



AFFORDABLE HOUSING BOROUGH OF WASHINGTON, NJ

Town Meeting
January 23, 2018

Affordable Housing Timeline

- **1975** - So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) (Mount Laurel I)
 - Must use zoning power for general welfare not just welfare of individual towns.
 - Zoning must encourage low and moderate income housing
- **1983** - So. Burlington Ct. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) (Mt. Laurel II)
 - Municipalities not complying with Mt. Laurel I → Court administered program
 - permits “**Builder’s Remedy**” lawsuits
- **1983-1986** – Flood of builder’s remedy lawsuits
- **1985** - New Jersey Fair Housing Act (“FHA”) enacted, replacing court-administered Mt. Laurel system with State administrative agency (“COAH”)
- **1986** - COAH adopts “First Round” Rules applicable from 1987 to 1993
- **1994** - COAH adopts “Second Round” Rules applicable from 1994-1999
- **1999** - COAH readopts second round rules expiring in 2004 in lieu of Third Rounds rules
- **2004** – COAH adopts “Third Round” rules calculating affordable housing

IT’S A CONSTITUTIONAL OBLIGATION!!!

Affordable Housing Timeline

- **2007** – In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super 1, 86-87 (App. Div.), *certif. denied*, 192 N.J. 71 (2007) - Appellate Divisions affirms portions of Third Rounds Rules and invalidates “growth share” model
- **2008** – COAH adopts revised “Third Round” rules
- **February 2010** – Gov. Christie “Task Force” reviews affordable housing laws and concludes there should be a new model
- **June-July 2010** – The Borough’s Third Round Plan is submitted to COAH and deemed complete
- **October 2010** – In re Adoption of N.J.A.C. 5:96 & 5:97, 416 N.J. Super. 462 (App. Div. 2010) - Court invalidates amended COAH regulations
- **2011** – Gov. Christie abolishes COAH via Reorganization Plan No. 001- 2011
- **2013** - In re Plan for Abolition of Council on Affordable Housing, 214 N.J. 444 (2013) - The NJ Supreme Court rules that Gov. does not have that authority
- **2014**
 - In re N.J.A.C. 5:96 and 5:97, 220 N.J. 355 (2014) – NJ Supreme Court directs COAH to adopt rules by November 2014
 - COAH proposes new regulations which are never enacted due to split (3-3) vote

LEGISLATIVE INACTION!

Affordable Housing Timeline

- **March 2015** – In re Adoption Page 5 of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV) - Supreme Court sets up declaratory judgement process for evaluating compliance
- **July 2015** – Borough files its declaratory judgment action
- **November 2015** – Washington Station Venture, LP and Washington Venture Investment, Ltd. (owner of 128 acres of property known as Block 97 Lots 2, 3, and 4 and Block 97.01, Lot 1) intervenes in DJ action
- **2015-2016**
 - Municipalities form a statewide consortium and hire Econsult as an expert
 - Municipalities assigned a court appointed special master to mediate amongst Fair Share Housing Center (“FSHC”), Municipalities, and developers
 - Court appoints a “regional special master” to draft a neutral report
 - Municipalities form Vicinage 13 consortium for purposes of a “numbers trial”
- **2017** – Borough, intervenor, FSHC conduct mediation sessions with Special Master to consider FSHC discounted settlement offer.

Affordable Housing Need Components

- **Prior Round** – Need assigned in Rounds One and Two; Covers period from 1987 to 1999
- **Present Need** – (“rehabilitation share”) Estimate of the current stock of deficient housing occupied by low and moderate income households
 - Old and overcrowded
 - Inadequate kitchen facilities
 - Inadequate plumbing
- **Prospective Need** – Estimate of housing needed moving forward covering present to 2025.
- **Gap Period Need** – point of contention; covers the period between 1999 to the present.

What does “affordable housing mean?”

- It is NOT “Section 8 housing”
 - Section 8 is a federal voucher program over which the Borough has no control. Participants are required to pay 30% of their income towards rent and the voucher covers the rest.
 - Landlord must be approved to accept the vouchers.
 - Landlords are not required to accept all Section 8 vouchers, but cannot have discriminatory policies in place.
- Applicants for New Jersey affordable rental housing are subjected to all the same credit and background checks required by the landlord.

Housing Program: **2 Tax Credits** HUD Area: **41 WARREN COUNTY** Effective date: **04/14/2017**

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	18,850	21,550	24,250	26,900	29,100	32,960	37,140	41,320
40%	25,120	28,720	32,320	35,880	38,760	41,640	44,520	47,400
50%	31,400	35,900	40,400	44,850	48,450	52,050	55,650	59,250
60%	37,680	43,080	48,480	53,820	58,140	62,460	66,780	71,100
80%	47,600	54,400	61,200	68,000	73,450	78,900	84,350	89,800

RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom
30%	471	505	606	700	824	980	
40%	628	673	808	933	1,041	1,149	
50%	785	841	1,010	1,166	1,301	1,436	
60%	942	1,009	1,212	1,399	1,561	1,723	
80%	1,190	1,275	1,530	1,768	1,972	2,176	

Housing Program: **15 HERA Income Limits** HUD Area: **41 WARREN COUNTY** Effective date: **04/14/2017**

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	19,860	22,680	25,530	28,350	30,630	32,910	35,160	37,440
40%	26,480	30,240	34,040	37,800	40,840	43,880	46,880	49,920
50%	33,100	37,800	42,550	47,250	51,050	54,850	58,600	62,400
60%	39,720	45,360	51,060	56,700	61,260	65,820	70,320	74,880
80%	52,960	60,480	68,080	75,600	81,680	87,760	93,760	99,840

RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom
30%	496	531	638	737	822	907	
40%	662	709	851	983	1,097	1,210	
50%	827	886	1,063	1,228	1,371	1,512	
60%	993	1,063	1,276	1,474	1,645	1,815	
80%	1,324	1,418	1,702	1,966	2,194	2,420	

Borough's Affordable Housing Record

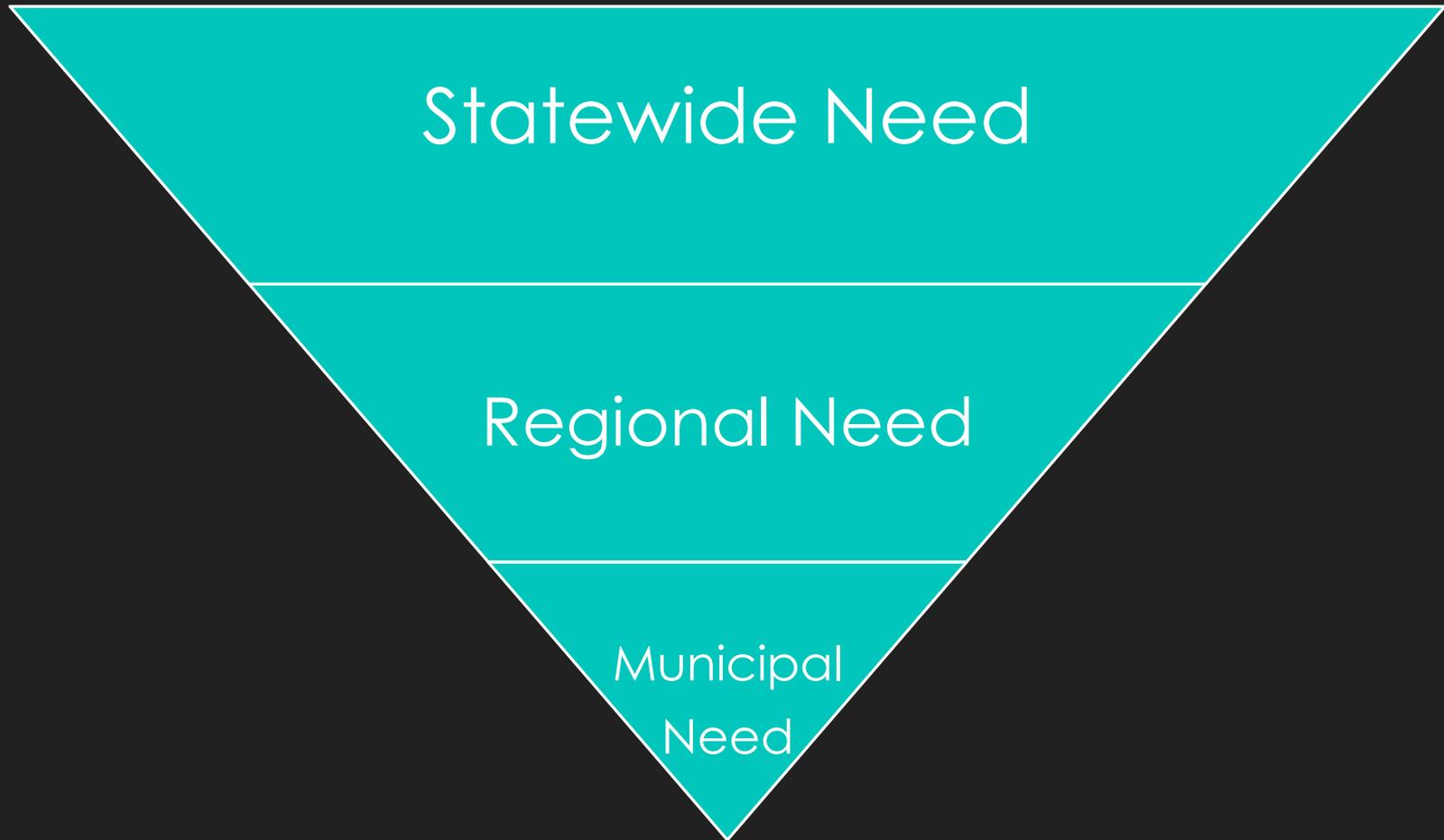
- No obligation for Rounds One and Two
- 2009 Housing Plan for Third Round deemed complete, but never certified by COAH
 - Rehabilitation Share (Present Need): 52 units
 - Prospective Need: 51 units
 - Plan included:
 - West Gate Apartments - 68 units
 - Gardners Court – 14 units (special needs)
 - Warren County Housing Program – 31 rehab units and 21 more planned
- Entered Declaratory Judgement action to establish compliance and were granted temporary immunity from Builder's Remedy Lawsuits until final settlement.
- Remained compliant with required actions throughout process.
- Participated in state and vicinage consortia to argue against FSHC proposals.

Current Settlement Offer

- Three applicable affordable housing obligation reports provide a range of possible housing requirements.
 - *Econsult* (Municipal Consortium Consultant, generally rejected by the Courts) - 0
 - *Richard Reading* (Court appointed expert) – no number yet
 - *David Kinsey* (FSHC expert) - 266
 - FSHC has offered a 30% discount for an early settlement - 186



How are the numbers calculated?



Borough's Existing and Proposed Affordable Housing

Project	Credits
Westgate Apartments	68
Gardner's Court	14
Redevelopment Plan	25
Towne Center Project	10
Bonus	10
Total	127

- Settlement offer = 186
- Therefore, there is a short fall of 59 units from a settlement (which equates to 393 market rate units with a 15% set aside)

Mechanisms to Address Affordable Housing Obligation

- Inclusionary Zoning (i.e. Baker Tract)
Identify areas where developers could build more than currently allowed if they provide 15-20% Affordable Units - no Borough contribution
- Accessory Apartments (10 unit limit)
Homeowner choice with Borough incentive subsidy (about \$10,000 per unit)
- Redevelopment Zone
Requires tax incentives and inclusionary zoning
- Market to Affordable Program – (i.e. Towne Center Project)
Requires Borough contribution
- Group Homes or Assisted Living Facilities
Provide subsidy and incentives to provider

Accessory Apartments

- Can be used to address a small percentage of the obligation (10 unit max permitted for each mechanism)
- No bonus credits are provided
- Borough provided incentive of \$10,000 / \$20,000 per accessory unit
- Borough has an existing program
- This is probably not a feasible program because the Borough already has a significant amount of rental housing.

Market to Affordable Program

- Requires large Borough contribution from Affordable Housing Trust Fund
- Borough is purchasing deed restrictions on 10 units in the Towne Center Project
- Potential for contributions to other apartment complexes in order to assist with upgrades

Group Homes and Assisted Living

- Requires municipal assistance or incentives (often a donation of land)
- Borough already has 14 beds of group-home living quarters; therefore there may not be opportunity or need for more.

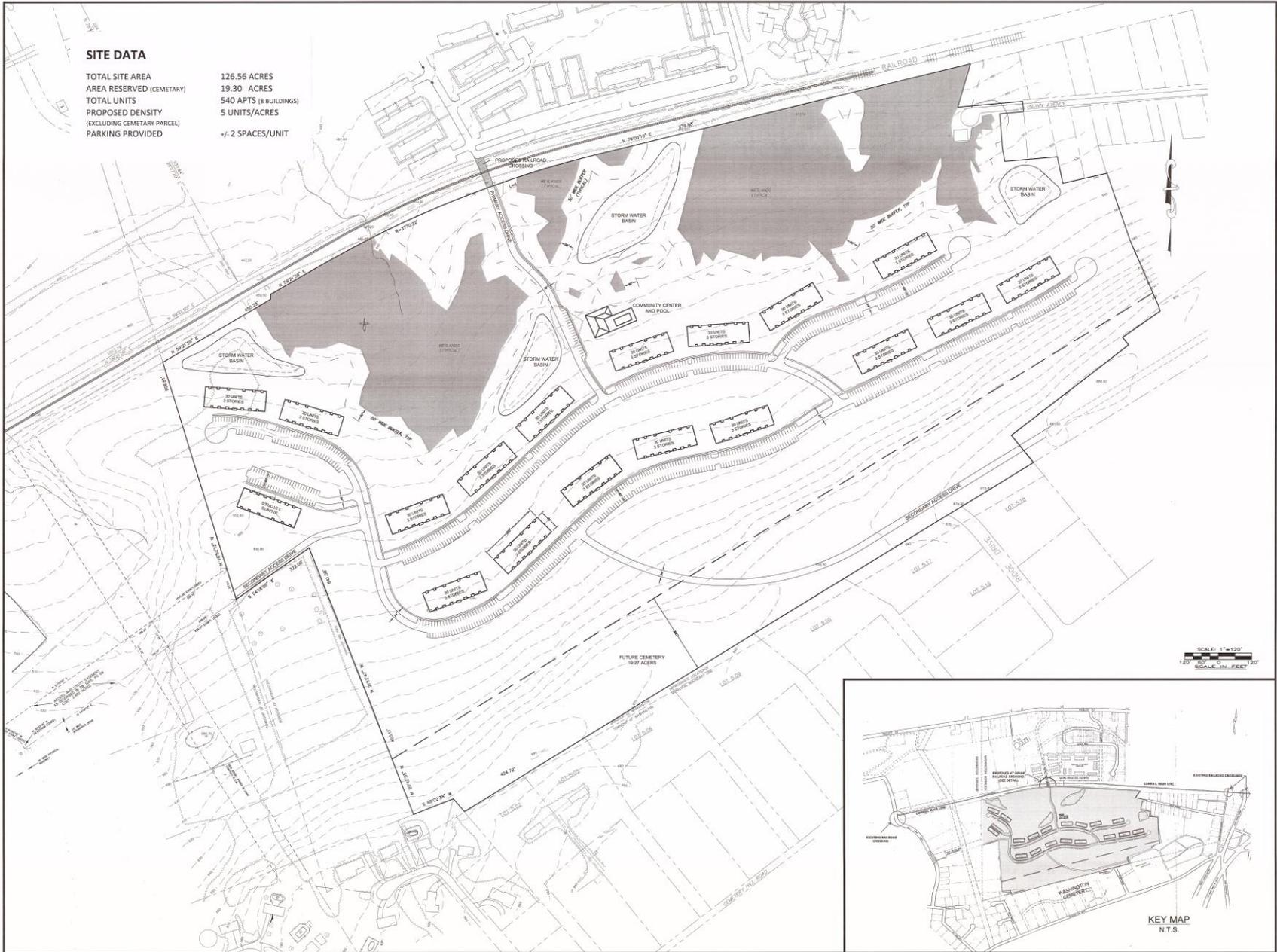
Inclusionary Zoning

- Zone a property to permit higher density (6-10 units per acre) residential development with an affordable housing set aside (15% to 20%)
- Intervenor previously proposed inclusionary residential development on the “Baker Tract”
 - The property has the potential to be zoned to permit 660 units
 - They had proposed 540 units
 - Under the previous litigation settlement, they are allowed to construct 40 single family homes.

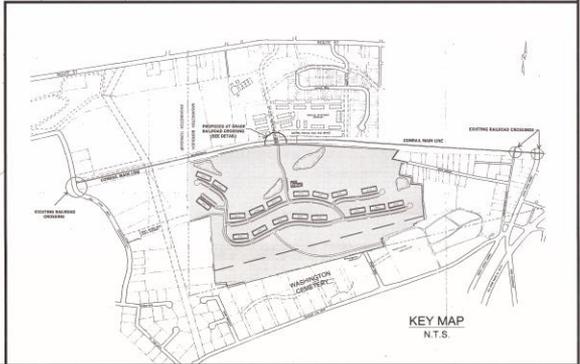


SITE DATA

TOTAL SITE AREA 126.56 ACRES
 AREA RESERVED (CEMETARY) 19.30 ACRES
 TOTAL UNITS 540 APTS (8 BUILDINGS)
 PROPOSED DENSITY 5 UNITS/ACRES
 (EXCLUDING CEMETARY PARCEL)
 PARKING PROVIDED +/- 2 SPACES/UNIT



SCALE: 1"=120'
 SCALE: 1"=120'
 SCALE: 1"=120'



DATE: 10/15/2015
 TIME: 10:00 AM
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT: WASHINGTON STATION APARTMENT DEVELOPMENT

arh adams, rehmann & heggan
 ARCHITECTS, INC.
 200 SOUTH MAIN STREET
 SUITE 100
 DENVER, CO 80202
 TEL: 303.733.1111
 FAX: 303.733.1112
 WWW.ARHARCHITECTS.COM

CONCEPT PLAN

WASHINGTON STATION
 APARTMENT DEVELOPMENT
 WASHINGTON COUNTY

Intervenor's Current Settlement Offer

- 60 small lot single-family homes
 - Primary access via Nunn Ave.
 - Emergency access only through the cemetery
- ~15 acres of property rezoned for cemetery use
 - Rezoning and site plan approval would address issues of setbacks, tree removal, and drainage.
 - Ordinances can be adopted to address issues of littering and burning (i.e. burn permits)
- Small section of property rezoned for a cell tower
- Preservation of remainder of property using County, Green Acres, and municipal open space funding
- Contribution to affordable housing trust fund in lieu of constructing affordable units subject to negotiation amongst the parties.

What Does Settlement Mean?

- Town agrees to FSHC obligation number of 186 units
- Avoid a costly “numbers trial” (estimates of \$180,000), which could result in a higher number
- Avoid a costly contested fairness and compliance hearing (Intervenor would have opportunity to object to the Borough’s plan and could result in obtaining a higher residential density)
- Baker Tract would not have to be re-zoned to permit complete residential development and could be partially preserved.
- The approved plan is effective until 2025
- Continued protection against “Builder’s Remedy”