



**BOROUGH OF ROSELAND**  
ESSEX COUNTY - NEW JERSEY  
The Gem of Essex County

# Affordable Housing Presentation

Dated October 2019

**Borough of Roseland, New Jersey**

# Mt. Laurel I and II

- In the early 1970s, the Southern Burlington County NAACP challenged the zoning ordinance of Mount Laurel Township on the grounds that it excluded low and moderate income persons from obtaining housing.
- In this seminal decision, the New Jersey Supreme Court held that the State Constitution requires each municipality to provide zoning which creates a realistic opportunity for the construction of their “fair share” of low and moderate income housing.
- In 1983, the Supreme Court affirmed its holding in Mt. Laurel I and created a mechanism to enforce “fair share” obligations called the “builder’s remedy.”
- A builder’s remedy entitles a developer to a court-ordered zoning designation, including density, setbacks, building heights, lot coverage, green area, etc.

# Legislative Reaction – Fair Housing Act

- On July 2, 1985, in response to Mt. Laurel II, the Legislature enacted the Fair Housing Act, which:
  - Established the Council on Affordable Housing (“COAH”); and
  - Provided municipalities with a voluntary administrative process through which they could satisfy their Mt. Laurel obligations in lieu of litigating exclusionary zoning lawsuits in the courts.

# Third Round Rules

- COAH first proposed Third Round Rules in October 2003 – nearly four years after the Second Round had ended.
- Under Governor McGreevey's leadership, COAH's new Third Round Rules relied on “growth-share” methodology, which represented a fundamental departure from the Prior Round Rules.
- Growth share = “you owe as you grow,” tied a municipality's affordable housing obligation to residential and employment growth in the town.
- However, growth share regulations were challenged in court and invalidated on several occasions.

# March 10, 2015 Supreme Court Ruling

- On March 10, 2015, the New Jersey Supreme Court found that COAH's administrative process had failed and that COAH was a "moribund" agency. The decision:
  - Returned determination of municipal compliance with constitutional Mt. Laurel obligations to the courts;
  - Afforded municipalities some protection from builder's remedy actions while obligations are determined; and
  - Permitted developers to file builder's remedy actions if a town was determined to be non-compliant.

# The Borough's Declaratory Judgment Action

- On or about July 7, 2015, the Borough filed a declaratory judgment action seeking judicial confirmation of its compliance with its Mt. Laurel obligation and protection from builder's remedy actions.
- The Borough also filed a motion for temporary immunity from builder's remedy actions pending resolution of the case – which was granted by the Court and remains in effect today.
- Since that time, the Borough has met every deadline in the litigation imposed by the Court and sought to resolve its obligation through negotiation.

# The Borough's Declaratory Judgment Action – Cont.

- The Court appointed a Special Master, who oversees the litigation and assists in mediation with the parties.
- Two developers subsequently intervened in the litigation, and two others became interested parties.
  - Including K&K, Bobst, Mack Cali, JMF, and Rebuilding Green.
- In 2017, the Borough entered into redevelopment agreements with Mack Cali to develop two inclusionary projects on vacant office sites.
- In 2017-2018, the Borough also reached agreements in principle with K&K and Bobst.
- In 2019, the Borough reached agreements in principle with Mack Cali and JMF, subject to Council approval, and has also reached an agreement in principle with Fair Share Housing Center.

# Fast Facts on the Case

- Approximately 300 towns in New Jersey have filed similar declaratory judgment actions
- Approximately 260 towns have settled with FSHC and developers, including:

Municipality	Settlement Agreement	Total Potential Units
East Hanover	786	+/- 1600
Florham Park	624	+/- 1400
South Brunswick	1,417	+/- 3500



# Borough's Estimated Obligation

Obligation	FSHC	Proposed Settlement
Prospective Need (1999-2025)	662	322



# Prior Round Credits

Project	Status	Year	Credits
Solona Assisted Living	Complete	2008	8
ARC of Essex County	Complete	2016	5
Roseland Glen	Complete	1997	22
Eagle Rock	Complete	1995	18
Roseland Green	Complete	2008	15
6 Becker Farm Road (Mack Cali)	Site Plan Approval	2018	18
RCA with Newark	Complete	1988	33
RCA with Newark	Complete	1988	33
RCA with Irvington	Complete	2000	14
AvalonBay	Complete	2015	0
Rental Bonus Credits	N/A		16
<b>Total</b>			<b>182</b>

# Proposed Global Settlement of Third Round Obligation

- **206 existing/previously-approved affordable units plus rental bonus credits**
  - **Roseland Glen (12 extended controls for affordable senior for-sale units):** Expiring controls on all units previously-constructed Roseland Glen project have been extended for 30 years, and deed restrictions have been recorded.
  - **Eagle Rock (16 extended controls for affordable family for-sale units):** Expiring controls on 16 units in the previously-constructed Eagle Rock project have been extended for 30 years, and deed restrictions have been recorded.
  - **Roseland Green (27 affordable senior for-sale units):** 27 affordable senior for-sale units from the previously-constructed Roseland Green project.
  - **6 Becker Farm Road Mack Cali Project (42 affordable family rental units):** 42 affordable family rental units from the approved Mack Cali 300-unit project
  - **85 Livingston Avenue Mack Cali Project (28 affordable family rental units):** 28 affordable family rental units from the Mack Cali 140-unit project
  - **81 rental bonus credits.**

# Proposed Global Settlement – Cont.

- **116 new affordable units**
  - **65 Livingston Avenue Mack Cali Project (42 affordable family rental units):** 42 affordable family rental units from the proposed Mack Cali 260-unit project, which is located on 65 Livingston Avenue
  - **146 Harrison Avenue K&K Project (32 affordable family rental units):** 32 affordable family rental units from the proposed 211-unit K&K Project, which is located on 146 Harrison Avenue
  - **Bobst Senior Project (12 affordable senior rental units):** 12 affordable senior rental units from the proposed 65-unit Bobst Project, which is located on 146 Harrison Avenue
  - **JMF Project (30 affordable senior rental units):** 30 senior affordable rental units from the proposed 138-unit JMF project, which is located on 117 Harrison Avenue

# Proposed Global Settlement – Cont.

- **B-1 Business District Overlay Zone:** The Borough will adopt an overlay zone over the downtown area with two stories of proposed residences containing market rate and affordable housing over the existing stores.
- **Mandatory Set-Aside Ordinance:** The Borough will adopt a Borough-wide Mandatory Set-Aside Ordinance, which will require that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough that results in multi-family residential development of five (5) dwelling units or more will produce affordable housing at a set-aside rate of 20 percent for for-sale affordable units and at a set-aside rate of 15 percent for rental affordable units.

# Sample Concept Plans for Projects



REAR ELEVATION

SCALE: 1/8"=1'-0"



FRONT ELEVATION

SCALE: 1/8"=1'-0"

BUILDING A CONCEPT ELEVATION

DATE: 02/02/2018



# Sample Concept Plans for Projects



FRONT ELEVATION

SCALE: 1/8"=1'-0"

TOWNHOUSE CONCEPT ELEVATION

DATE: 02/02/2018

# Sample Concept Plans for Projects



REAR ELEVATION  
SCALE: 1/8"=1'-0"



FRONT ELEVATION  
SCALE: 1/8"=1'-0"

BUILDING B CONCEPT ELEVATION  
DATE: 02/02/2018



# Sample Concept Plans for Projects



# Settlement Facts

- No additional PILOTs for projects.
- Borough has negotiated to limit the number of three-bedroom units in all projects and eliminated four-bedroom units, which will reduce impact to community.
- Borough has maximized the number of senior units to be provided in these projects.
- JMF project will result in the remediation and removal of an existing concrete plant, which will remove tractor trailers and heavy machinery from road network.
- K&K and Bobst project will also result in the removal of tractor trailers from road network.
- Settlement eliminates the possibility that a higher obligation will be imposed by the Court on Roseland.
- All projects will still be subject to the site plan application process.