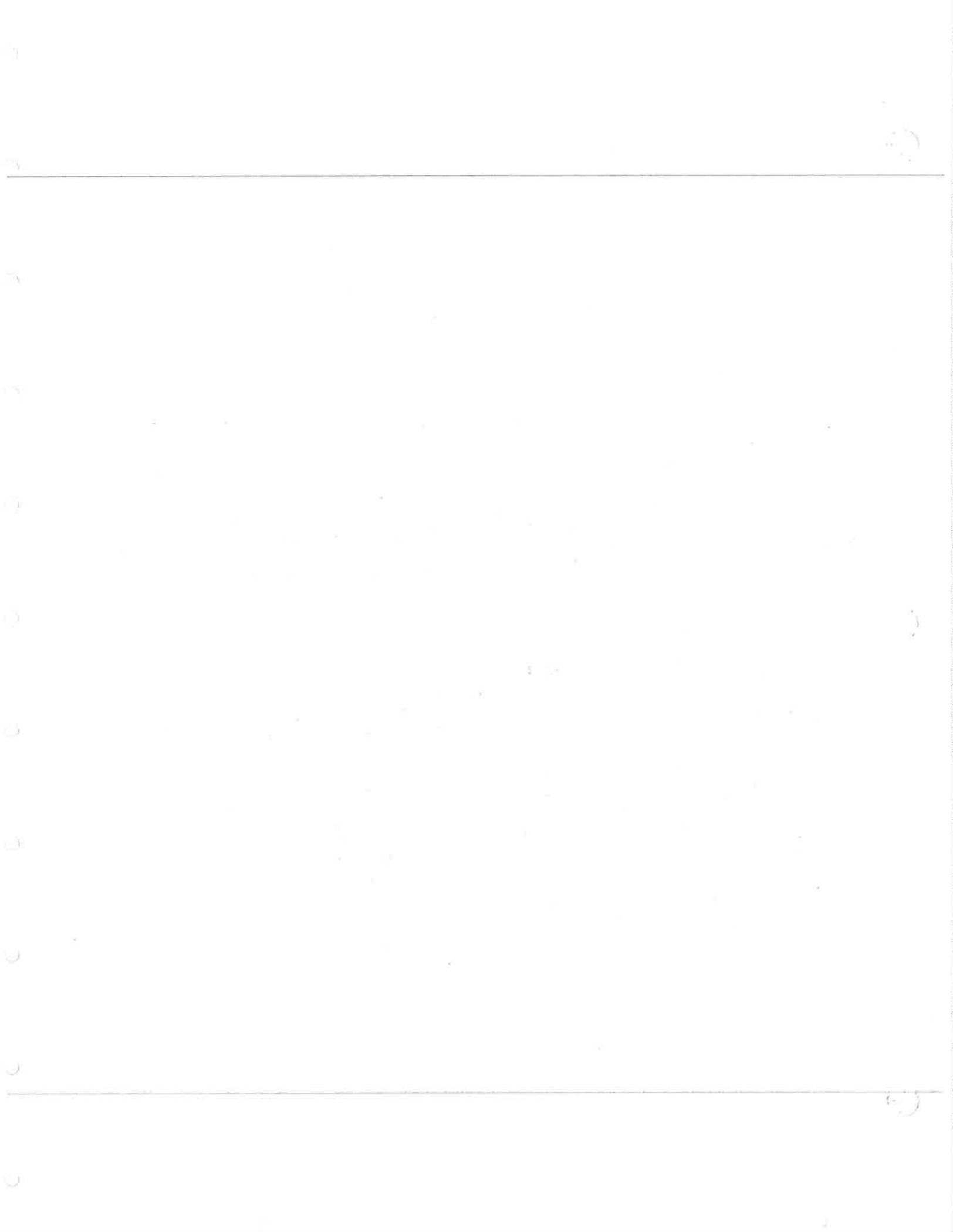
On September 21, 1998 the Borough of Rocky Hill enacted Ordinance 6-98 imposing development fees on new development. The ordinance was approved by COAH on November 9, 1998. The ordinance established fees in accordance with the limits in effect at that time: 0.5% for residential development and 1.0% for nonresidential development. Improvements to existing dwellings are exempt from the imposition of development fees. The ordinance also established an affordable housing trust fund.

On August 21, 2000 the Borough Council adopted a Development Fee Spending Plan, which COAH approved on January 3, 2001. The approved Spending Plan dedicated 80% of development fee revenue to pay (or reimburse the Borough) for the cost of a Regional Contribution Agreement between the Borough and the City of New Brunswick (\$180,000) and for administrative expenses (not to exceed 20% of the revenues collected.) In approving the Spending Plan, COAH also approved a waiver of its prior round rule requiring a setaside of funds aside for affordability assistance programs.

On October 24, 2006 COAH approved the Borough's request to increase the fees consistent with COAH's original third round rules, which became effective in 2005, to 1% for residential development and 2% for nonresidential development. Ordinance 10-2006, increasing the fees, was enacted by the Borough Council on December 18, 2006.

**DEVELOPMENT FEE REVENUE COLLECTED
AND EXPENDED PRIOR TO JULY 17, 2008**

On July 17, 2008 the Fair Housing Act was amended with respect to the collection and expenditure of development fees. As of July 17, 2008, the Borough of Rocky Hill had collected a total of \$1,772 and none of the revenue had been expended. The Borough's development fees are deposited in an affordable housing trust fund in Amboy Bank and are held for the purposes of affordable housing. All funds shall be spent in accordance with N.J.A.C. 5:97-8.1 et seq. as described in the sections that follow.



The Borough of Rocky Hill first petitioned COAH for substantive certification on July 23, 1998 and received prior approval to maintain an affordable housing trust fund on November 9, 1998. As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$1,772. From January 1, 2005 through July 17, 2008, the Borough collected no additional revenue in development fees, payments in lieu of construction, other funds, and/or interest. From January 1, 2005 through July 17, 2008, the Borough did not expend any of the funds held in the affordable housing trust fund.

REVENUES PROJECTED DURING THE THIRD ROUND CERTIFICATION PERIOD: 7/18/08 – 12/31/18

In estimating a projection of revenue anticipated during the period of third round substantive certification after July 17, 2008 (the effective date of Fair Housing Act amendments), the Borough of Rocky Hill considered the following:

- A. Development fees.
 1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals: The Borough is a nearly fully developed community. Approved development subject to the payment of development fees includes the one house (Donato) and the Schafer/Pulte development, both of which are included in the Implementation Schedule of the Fair Share Plan.
 2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy: There are no projects pending Planning Board review as of November 1, 2008 that would be expected to generate development fee revenue.
 3. Future development that is likely to occur based on historical rates of development: Past development trends and a review of development activity since 2004 (see the Fair Share Plan Implementation Schedule for a listing of actual growth for the five-year period from 2004 through 2008), which suggests that little or no additional development is expected to take place in the Borough during the third round certification period, except as indicated above.
- B. Payment in lieu of on-site affordable housing construction: There are no sites in the Borough of Rocky Hill zoned for inclusionary development and no developer has made or committed to make a payment in lieu of constructing affordable housing on-site. Dwellings in the Schafer/Pulte development mentioned above are subject to the payment of a 1% development fee in accordance with an agreement with the Borough of Rocky Hill and the conditions of site plan approval.
- C. Other funding sources including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units: There are no other funds that have been collected or are anticipated to be collected from other sources.
- D. Projected interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate: As of October 1, 2008 no interest has been paid on the trust fund balance. The account was modified by Amboy Bank on October 2, 2008 to be an interest bearing account at a rate of 2.25%. Projected interest during the remaining period of third round certification is displayed in the table on page 3.

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SOURCE OF FUNDS	PROJECTED REVENUES-HOUSING TRUST FUND: JULY 17, 2008 - DECEMBER 31, 2018											
	7/18/08 through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Fund balance 7/17/08: \$1,772												\$1,772
A. Development fees:												
1. Approved Development	\$2,940	\$2,940		\$85,000	\$85,000							\$175,880
2. Development Pending Approval												
3. Projected Development												
B. Payments in Lieu												
C. Other Funds												
SUBTOTAL (development fees)	\$2,940	\$2,940		\$85,000	\$85,000							\$177,652
D. Projected Interest (2.25 % as of 10/2/08)	\$16	\$66		\$1,912	\$1,912							\$3,906
TOTAL (including pre-7/18/08 funds)	\$2,956	\$3,006		\$86,912	\$86,912							\$181,558

NOTES:

1. The format for this spreadsheet is taken from COAH's model Spending Plan.
2. On July 17, 2008 the Borough's housing trust fund balance was \$1,772. This sum is included in the above total.
3. Interest displayed in row D is based on the 10/2/08 rate of 2.25%. The interest rate is, however, subject to fluctuation, as determined by the banking institution. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

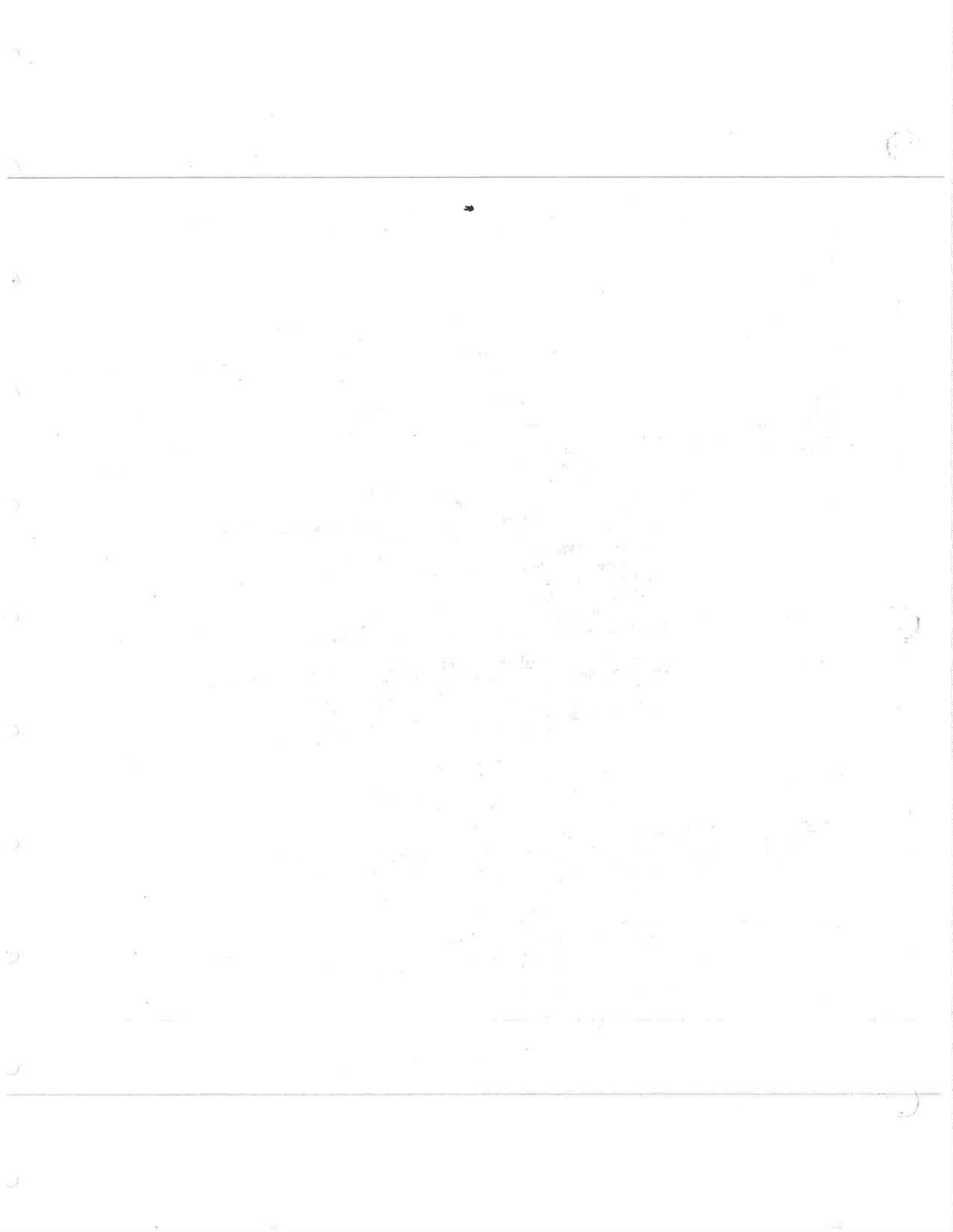
ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The Development Fee Ordinance stipulates that one-half of the development fee must be paid at the time of issuance of a building permit and the balance is to be paid upon issuance of a certificate of occupancy (CO) for the project.

Collection of Development Fees

The process for collection of development fees applicable to both residential and non-residential development shall be consistent with the Borough's Development Fee Ordinance and COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7). The Borough has established an administrative process for the collection of development fees as outlined below.

BOROUGH OFFICIAL	ACTIONS REQUIRED/PROCESS FOLLOWED
Initiation of Process:	
Property Owner Application for Construction Permit	
Construction Official	<ol style="list-style-type: none"> 1. Receives application for a building permit. 2. Fills out Section I of Development Fee Tracking form. 3. Refers tracking form and plans to Borough Clerk.
Borough Clerk	<ol style="list-style-type: none"> 1. Reviews type of improvement and if fee is applicable, completes Section II of tracking form. If unsure of fee applicability, confers with Borough Attorney. 2. If fee not applicable, returns tracking form to Construction Official. 3. If fee is applicable, refers tracking form and plans to Tax Assessor for calculation of fee prior to issuance of building permit. 4. Maintains file of tracking forms processed. 5. As necessary, reviews status of tracking forms with Construction Official and Tax Assessor.
Tax Assessor	<ol style="list-style-type: none"> 1. Calculates estimate equalized assessed value of improvements and fills out Section III of tracking form. 2. Returns tracking form to Borough Clerk and Construction Official.
Borough Clerk	<ol style="list-style-type: none"> 1. Advises property owner of estimated fee; ½ due prior to issuance of building permit and remaining balance to be paid prior to issuance of CO based on final value to be calculated by Tax Assessor when project completed. Fills out Section IV of tracking form. 2. Receives check for payment of ½ of estimated fee. Fills out Section V of tracking form. 3. Attaches check to copy of tracking form and refers to Chief Financial Officer for deposit to Housing Trust Fund. 4. Advises Construction Official of fee payment.
Construction Official	<ol style="list-style-type: none"> 1. Issues construction permit.
Chief Financial Officer	<ol style="list-style-type: none"> 1. Deposits check to Housing Trust Fund. Fills out Section VI of tracking form. 2. Maintains log of fees paid for COAH monitoring.
Completion of Process:	
Property Owner Request for Certificate of Occupancy	
Construction Official	<ol style="list-style-type: none"> 1. Receives request from property owner for final inspection and Certificate of Occupancy. 2. Refers tracking form to Borough Clerk for transmittal to Tax Assessor.
Tax Assessor	<ol style="list-style-type: none"> 1. Performs inspection of improvements. 2. Calculates final equalized assessed value of improvements. 3. Calculates balance of development fee due. 4. Returns tracking form to Borough Clerk.
Borough Clerk	<ol style="list-style-type: none"> 1. Advises property owner of remaining balance of development fee due prior to issuance of CO. 2. Receives check for payment of final fee due. 3. Attaches check to tracking form and refers to Chief Financial Officer for deposit to Housing Trust Fund. 4. Advises Construction Official of fee payment.
Construction Official	<ol style="list-style-type: none"> 1. Issues CO.
Chief Financial Officer	<ol style="list-style-type: none"> 1. Deposits check to Housing Trust Fund. 2. Updates log of fees paid for COAH monitoring.
Chief Financial Officer	<ol style="list-style-type: none"> 1. Reports periodically to Borough Council on amount of fees collected. 2. Files annual development fee report with COAH.



Distribution of Development Fee Revenues

Development fee revenue is expected to be insufficient to cover the full cost of the Borough's affordable housing programs. The Borough will fund any shortfall in revenue and reimburse itself as funds become available. All expenditures from the affordable housing trust fund shall be approved by the Borough Council upon adoption of a resolution at a public meeting.

DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

The Borough's third round Fair Share Plan involves three components: (1) the rehabilitation of one housing unit in the Borough; (2) the establishment of a ten unit accessory apartment program; and (3) the expansion of an existing group home (one bedroom addition). The rehabilitation and accessory apartment programs are expected to be funded by the municipality, while the group home is expected to be funded privately.

At present, there is insufficient development fee revenue from which to draw to pay for the cost to implement the rehabilitation and accessory apartment programs. Therefore, the Borough Council will adopt a resolution guaranteeing full funding as necessary to conduct each program. When sufficient development fees are realized, the Borough will reimburse itself for funds expended to implement this plan.

Third Round Program Costs

The estimated costs of the Borough's affordable housing programs are as follows:

1. **Rehabilitation:** Approximately \$10,000 is estimated to be needed for the "hard costs" of rehabilitating one deficient dwelling unit. In addition, the cost of program administration is anticipated to be approximately \$2,000.
2. **Accessory Apartments:** The 10-unit accessory apartment program is estimated to cost \$225,000 in unit subsidies plus \$50,000 for program administration over the term of substantive certification.

Allocation of Funds

The Borough does not anticipate that development fee revenue will be sufficient to cover the cost of the rehabilitation (hard costs) or accessory apartment programs (unit subsidies) plus the administration of both programs. Therefore, the Borough Council will adopt a resolution guaranteeing full program funding from municipal appropriations and dedicate development fee revenue to reimburse itself for the cost of these programs. The Borough will ensure that 30% of the development fee revenue, including interest, is allocated for affordability assistance. The following allocation of projected development fee revenue is based on the estimated amount of revenue that might be generated by future development as described in the Fair Share Plan and displayed in the table above.

Affordable Housing Programs (N.J.A.C. 5:97-8.7)

Of the total projected development fee revenue (\$177,652) plus projected interest (\$3,906) the Borough will allocate 70% or approximately \$127,091 for the rehabilitation and accessory apartment programs. The actual estimated cost of these programs ("hard costs" of rehabilitation and accessory apartment unit subsidies) is approximately \$235,000 (\$10,000 for rehabilitation and \$225,000 for accessory apartments) not including the cost to administer each program.

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

The Borough will allocate 30% of the total revenue generated by development fees, or approximately \$54,467 to affordability assistance programs. One-third of that amount or approximately \$18,156 will be dedicated to affordability assistance for very low income households (earning less than 30% of median income). The funds made available will be used to offer rental subsidies to lower the rents for accessory apartments. The table below displays the amounts allocated in satisfaction of this requirement.

AFFORDABILITY ASSISTANCE CALCULATION

Actual development fees through 7/17/2008		\$1,772
Actual interest earned through 7/17/2008		\$0
Development fees projected 7/18/08 – 12/31/18	+	\$175,880
Interest projected 7/18/08 – 12/31/18	+	\$3,906
Less housing activity expenditures through 6/2/2008	-	\$0
TOTAL	=	\$181,558
30 percent affordability assistance requirement	x 0.30 =	\$54,467
Less affordability assistance expenditures through 12/31/2004	-	\$0
PROJECTED MINIMUM Affordability Assistance Requirement	=	\$54,467
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 -12/31/2018	÷ 3 =	\$18,156

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

The cost to administer the rehabilitation and accessory apartment programs is expected to equal approximately \$52,000 (\$2,000 for one unit of rehabilitation and \$5,000/unit for each accessory apartment or \$50,000). The Borough does not anticipate that sufficient development fee revenue will be available to pay for administrative expenses that will be incurred to implement the third round Fair Share Plan. However, should funds should become available, the Borough will allocate up to a maximum of 20% of the revenue for administrative expenses including the costs associated with implementing the rehabilitation and accessory apartment programs, the cost of planning and legal expenses involved in the preparation of the Housing Element and Fair Share Plan and the preparation of documents related to obtaining substantive certification, and costs associated with monitoring affordable housing units.

Projected Interest

The Borough will allocate earned interest on all money held in the trust fund account in the same proportions as described above: 70% for housing rehabilitation and accessory apartments and 30% for administrative expenses. If any funds remain, up to 20% of earned interest will be applied to administrative expenses.

EXPENDITURE SCHEDULE

The Borough of Rocky Hill intends to use affordable housing trust fund revenues for the rehabilitation of deficient housing and the accessory apartment program as described above. The funding schedule below is consistent with the implementation schedule set forth in the Housing Element and Fair Share Plan.

EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of Borough of Rocky Hill has adopted a resolution agreeing to fund any shortfall of funds required for implementing the rehabilitation and accessory apartment programs. A copy of the adopted resolution is attached as Exhibit A. In the unlikely event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to expand the accessory apartment program, subject to COAH approval.

BARRIER FREE ESCROW

Since October 1, 2006 the Borough has not zoned for, nor has it included in its Fair Share Plan, any proposal for the construction of new townhouses or other multistory dwelling units that are attached to at least one other dwelling unit. Therefore, the Borough does not anticipate collecting or setting aside funds for barrier free improvements pursuant to N.J.A.C. 5:97-3.14.

SUMMARY

The Borough of Rocky Hill intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 consistent with the housing programs outlined in the Housing Element and Fair Share Plan adopted on November 11, 2008 and COAH regulations.

The Borough had a balance of \$1,772 in the housing trust fund as of July 17, 2008 and anticipates an additional \$175,880 in revenue before the expiration of substantive certification, for a total of estimated projection of \$177,652. The Borough will dedicate 70% of the funds or approximately \$130,507 toward the cost of its third round rehabilitation obligation and the accessory apartment program, and 30%, or an estimated \$55,931 to render units more affordable. If additional revenue is available after these expenses, the Borough will allocate funds to cover administrative costs, not to exceed 20% of the total amount of development fee revenue.

Any shortfall of funds to pay for the costs of implementing the Fair Share Plan will be offset by the Borough through municipal appropriations or bonding.

SPENDING PLAN SUMMARY

Balance as of July 17, 2008		\$1,772
PROJECTED REVENUE July 18, 2008-2018		
Projected Development fees	+	\$175,880
Payments in lieu of construction	+	
Other funds	+	
Projected Interest	+	\$3,906
TOTAL REVENUE	=	\$181,558
EXPENDITURES		
Funds to be used for Rehabilitation (including dedication of pre-7/17/08 fund balance: \$1,772)	-	\$10,000
Funds allocated for new construction: accessory apartments	-	\$117,091
Affordability Assistance	-	\$54,467
Administration	-	
Excess Funds for Additional Housing Activity	=	
TOTAL PROJECTED EXPENDITURES	=	\$181,558
REMAINING BALANCE	=	\$0.00

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EXHIBIT A

BOROUGH OF ROCKY HILL
RESOLUTION No. _____

WHEREAS, the Governing Body of the Borough of Rocky Hill adopted a Resolution endorsing the Borough's "third round" Housing Element and Fair Share Plan ("Fair Share Plan"), dated November 11, 2008, as adopted by the Borough of Rocky Hill Planning Board on November 11, 2008, and petitioning the New Jersey Council on Affordable Housing (COAH) for substantive certification; and

WHEREAS, the Fair Share Plan includes a local rehabilitation program for one (1) deficient housing unit, and a ten (10) unit accessory apartment program in satisfaction of the Borough's third round fair share obligation through December 31, 2018; and

WHEREAS, pursuant to N.J.A.C. 5:97-6.8, COAH requires that the Borough provide funding in the amount of \$10,000.00 for each unit of local rehabilitation and a municipal subsidy of at least \$25,000 per unit for five (5) low income (including very low income) accessory apartments and \$20,000 per unit for five (5) moderate income accessory apartments and to ensure a means of and funding for administering the local rehabilitation and accessory apartment programs, which may be accomplished by entering into an agreement with a qualified consultant; and

WHEREAS, the Borough of Rocky Hill enacted a mandatory Affordable Housing Development Fee Ordinance to generate revenue to offset the cost of the aforementioned affordable housing programs and adopted an Affordable Housing Trust Fund Spending Plan ("Spending Plan") for submission to COAH consistent with the Borough's third round Fair Share Plan; and

WHEREAS, pursuant to N.J.A.C. 5:97-8.10(a)9, COAH requires that the Borough of Rocky Hill describe in its Spending Plan a projection of revenue anticipated from the imposition of development fees on new development and how the Borough will address any shortfall in funding for affordable housing programs if development fee revenue is insufficient to cover the cost therefor and, if necessary, to commit to funding the cost of the local rehabilitation and accessory apartment programs, plus any cost associated with administering these programs from municipal appropriations or through bonding; and

WHEREAS, the Spending Plan describes the amount of development fees currently available, the anticipated sources and amounts of projected development fees, and the use of development fee revenue to fund affordable housing programs and other funding obligations and restrictions in compliance with COAH rules.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Rocky Hill as follows:

1. If available revenue in the Affordable Housing Trust Fund is insufficient to fund the costs associated with a local rehabilitation program and an accessory apartment program as hereinabove described, the Borough of Rocky Hill commits to provide full funding for these programs including their administration, or to make up for any shortfall in funding, either through municipal appropriations or bonding.
2. The Borough Clerk is hereby directed to provide COAH with a certified copy of this Resolution with the Petition for Substantive Certification with COAH.

Council

Edward Zimmerman, Mayor

CERTIFICATION

I, Donna M. Griffiths, Municipal Clerk of the Borough of Rocky Hill, County of Somerset and State of New Jersey, do hereby certify the foregoing to be a true copy of a Resolution duly adopted by the Mayor and Council on _____, 2008.

Donna M. Griffiths, Municipal Clerk

Explanation: This Resolution requests review and approval of a Municipal Affordable Housing Trust Fund Spending Plan.

**BOROUGH OF ROCKY HILL
RESOLUTION NO. 2008-78**

WHEREAS, the Borough of Rocky Hill, County of Somerset, and State of New Jersey, was granted substantive certification by the Council on Affordable Housing (COAH) on January 3, 2001; and

WHEREAS, the Borough of Rocky Hill adopted Article 9 of the Borough of Rocky Hill Development Regulations Ordinance titled "Development Fees Section"; and

WHEREAS, on November 6, 1998, COAH approved Article 9 of the Borough of Rocky Hill Development Regulations; and

WHEREAS, the Borough of Rocky Hill last received approval from COAH on October 24, 2006 for its amended development fee ordinance; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, and proceeds from the sale of affordable units; and

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and



WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing;
8. A plan to spend the trust fund balance as of July 17, 2008 within four (4) years of COAH's approval of the spending plan, or in accordance with an implementation schedule approved by COAH;
9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated

revenues from affordable housing development fees are not sufficient to implement the plan; and

11.A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

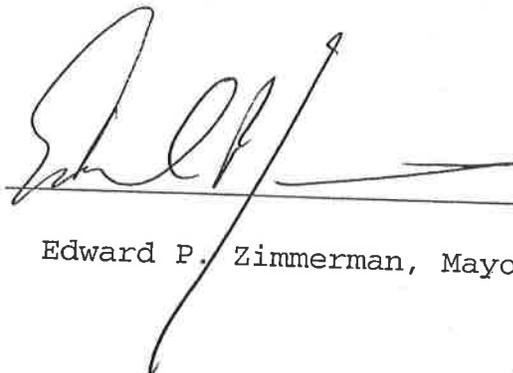
WHEREAS, the Borough of Rocky Hill has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Rocky Hill, County of Somerset, and State of New Jersey, requests that COAH review and approve the Borough of Rocky Hill's spending plan.

Attest:



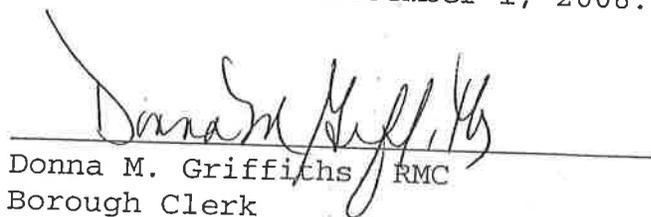
Donna M. Griffiths, RMC
Borough Clerk



Edward P. Zimmerman, Mayor

CERTIFICATION

I, Donna M. Griffiths, Municipal Clerk of the Borough of Rocky Hill, County of Somerset and State of New Jersey, do hereby certify the foregoing to be a true copy of a Resolution duly adopted by the Mayor and Council on December 1, 2008.



Donna M. Griffiths RMC
Borough Clerk



State of New Jersey
COUNCIL ON AFFORDABLE HOUSING
101 SOUTH BROAD STREET
PO Box 813
TRENTON NJ 08625-0813
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FAX: (609) 633-6056
coahmail@dca.state.nj.us

JON S. CORZINE
Governor

JOSEPH V. DORIA, JR.
Commissioner

LUCY I. VANDENBERG
Executive Director

May 13, 2009

The Honorable Edward P. Zimmerman
Rocky Hill Borough
PO Box 188
Rocky Hill, NJ 08553

Dear Mayor Zimmerman:

Enclosed please find a copy of a COAH resolution approving the *Rocky Hill Borough's* Spending Plan.

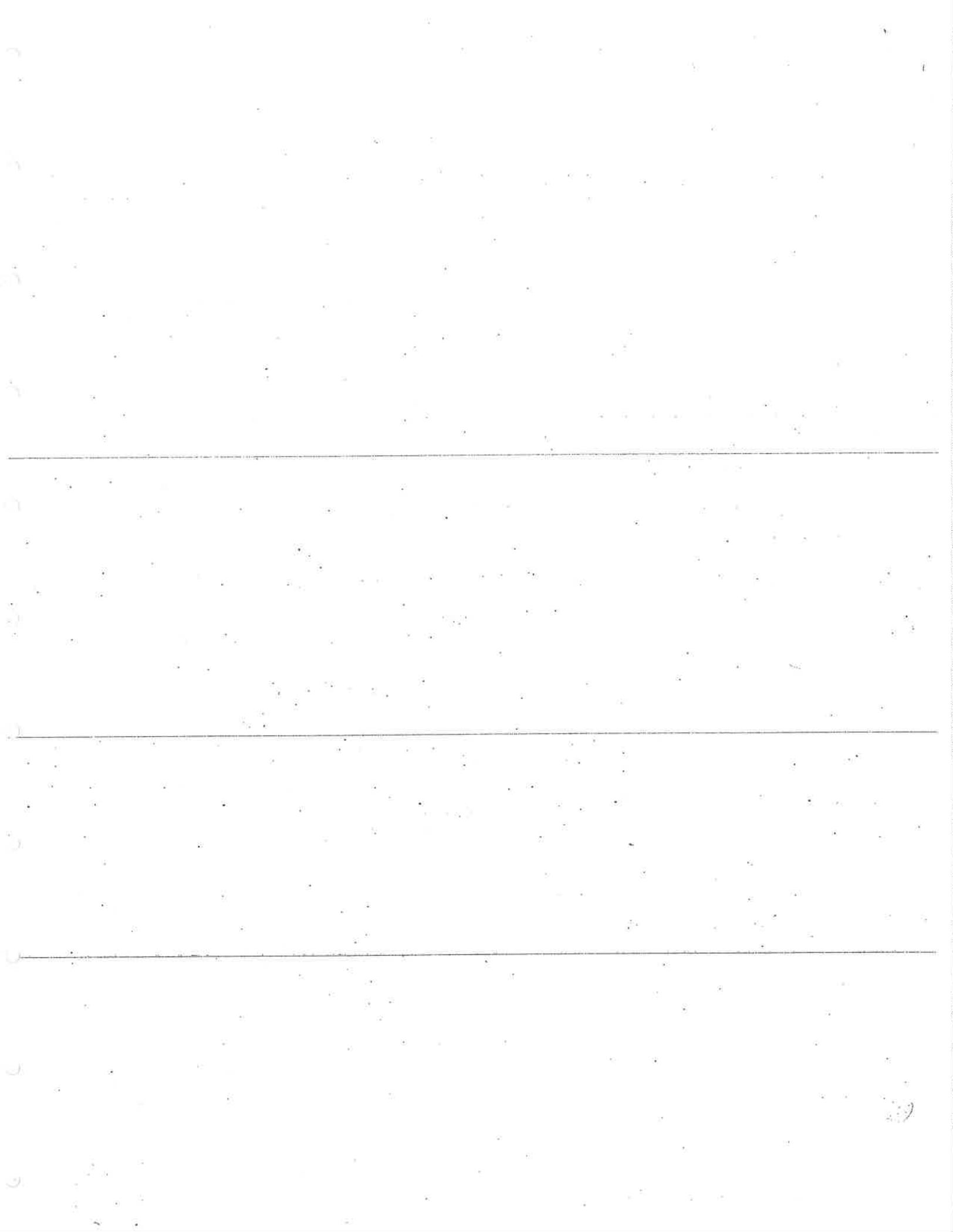
If you have any questions, please call Ngozi Obi, COAH Planner, at (609) 633-0597.

Sincerely,

Lucy Vandenberg
Executive Director

cc: Attached Service List
Joanne Wiggins, COAH supervising
Ngozi Obi, COAH planner
Larissa DeGraw, COAH





The Honorable Edward P. Zimmerman
Mayor
Borough of Rocky Hill
P.O. Box 188
Rocky Hill, New Jersey 08553

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Cherry Hill, New Jersey 08002

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Director
Eden A.C.R.E.S. Inc.
One Logan Drive
Princeton, New Jersey 08540

**RESOLUTION APPROVING SPENDING PLAN
ROCKY HILL BOROUGH, SOMERSET COUNTY**

WHEREAS, Rocky Hill Borough, Somerset County ("*Rocky Hill*" or "*Borough*") petitioned for third round substantive certification on December 30, 2008; and

WHEREAS, COAH approved Rocky Hill's development fee ordinance on November 4, 1998; and

WHEREAS, COAH granted the Borough approval of an amendment to its development fee ordinance on October 24, 2006; and

WHEREAS, on December 30, 2008, the Borough submitted a proposed amendment to the development fee ordinance with its third round petition for substantive certification, and COAH approved a revised version of that ordinance amendment on May 5, 2009; and

WHEREAS, on December 30, 2008, Rocky Hill transmitted to COAH a spending plan with its petition for third round substantive certification (Exhibit A) for COAH's approval; and

WHEREAS, pursuant to N.J.A.C. 5:97-8.10, Rocky Hill's spending plan includes the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including interest earned;
3. A description of the administrative mechanism that Rocky Hill will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds;
5. A schedule for the expenditure of all affordable housing trust funds;
6. A schedule for the creation or rehabilitation of housing units;
7. A plan to spend the trust fund balance as of July 17, 2008, within four years of COAH's approval of the spending plan, or in accordance with an implementation schedule approved by COAH;

8. A plan to spend each year's development fees within three years from the end of the calendar year in which funds are collected, or in accordance with an implementation schedule approved by COAH;
9. The manner through which Rocky Hill will address any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the plan; and
10. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, as of December 31, 2008, Rocky Hill had collected \$4,712.00 in development fees; and

WHEREAS, based on Rocky Hill's projections, the municipality expects to receive \$181,558 in development fees over the period of substantive certification, which includes \$3,906 in interest; and

WHEREAS, Rocky Hill will dedicate \$127,090.60 to a 10-unit Accessory Apartment Program; and

WHEREAS, at least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in Rocky Hill's Fair Share Plan, one-third of which shall be used to provide affordability assistance to very low-income households; and

WHEREAS, no more than 20 percent of affordable housing trust fund revenues may be used for related administrative costs; and

WHEREAS, Rocky Hill has an existing separate interest bearing housing trust fund and an executed three-party escrow agreement for the purpose of depositing development fees collected in accordance with the Borough's development fee ordinance and other sources of funding, which shall at all times be identifiable by source and amount; and

WHEREAS, COAH has reviewed Rocky Hill's spending plan and has determined that the manner in which Rocky Hill wishes to expend affordable housing trust funds is in

conformance with N.J.A.C. 5:97-8, P.L.2008, c.46, and the Borough's Housing Element and Fair Share Plan, as outlined in COAH's report dated May 6, 2009 (Exhibit B).

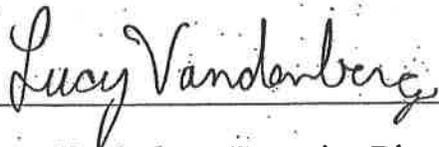
NOW THEREFORE BE IT RESOLVED that COAH hereby approves Rocky Hill Borough's spending plan; and

BE IT FURTHER RESOLVED that the approval of this spending plan permits Rocky Hill to begin expending affordable housing trust funds in accordance with the approved spending plan; and

BE IT FURTHER RESOLVED that the expenditure of funds must be consistent with the approved spending plan, and in case of non-conformance with COAH's rules, COAH may direct the manner in which the housing trust fund shall be expended. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-8.14, Rocky Hill Borough's ability to impose and collect fees and maintain an affordable housing trust fund shall expire with the expiration of its substantive certification unless the municipality has petitioned COAH for substantive certification of a Housing Element and Fair Share Plan that addresses its future affordable housing obligation, and has received COAH's approval of its development fee ordinance.

Date: 5/6/09



Lucy Vandenberg, Executive Director
Council on Affordable Housing

EXHIBIT A

BOROUGH OF ROCKY HILL
AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

INTRODUCTION

On November 11, 2008 the Rocky Hill Planning Board adopted a Housing Element and Fair Share Plan ("Fair Share Plan") addressing the Borough's affordable housing obligation for the cumulative period from 1987 through 2018 (referred to as the "third round"), in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). On December 1, 2008 the Borough Council adopted a resolution petitioning COAH for substantive certification of the Borough's Fair Share Plan.

COAH permits municipalities that have petitioned for substantive certification and are under its jurisdiction to enact an ordinance imposing a development fee, applicable to new development, to establish a dedicated revenue source for affordable housing programs. However, pursuant to N.J.A.C.5:97-8.10, prior to expending any development fee revenue, COAH must approve a "Spending Plan" containing a projection of the fees that the municipality anticipates will be collected and detailing the affordable housing programs for which development fees will be used. The Borough enacted a Development Fee Ordinance in 1998 and adopted a Spending Plan in 2000, both of which were approved by COAH as part of the Borough's "prior round" Fair Share Plan. The purpose of this new Spending Plan is to develop revised projections of development fee revenue and to describe the types of programs that will be funded by the funds, based on COAH's revised "third round" regulations for the period ending in 2018.

**APPROVED DEVELOPMENT FEE
ORDINANCE AND SPENDING PLAN**

September 21, 1998 the Borough of Rocky Hill enacted Ordinance 6-98 imposing development fees on new development. The ordinance was approved by COAH on November 9, 1998. The ordinance established fees in accordance with the limits in effect at that time: 0.5% for residential development and 1.0% for nonresidential development. Improvements to existing dwellings are exempt from the imposition of development fees. The ordinance also established an affordable housing trust fund.

On August 21, 2000 the Borough Council adopted a Development Fee Spending Plan, which COAH approved on January 3, 2001. The approved Spending Plan dedicated 80% of development fee revenue to pay (or reimburse the Borough) for the cost of a Regional Contribution Agreement between the Borough and the City of New Brunswick (\$180,000) and for administrative expenses (not to exceed 20% of the revenues collected.) In approving the Spending Plan, COAH also approved a waiver of its prior round rule requiring a setaside of funds aside for affordability assistance programs.

On October 24, 2006 COAH approved the Borough's request to increase the fees consistent with COAH's original third round rules, which became effective in 2005, to 1% for residential development and 2% for nonresidential development. Ordinance 10-2006, increasing the fees, was enacted by the Borough Council on December 18, 2006.

**DEVELOPMENT FEE REVENUE COLLECTED
AND EXPENDED PRIOR TO JULY 17, 2008**

On July 17, 2008 the Fair Housing Act was amended with respect to the collection and expenditure of development fees. As of July 17, 2008, the Borough of Rocky Hill had collected a total of \$1,772 and none of the revenue had been expended. The Borough's development fees are deposited in an affordable housing trust fund in Amboy Bank and are held for the purposes of affordable housing. All funds shall be spent in accordance with N.J.A.C. 5:97-8.1 et seq. as described in the sections that follow.

The Borough of Rocky Hill first petitioned COAH for substantive certification on July 23, 1998 and received prior approval to maintain an affordable housing trust fund on November 9, 1998. As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$1,772. From January 1, 2005 through July 17, 2008, the Borough collected no additional revenue in development fees, payments in lieu of construction, other funds, and/or interest. From January 1, 2005 through July 17, 2008, the Borough did not expend any of the funds held in the affordable housing trust fund.

**REVENUES PROJECTED DURING THE THIRD
ROUND CERTIFICATION PERIOD: 7/18/08 – 12/31/18**

In estimating a projection of revenue anticipated during the period of third round substantive certification after July 17, 2008 (the effective date of Fair Housing Act amendments), the Borough of Rocky Hill considered the following:

- A. Development fees.
1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals: The Borough is a nearly fully developed community. Approved development subject to the payment of development fees includes the one house (Donato) and the Schafer/Pulte development, both of which are included in the Implementation Schedule of the Fair Share Plan.
 2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy: There are no projects pending Planning Board review as of November 1, 2008 that would be expected to generate development fee revenue.
 3. Future development that is likely to occur based on historical rates of development: Past development trends and a review of development activity since 2004 (see the Fair Share Plan Implementation Schedule for a listing of actual growth for the five-year period from 2004 through 2008), which suggests that little or no additional development is expected to take place in the Borough during the third round certification period, except as indicated above.
- B. Payment in lieu of on-site affordable housing construction: There are no sites in the Borough of Rocky Hill zoned for inclusionary development and no developer has made or committed to make a payment in lieu of constructing affordable housing on-site. Dwellings in the Schafer/Pulte development mentioned above are subject to the payment of a 1% development fee in accordance with an agreement with the Borough of Rocky Hill and the conditions of site plan approval.
- C. Other funding sources including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units: There are no other funds that have been collected or are anticipated to be collected from other sources.
- D. Projected interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate: As of October 1, 2008 no interest has been paid on the trust fund balance. The account was modified by Amboy Bank on October 2, 2008 to be an interest bearing account at a rate of 2.25%. Projected interest during the remaining period of third round certification is displayed in the table on page 3.

PROJECTED REVENUES-HOUSING TRUST FUND: JULY 17, 2008 - DECEMBER 31, 2018

SOURCE OF FUNDS	PROJECTED REVENUES-HOUSING TRUST FUND: JULY 17, 2008 - DECEMBER 31, 2018											
	7/18/08 through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Fund balance 7/17/08: \$1,772												\$1,772
A. Development fees:												
1. Approved Development	\$2,940	\$2,940		\$85,000	\$85,000							\$175,880
2. Development Pending Approval												
3. Projected Development												
B. Payments in Lieu												
C. Other Funds												
SUBTOTAL (development fees)	\$2,940	\$2,940		\$85,000	\$85,000							\$177,652
D. Projected Interest (2.25 % as of 10/2/08)	\$16	\$66		\$1,912	\$1,912							\$3,906
TOTAL (including pre-7/18/08 funds)	\$2,956	\$3,006		\$86,912	\$86,912							\$181,558

NOTES:

1. The format for this spreadsheet is taken from COAH's model Spending Plan.
2. On July 17, 2008 the Borough's housing trust fund balance was \$1,772. This sum is included in the above total.
3. Interest displayed in row D is based on the 10/2/08 rate of 2.25%. The interest rate is, however, subject to fluctuation, as determined by the banking institution. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The Development Fee Ordinance stipulates that one-half of the development fee must be paid at the time of issuance of a building permit and the balance is to be paid upon issuance of a certificate of occupancy (CO) for the project.

Collection of Development Fees

The process for collection of development fees applicable to both residential and non-residential development shall be consistent with the Borough's Development Fee Ordinance and COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7). The Borough has established an administrative process for the collection of development fees as outlined below.

BOROUGH OFFICIAL	ACTIONS REQUIRED/PROCESS FOLLOWED
Initiation of Process	
Property Owner Application for Construction Permit	
Construction Official	<ol style="list-style-type: none"> 1. Receives application for a building permit. 2. Fills out Section I of Development Fee Tracking form. 3. Refers tracking form and plans to Borough Clerk.
Borough Clerk	<ol style="list-style-type: none"> 1. Reviews type of improvement and if fee is applicable, completes Section II of tracking form. If unsure of fee applicability, confers with Borough Attorney. 2. If fee not applicable, returns tracking form to Construction Official. 3. If fee is applicable, refers tracking form and plans to Tax Assessor for calculation of fee prior to issuance of building permit. 4. Maintains file of tracking forms processed. 5. As necessary, reviews status of tracking forms with Construction Official and Tax Assessor.
Tax Assessor	<ol style="list-style-type: none"> 1. Calculates estimate equalized assessed value of improvements and fills out Section III of tracking form. 2. Returns tracking form to Borough Clerk and Construction Official.
Borough Clerk	<ol style="list-style-type: none"> 1. Advises property owner of estimated fee; ½ due prior to issuance of building permit and remaining balance to be paid prior to issuance of CO based on final value to be calculated by Tax Assessor when project completed. Fills out Section IV of tracking form. 2. Receives check for payment of ½ of estimated fee. Fills out Section V of tracking form. 3. Attaches check to copy of tracking form and refers to Chief Financial Officer for deposit to Housing Trust Fund. 4. Advises Construction Official of fee payment.
Construction Official	<ol style="list-style-type: none"> 1. Issues construction permit.
Chief Financial Officer	<ol style="list-style-type: none"> 1. Deposits check to Housing Trust Fund. Fills out Section VI of tracking form. 2. Maintains log of fees paid for COAH monitoring.
Completion of Process	
Property Owner Request for Certificate of Occupancy	
Construction Official	<ol style="list-style-type: none"> 1. Receives request from property owner for final inspection and Certificate of Occupancy. 2. Refers tracking form to Borough Clerk for transmittal to Tax Assessor.
Tax Assessor	<ol style="list-style-type: none"> 1. Performs inspection of improvements. 2. Calculates final equalized assessed value of improvements. 3. Calculates balance of development fee due. 4. Returns tracking form to Borough Clerk.
Borough Clerk	<ol style="list-style-type: none"> 1. Advises property owner of remaining balance of development fee due prior to issuance of CO. 2. Receives check for payment of final fee due. 3. Attaches check to tracking form and refers to Chief Financial Officer for deposit to Housing Trust Fund. 4. Advises Construction Official of fee payment.
Construction Official	<ol style="list-style-type: none"> 1. Issues CO.
Chief Financial Officer	<ol style="list-style-type: none"> 1. Deposits check to Housing Trust Fund. 2. Updates log of fees paid for COAH monitoring.
Chief Financial Officer	<ol style="list-style-type: none"> 1. Reports periodically to Borough Council on amount of fees collected. 2. Files annual development fee report with COAH.

Distribution of Development Fee Revenues

Development fee revenue is expected to be insufficient to cover the full cost of the Borough's affordable housing programs. The Borough will fund any shortfall in revenue and reimburse itself as funds become available. All expenditures from the affordable housing trust fund shall be approved by the Borough Council upon adoption of a resolution at a public meeting.

DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

The Borough's third round Fair Share Plan involves three components: (1) the rehabilitation of one housing unit in the Borough; (2) the establishment of a ten unit accessory apartment program; and (3) the expansion of an existing group home (one bedroom addition). The rehabilitation and accessory apartment programs are expected to be funded by the municipality, while the group home is expected to be funded privately.

At present, there is insufficient development fee revenue from which to draw to pay for the cost to implement the rehabilitation and accessory apartment programs. Therefore, the Borough Council will adopt a resolution guaranteeing full funding as necessary to conduct each program. When sufficient development fees are realized, the Borough will reimburse itself for funds expended to implement this plan.

Third Round Program Costs

The estimated costs of the Borough's affordable housing programs are as follows:

1. Rehabilitation: Approximately \$10,000 is estimated to be needed for the "hard costs" of rehabilitating one deficient dwelling unit. In addition, the cost of program administration is anticipated to be approximately \$2,000.
2. Accessory Apartments: The 10-unit accessory apartment program is estimated to cost \$225,000 in unit subsidies plus \$50,000 for program administration over the term of substantive certification.

Allocation of Funds

The Borough does not anticipate that development fee revenue will be sufficient to cover the cost of the rehabilitation (hard costs) or accessory apartment programs (unit subsidies) plus the administration of both programs. Therefore, the Borough Council will adopt a resolution guaranteeing full program funding from municipal appropriations and dedicate development fee revenue to reimburse itself for the cost of these programs. The Borough will ensure that 30% of the development fee revenue, including interest, is allocated for affordability assistance. The following allocation of projected development fee revenue is based on the estimated amount of revenue that might be generated by future development as described in the Fair Share Plan and displayed in the table above.

Affordable Housing Programs (N.J.A.C. 5:97-8.7)

Of the total projected development fee revenue (\$177,652) plus projected interest (\$3,906) the Borough will allocate 70% or approximately \$127,091 for the rehabilitation and accessory apartment programs. The actual estimated cost of these programs ("hard costs" of rehabilitation and accessory apartment unit subsidies) is approximately \$235,000 (\$10,000 for rehabilitation and \$225,000 for accessory apartments) not including the cost to administer each program.

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

The Borough will allocate 30% of the total revenue generated by development fees, or approximately \$54,467 to affordability assistance programs. One-third of that amount or approximately \$18,156 will be dedicated to affordability assistance for very low income households (earning less than 30% of median income). The funds made available will be used to offer rental subsidies to lower the rents for accessory apartments. The table below displays the amounts allocated in satisfaction of this requirement.

AFFORDABILITY ASSISTANCE CALCULATION

Actual development fees through 7/17/2008		\$1,772
Actual interest earned through 7/17/2008	+	\$0
Development fees projected 7/18/08 – 12/31/18	+	\$175,880
Interest projected 7/18/08 – 12/31/18	+	\$3,906
Less housing activity expenditures through 6/2/2008	-	\$0
TOTAL	=	\$181,558
30 percent affordability assistance requirement	$\times 0.30 =$	\$54,467
Less affordability assistance expenditures through 12/31/2004	-	\$0
PROJECTED MINIMUM Affordability Assistance Requirement	=	\$54,467
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 -12/31/2018	$\div 3 =$	\$18,156

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

The cost to administer the rehabilitation and accessory apartment programs is expected to equal approximately \$52,000 (\$2,000 for one unit of rehabilitation and \$5,000/unit for each accessory apartment or \$50,000). The Borough does not anticipate that sufficient development fee revenue will be available to pay for administrative expenses that will be incurred to implement the third round Fair Share Plan. However, should funds should become available, the Borough will allocate up to a maximum of 20% of the revenue for administrative expenses including the costs associated with implementing the rehabilitation and accessory apartment programs, the cost of planning and legal expenses involved in the preparation of the Housing Element and Fair Share Plan and the preparation of documents related to obtaining substantive certification, and costs associated with monitoring affordable housing units.

Projected Interest

The Borough will allocate earned interest on all money held in the trust fund account in the same proportions as described above: 70% for housing rehabilitation and accessory apartments and 30% for affordability assistance programs. If any funds remain, up to 20% of earned interest will be applied to administrative expenses.

EXPENDITURE SCHEDULE

The Borough of Rocky Hill intends to use affordable housing trust fund revenues for the rehabilitation of deficient housing and the accessory apartment program as described above. The funding schedule below is consistent with the implementation schedule set forth in the Housing Element and Fair Share Plan.

EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of Borough of Rocky Hill has adopted a resolution agreeing to fund any shortfall of funds required for implementing the rehabilitation and accessory apartment programs. A copy of the adopted resolution is attached as Exhibit A. In the unlikely event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to expand the accessory apartment program, subject to COAH approval.

BARRIER FREE ESCROW

Since October 1, 2006 the Borough has not zoned for, nor has it included in its Fair Share Plan, any proposal for the construction of new townhouses or other multistory dwelling units that are attached to at least one other dwelling unit. Therefore, the Borough does not anticipate collecting or setting aside funds for barrier free improvements pursuant to N.J.A.C. 5:97-3.14.

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1

SUMMARY

The Borough of Rocky Hill intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 consistent with the housing programs outlined in the Housing Element and Fair Share Plan adopted on November 11, 2008 and COAH regulations.

The Borough had a balance of \$1,772 in the housing trust fund as of July 17, 2008 and anticipates an additional \$175,880 in revenue before the expiration of substantive certification, for a total of estimated projection of \$177,652. The Borough will dedicate 70% of the funds or approximately \$130,507 toward the cost of its third round rehabilitation obligation and the accessory apartment program, and 30%, or an estimated \$55,931 to render units more affordable. If additional revenue is available after these expenses, the Borough will allocate funds to cover administrative costs, not to exceed 20% of the total amount of development fee revenue.

Any shortfall of funds to pay for the costs of implementing the Fair Share Plan will be offset by the Borough through municipal appropriations or bonding.

SPENDING PLAN SUMMARY

Balance as of July 17, 2008	\$1,772
PROJECTED REVENUE July 18, 2008-2018	
Projected Development fees	+ \$175,880
Payments in lieu of construction	+
Other funds	+
Projected Interest	+ \$3,906
TOTAL REVENUE	= \$181,558
EXPENDITURES	
Funds to be used for Rehabilitation (including dedication of pre-7/17/08 fund balance: \$1,772)	- \$10,000
Funds allocated for new construction; accessory apartments	- \$117,091
Affordability Assistance	- \$54,467
Administration	-
Excess Funds for Additional Housing Activity	=
TOTAL PROJECTED EXPENDITURES	= \$181,558
REMAINING BALANCE	= \$0.00

EXHIBIT A

BOROUGH OF ROCKY HILL
RESOLUTION No. _____

WHEREAS, the Governing Body of the Borough of Rocky Hill adopted a Resolution endorsing the Borough's "third round" Housing Element and Fair Share Plan ("Fair Share Plan"), dated November 11, 2008, as adopted by the Borough of Rocky Hill Planning Board on November 11, 2008, and petitioning the New Jersey Council on Affordable Housing (COAH) for substantive certification; and

WHEREAS, the Fair Share Plan includes a local rehabilitation program for one (1) deficient housing unit, and a ten (10) unit accessory apartment program in satisfaction of the Borough's third round fair share obligation through December 31, 2018; and

WHEREAS, pursuant to N.J.A.C. 5:97-6.8, COAH requires that the Borough provide funding in the amount of \$10,000.00 for each unit of local rehabilitation and a municipal subsidy of at least \$25,000 per unit for five (5) low income (including very low income) accessory apartments and \$20,000 per unit for five (5) moderate income accessory apartments and to ensure a means of and funding for administering the local rehabilitation and accessory apartment programs, which may be accomplished by entering into an agreement with a qualified consultant; and

WHEREAS, the Borough of Rocky Hill enacted a mandatory Affordable Housing Development Fee Ordinance to generate revenue to offset the cost of the aforementioned affordable housing programs and adopted an Affordable Housing Trust Fund Spending Plan ("Spending Plan") for submission to COAH consistent with the Borough's third round Fair Share Plan; and

WHEREAS, pursuant to N.J.A.C. 5:97-8.10(a)9, COAH requires that the Borough of Rocky Hill describe in its Spending Plan a projection of revenue anticipated from the imposition of development fees on new development and how the Borough will address any shortfall in funding for affordable housing programs if development fee revenue is insufficient to cover the cost therefor and, if necessary, to commit to funding the cost of the local rehabilitation and accessory apartment programs, plus any cost associated with administering these programs from municipal appropriations or through bonding; and

WHEREAS, the Spending Plan describes the amount of development fees currently available, the anticipated sources and amounts of projected development fees, and the use of development fee revenue to fund affordable housing programs and other funding obligations and restrictions in compliance with COAH rules.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Rocky Hill as follows:

1. If available revenue in the Affordable Housing Trust Fund is insufficient to fund the costs associated with a local rehabilitation program and an accessory apartment program as hereinabove described, the Borough of Rocky Hill commits to provide full funding for these programs including their administration, or to make up for any shortfall in funding, either through municipal appropriations or bonding.
2. The Borough Clerk is hereby directed to provide COAH with a certified copy of this Resolution with the Petition for Substantive Certification with COAH.

Council

Edward Zimmerman, Mayor

CERTIFICATION

I, Donna M. Griffiths, Municipal Clerk of the Borough of Rocky Hill, County of Somerset and State of New Jersey, do hereby certify the foregoing to be a true copy of a Resolution duly adopted by the Mayor and Council on _____, 2008.

Donna M. Griffiths, Municipal Clerk

EXHIBIT B



NEW JERSEY COUNCIL ON AFFORDABLE HOUSING
REVIEW OF SPENDING PLAN
ROCKY HILL BOROUGH/SOMERSET COUNTY
REGION #3



Prepared by: Ngozi Obi
May 6, 2009

I. BACKGROUND

The Borough of Rocky Hill, Somerset County ("*Rocky Hill*" or "*the Borough*") received second round substantive certification on January 3, 2001. Rocky Hill received approval for a development fee ordinance on November 4, 1998, which was adopted by the Borough on September 21, 1998. COAH granted the Borough approval of an amendment to its development fee ordinance on October 24, 2006. On December 30, 2008, with its third round petition for substantive certification, the Borough submitted a proposed amendment to the development fee ordinance. COAH approved a revised version of that ordinance amendment on May 5, 2009.

Pursuant to N.J.A.C. 5:97-8.1(d), in order for a municipality to expend affordable housing trust funds, the municipality must have a spending plan approved by COAH. A spending plan was submitted by the Borough with its third round petition. This report reviews Rocky Hill's third round spending plan.

II. SPENDING PLAN REVIEW

Pursuant to N.J.A.C. 5:97-8.10, the Borough of Rocky Hill submitted a spending plan which includes the following:

1. **A projection of revenues:** All development fees, payments in lieu of construction and other funds will be deposited in Rocky Hill Borough's affordable housing trust fund in a separate interest bearing account, currently on deposit at Amboy National Bank. All interest earned on the account will solely be used for the purposes of affordable housing. According to the Borough's spending plan and actual monitoring to date, Rocky Hill projects revenues of \$176,846 to be collected between December 31, 2008 and the expiration of third round substantive certification, which includes \$3,906 in interest. This amount includes an anticipated collection of revenue from: residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals, all projects currently before the planning and zoning boards for development approvals, future development likely to occur based on past rates of development, and interest accrued on the projected revenue in the housing trust fund at

the current average interest rate. The Township does not anticipate any revenues from payments in lieu of construction. COAH received Rocky Hill's latest Affordable Housing Trust Fund monitoring report on April 23, 2009. As of December 31, 2008, the Township had a balance of \$4,712, all of which was collected as development fees:

2. **A description of the administrative mechanism that Rocky Hill will use to collect and distribute the revenues:** Collection of development fee revenues shall be consistent with the Borough's development fee ordinance for residential and non-residential developments. All expenditures from the affordable housing trust fund shall be approved by the Borough Council at a public meeting upon adoption of a resolution authorizing the use and release of the funds.
3. **A description of the anticipated use of development fees:** The Borough of Rocky Hill had a balance of \$4,712 as of December 31, 2008, and anticipates \$179,786 in development fees and interest before the expiration of its third round substantive certification, for a total of \$181,558. Rocky Hill's Spending Plan notes that the projected development fee revenue is expected to be insufficient to cover the cost of the Borough's affordable housing programs; however, the Borough has adopted a resolution of intent to appropriate funds or bond for shortfall. The Borough's third round Fair Share Plan as originally submitted included a one-unit rehabilitation program and a ten-unit accessory apartment program with estimated trust fund allocations of \$10,000 and \$147,091, respectively. However, the Borough has since provided documentation of additional units rehabilitated in the Borough by the Somerset County Rehabilitation Program and has addressed its entire rehabilitation share. The total \$127,091 allocation, therefore, is now potentially available for the accessory apartment program.

At least 30 percent of development fees shall be used to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income). Based on the Borough of Rocky Hill projections, the municipality will dedicate \$54,467.40 for affordability assistance, including \$18,155.80 to render units more affordable to households earning 30 percent or less of the regional median income.

Up to 20 percent of affordable housing trust fund revenues may be used for related administrative costs pending funding availability after programmatic and affordability assistance expenditures. Based on the Borough's projections, the anticipated cost to administer the accessory apartment program is approximately \$50,000. The Borough has yet to expend any affordable housing trust fund revenue on administrative expenses. The Borough does not anticipate that sufficient development fee revenue will be available to pay for administrative expenses that will be incurred to implement the third round Fair Share Plan. However, should funds become available the Borough will allocate the maximum of 20% of the fees collected for administrative expenses pending funding availability after programmatic and affordability assistance expenditures.

4. **A schedule for the expenditure of all affordable housing trust funds:** Rocky Hill has submitted an expenditure schedule. The expenditure schedule provides that the balance as

of July 17, 2008 will be fully expended or committed to be expended within four years of COAH's approval of the spending plan. In addition, the expenditure schedule is consistent with P.L.2008, c.46, section 8 (C. 52:27D-329.2d), which requires that each year's development fees must be must be expended or committed for expenditure within three years of collection.

5. **A schedule for the creation or rehabilitation of housing units:** Rocky Hill is addressing its entire rehabilitation obligation with four rehabilitation credits.
6. **The manner in which Rocky Hill will address any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the plan:** Rocky Hill Borough has adopted a resolution agreeing to fund any shortfall of funds required for implementing the fair share plan. In the event that a shortfall of anticipated revenues occurs, Rocky Hill intends to bond or appropriate monies from general revenue for any shortfall.
7. **A description of the anticipated use of excess affordable housing trust funds:** In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to expand the accessory apartment program.

SPENDING PLAN SUMMARY	
Balance as of December 31, 2008	\$4,712.00
PROJECTED REVENUE 2009-2018	
Development fees	+ \$172,940.00
Payments in lieu of construction	+ \$0.00
Other funds	+ \$0.00
Interest	+ \$3,906.00
TOTAL AVAILABLE FUNDS	= \$181,558.00
PROJECTED EXPENDITURES 2009-2018	
Funds Used for Rehabilitation	\$0.00
Funds Used for New Construction	
<i>Accessory Apartment Program</i>	\$127,090.60*
Affordability Assistance	- \$54,467.40
Administration	- \$0.00
TOTAL PROJECTED EXPENDITURES	= \$181,558.00
REMAINING BALANCE	= \$0.00

*Includes \$10,000 originally allocated to rehabilitation program

III. RECOMMENDATION

Based on COAH staff's review, Rocky Hill's spending plan meets COAH's criteria pursuant to N.J.A.C. 5:97-8.10. COAH staff recommends the approval of Rocky Hill's spending plan.

COAH's approval of the spending plan will enable the Borough to begin expending affordable housing trust funds in accordance with the approved spending plan. Rocky Hill shall submit monitoring pursuant to N.J.A.C. 5:96-11 relating to the affordable units created using affordable housing trust funds. Rocky Hill shall be subject to the enforcement remedies in accordance with N.J.A.C. 5:97-8.13 if Rocky Hill fails to implement the spending plan as approved.

Reviewed by:


Deputy Attorney General

5/6/09
Date