

MINUTES
February 13, 2024

The Meeting of the Board of Commissioners of the Borough of Allenhurst was held on the above date with Deputy Mayor McLoughlin presiding and Commissioner Cumiskey in attendance. Mayor McLaughlin was not in attendance. Also in attendance was the Borough Clerk and Borough Attorney.

The meeting was called to order at 7:30 P.M. with a salute to the flag.

Deputy Mayor McLoughlin announced that the notice requirements of R.S. 10:4-18 had been satisfied by delivering the required notice to the Coaster, posting the notice on the board in Borough Hall and filing a copy of said notice with the Borough Clerk.

COMMUNICATIONS:

- Notice from JCP&L advising of a public hearing, to be held on February 29, 2024 regarding their petition to establish a Rate for Rider Lost Revenue Adjustment Mechanism.
- Notice from NJ Transit advising of public hearings to be held regarding the proposed fare changes which will be effective as of July 1, 2024.

ANNOUNCEMENTS:

- The Fire Department will be holding their “Breakfast with the Easter Bunny” on Saturday, March 23 from 9am to 11:00am. The Annual Easter Egg Hunt will take place at Railroad Plaza Park at 11:30am. In case of inclement weather, the Egg Hunt will be held at the Fire House.

ORDINANCES

ORDINANCES FINAL READING

ORDINANCE #2024-02 – Final Reading

ORDINANCE #2024-02

**AN ORDINANCE OF THE BOROUGH OF ALLENHURST TO CREATE
CHAPTER 21 ENTITLED “AFFORDABLE HOUSING DEVELOPMENT
FEES” AS REQUIRED BY THE SETTLEMENTS WITH FAIR SHARE
HOUSING CENTER AND POWER STATION AT ALLENHURST, LLC**

Offered By: Deputy Mayor McLoughlin

Seconded By: Comm. Cumiskey

WHEREAS, the Borough of Allenhurst (“Borough”) in the County of Monmouth and State of New Jersey, in furtherance of its settlement agreements with Fair Share Housing Center ("FSHC") and Power Station at Allenhurst, LLC and to comply with the Order of Fairness and Preliminary Compliance entered by the Superior Court of New Jersey on July 31, 2023, must supplement and revise portions of its existing Borough Code, and;

WHEREAS, the Borough has sought, to the best of its ability as a built out municipality with a lack of available vacant land, to meet the intent and spirit of the Affordable Housing process by drafting an affordable housing plan, participating in the court led settlement process, and reviewing its existing land use ordinances, and;

WHEREAS, the FSHC settlement agreement and Order of Fairness and Preliminary Compliance require the Borough to enact a number of ordinances including a Development Fee Ordinance, an Affordable Housing Ordinance, a Mandatory Set Aside Ordinance, an Overlay Zone Ordinance and a Redevelopment Plan Amendment all in accordance with the Borough's Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Borough's affordable housing obligations.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Allenhurst that the Borough Code of the Borough of Allenhurst, be and is hereby amended, revised and supplemented to create the following Affordable Housing Development Fees ordinance:

SECTION I. The Borough Code of the Borough of Allenhurst be and is hereby supplemented to create Chapter 21 entitled "Affordable Housing Development Fees" as follows:

21-1 Affordable Housing Development Fees, 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 (the 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 or court approved spending plan may retain fees collected from non-residential development.
- c. In In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025, are under the Court's jurisdiction and are subject to approval by the Court.
- d. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing very low-, low and moderate income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

21-2 Definitions. As used in this Chapter 21 of the Borough Code of the Borough of Allenhurst, the following terms shall have the following meanings:

- a. **"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.
- b. **"COAH"** or the **"Council"** means the New Jersey Council on Affordable Housing established under the Fair Housing Act.
- c. **"Development fee"** means money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., and the NJ Statewide Non-Residential Development Fee Act, P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.1 et seq.), regulated by applicable COAH regulations.
- d. **"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.
- e. **"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).
- f. **"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.

21-3 Basic Requirements.

- a. This chapter shall not be effective until approved by the Court.
- b. The Borough of Allenhurst shall not spend development fees until the Court has approved a Spending Plan.

21-4 Residential Development Fees:

- a. Imposed Fees
 1. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of on one and one half percent (1.5%) of the equalized assessed value for residential development

provided no increased density is permitted.

2. 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 percent (6%) 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 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 year period preceding the filing of the variance application.

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

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on site construction of affordable units if permitted by ordinance shall be exempt from development fees.

2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee 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.

3. Owner occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

4. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or when the square footage is increased by the creation of a new bedroom. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

5. Nonprofit organizations which have received tax exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the municipal clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.

6. Federal, state, county and local governments shall be exempted from paying a development fee.

21-5 Non-Residential Development Fees

a. Imposed fees

1. 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 percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

3. 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.

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

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

3. 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 NRDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

4. 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.

5. 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 Allenhurst as a lien against the real property of the owner.

21-6 Collection Procedures

a. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official or Zoning Officer responsible for the issuance of a building permit.

b. For non-residential developments only, the developer shall also be provided with a copy of Form NRDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form NRDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form NRDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form NRDF.

c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.

d. Within ninety (90) days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection of property which is subject to a development fee.

f. Within ten (10) business days of a request for the scheduling of a final inspection, the municipal 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 amount of the fee.

g. Should Allenhurst 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).

h. One hundred percent (100%) of the development fee shall be collected at the issuance of the certificate of occupancy.

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 Allenhurst. 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 Allenhurst. 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.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.

21-7 Affordable Housing Trust Fund

a. There is hereby created a separate, interest bearing affordable 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 shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1. payments in lieu of on site construction of affordable units if permitted by ordinance;
2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
3. rental income from municipally operated units;
4. repayments from affordable housing program loans;
5. recapture funds;
6. proceeds from the sale of affordable units; and
7. any other funds collected in connection with Allenhurst's affordable housing program.

c. In the event of a failure by Allenhurst to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aft.'d 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within Allenhurst, or, if not practicable, then within the County or the Housing Region.

d. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non compliant condition(s), and upon a finding of continuing and deliberate non compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

e. All interest accrued in the affordable housing trust fund shall only be used on eligible affordable housing activities approved by the Superior Court.

21-8 Use of Funds

a. The expenditure of all funds shall conform to a spending plan approved by the Superior Court. Funds deposited in the affordable housing trust fund may be used for any activity approved by the Superior Court to address Allenhurst'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 Allenhurst 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 very low-, low and moderate income households in affordable units included in the municipal Fair Share Plan. One third of the affordability assistance portion of development fees collected shall be used to provide

affordability assistance to those households earning 30 percent or less of median income by region.

1. 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.
 2. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 3. 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. Allenhurst 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 percent (20%) of all revenues collected from development fees and interest, 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 percent (20%) of the revenues collected from development fees and interest 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 the court'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.

21-9 Monitoring

- a. On June 30, 2024, and June 30, 2025, Allenhurst shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs ("DCA"), COAH, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by COAH, the Special Master or FSHC. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential 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 Allenhurst's housing program, as well as the expenditure of revenues and implementation of the plan approved by the Court.

21-10 Ongoing collection of fees

- a. The ability for Allenhurst to impose, collect and expend development fees shall expire with its Judgment of Compliance and Repose. If Allenhurst fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose 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). Allenhurst shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall Allenhurst retroactively impose a development fee on such a development. Allenhurst shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

SECTION II.: REPEALER. The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION III.: INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION IV.: SEVERABILITY. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section,

paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION V.: EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication according to law.

For comments refer to the attached transcript.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

ORDINANCE #2024-03 – Final Reading

ORDINANCE #2024-03

AN ORDINANCE OF THE BOROUGH OF ALLENHURST TO CREATE CHAPTER 22 ENTITLED “AFFORDABLE HOUSING” AS REQUIRED BY THE SETTLEMENTS WITH FAIR SHARE HOUSING CENTER AND POWER STATION AT ALLENHURST, LLC

Offered By: Deputy Mayor McLoughlin

Seconded By: Comm. Cumiskey

WHEREAS, the Borough of Allenhurst (“Borough”) in the County of Monmouth and State of New Jersey, in furtherance of its settlement agreements with Fair Share Housing Center ("FSHC") and Power Station at Allenhurst, LLC and to comply with the Order of Fairness and Preliminary Compliance entered by the Superior Court of New Jersey on July 31, 2023, must supplement and revise portions of its existing Borough Code, and;

WHEREAS, the Borough has sought, to the best of its ability as a built out municipality with a lack of available vacant land, to meet the intent and spirit of the Affordable Housing process by drafting an affordable housing plan, participating in the court led settlement process, and reviewing its existing land use ordinances, and;

WHEREAS, the FSHC settlement agreement and Order of Fairness and Preliminary Compliance require the Borough to enact a number of ordinances including a Development Fee Ordinance, an Affordable Housing Ordinance, a Mandatory Set Aside Ordinance, an Overlay Zone Ordinance and a Redevelopment Plan Amendment all in accordance with the Borough's Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Borough's affordable housing obligations.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Allenhurst that the Borough Code of the Borough of Allenhurst, be and is hereby amended, revised and supplemented to create the following Affordable Housing Ordinance:

SECTION I. The Borough Code of the Borough of Allenhurst be and is hereby supplemented to create Chapter 22 entitled "Affordable Housing" as follows:

22-1 Affordable Housing, General Program Purposes & Procedures

a. Affordable Housing Obligation

Established hereby are the Borough’s regulations regarding very low, low and moderate-income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing", N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., and the Borough's constitutional obligation provide a fair share of affordable housing for very low, low and moderate income households as reflected in the NJ Fair Housing Act ("FHA") at N.J.S.A 52:27D-301, except where modified by the requirements for very low-income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at N.J.S.A. 52:27D-329.1) as reflected in the terms of a Settlement Agreement between the Borough and Fair Share Housing Center ("FSHC") such that the statutory requirement to provide very low-income units equal to 13% of affordable units approved and constructed after July 17, 2008, to be affordable to households at 30% of the regional median income, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income.

b. This section is intended to assure that very low-, low- and moderate-income units

("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units. This section shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.

c. The Borough of Allenhurst Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Plan has also been endorsed by the Borough Council of the Borough of Allenhurst. The Fair Share Plan describes the ways the Borough shall address its fair share for low- and moderate-income housing as approved by the Superior Court and documented in the Borough's Housing Element and Fair Share Plan.

d. This section implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:93, as may be amended and supplemented.

22-2 Definitions. As used in this Chapters 22 of the Borough Code of the Borough of Allenhurst, the following terms shall have the following meanings:

a. **"Accessory apartment"** shall mean 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 the 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.

b. **"Act"** shall mean the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

c. **"Adaptable"** shall mean constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

d. **"Administrative agent"** shall mean the entity responsible for the administration of affordable units in accordance with section 22-9(c) below, N.J.A.C. 5:91, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

e. **"Affirmative marketing"** shall mean a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

f. **"Affordability average"** shall mean the average percentage of median income at which restricted units in an affordable housing development are affordable to very-low, low- and moderate-income households per N.J.A.C. 5:80-26.3.

g. **"Affordable"** shall mean a sales price or rent within the means of a very-low, low- or moderate-income household as defined in N.J.A.C. 5:93-7.4; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

h. **"Affordable development"** shall mean a housing development all or a portion of which consists of restricted units.

i. **"Affordable housing development"** shall mean 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.

j. **"Affordable housing program(s)"** shall mean any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

k. **"Affordable unit"** shall mean a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93 and approved for crediting by the Court, and/or funded through an affordable housing trust fund.

l. **"Agency"** shall mean the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

m. **"Age-restricted unit"** shall mean a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. §3607.

n. **"Alternative living arrangement"** shall mean a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey

Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

o. **"Assisted living residence"** shall mean a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for 4 or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, 1 unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

p. **"Certified household"** shall mean a household that has been certified by an Administrative Agent as a very low-income household, a low-income household or moderate-income household.

q. **"COAH"** or the **"Council"** shall mean the New Jersey Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) which had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

r. **"DCA"** shall mean the State of New Jersey Department of Community Affairs.

s. **"Deficient housing unit"** shall mean a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

t. **"Developer"** shall mean any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

u. **"Development"** shall mean the division of a parcel of land into 2 or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

v. **"Development fee"** means money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., and the NJ Statewide Non-Residential Development Fee Act, P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.1 et seq.), regulated by applicable COAH regulations.

w. **"Equalized assessed value"** shall mean 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).

x. **"Fair Share Plan"** shall mean the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

y. **"Green building strategies"** shall mean 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.

z. **"Housing Element"** shall mean the portion of the Borough's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b.(3) and the Act, that includes the information required by N.J.A.C. 5:93-5.1 and establishes the Borough's fair share obligation.

aa. **"Inclusionary development"** shall mean a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

bb. **"Low-income household"** shall mean a household with a total gross annual household income equal to 50% or less of the median regional household income by household size.

cc. **"Low-income unit"** shall mean a restricted unit that is affordable to a low-income household.

dd. **"Major system"** shall mean the primary structural, mechanical, plumbing, electrical,

fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

ee. **"Market-rate units"** shall mean housing not restricted to low- and moderate-income households that may sell or rent at any price.

ff. **"Median income"** means the median income by household size for the applicable housing region, as adopted annually by the Borough pursuant to this section, by COAH or a successor entity approved by the Court.

gg. **"Moderate-income household"** shall mean a household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

hh. **"Moderate-income unit"** shall mean a restricted unit that is affordable to a moderate-income household.

ii. **"Non-exempt sale"** shall mean any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

jj. **"Random selection process"** shall mean a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

kk. **"Regional asset limit"** means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

ll. **"Rehabilitation"** shall mean the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

mm. **"Rent"** shall mean the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

nn. **"Restricted unit"** shall mean a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

oo. **"Special master"** shall mean an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

pp. **"UHAC"** shall mean the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

qq. **"Very low-income household"** shall mean a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

rr. **"Very low-income unit"** shall mean a restricted unit that is affordable to a very low-income household.

ss. **"Weatherization"** shall mean building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

22-3 Monitoring and Reporting Requirements

a. The Borough of Allenhurst shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:

1. Beginning on June 30, 2024, and on every anniversary of that date through June 30, 2025, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs ("NJDCA"), Council on Affordable Housing ("COAH"), or Local Government Services ("NJLGS"), or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the municipal website, using forms developed for this purpose by the NJDCA, COAH, the Special Master or FSHC. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including

the source and amount of funds collected and the amount and purpose for which any funds have been expended.

2. Beginning on June 30, 2024, and on every anniversary of that date through June 30, 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

3. By June 30, 2024, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

22-4 Applicability

a. The provisions of this section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Allenhurst pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

b. Moreover, this section shall apply to all developments that contain very low-, low- and moderate-income housing units, including any currently unanticipated future developments that will provide very- low, low- and moderate-income housing units.

c. Projects receiving Federal Low Income Housing Tax Credit financing shall comply with the income and bedroom distribution requirements of UHAC at N.J.A.C. 5:80-26.3 (with the exception that the UHAC requirement for 10% of the affordable units in rental projects being required to be at 35% of median income be modified as required by the statutory requirement, N.J.S.A. 52:27D-329.1 to 13% of affordable units in such projects shall be required to be at 30% of median income) and the length of the affordability controls applicable to such projects shall be not less than a thirty (30) year compliance period plus a 15 year extended use period.

22-5 Borough-wide Affordable Housing Mandatory Set-Aside Requirement

a. If the Borough or the Borough's Land Use Board permits the construction of multi family or single family attached residential development consisting of five (5) or more net new dwelling units at a density of six (6) or more units per acre, that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, the Borough or the Borough's Land Use Board shall require that 20% (twenty percent) of the residential units be set aside for very-low, low and moderate income households.

b. This requirement shall apply beginning with the effective date the Ordinance creating this section was adopted to any multi family or single family attached residential development, including the residential portion of a mixed use project, which consists of five (5) or more net new residential units at a density of six (6) or more units per acre, whether permitted by a zoning amendment, a variance granted by the Borough's Land Use Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.

c. Nothing in this section precludes the Borough or the Borough's Land Use Board from imposing an affordable housing set aside in a development not required to have a set aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law.

d. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.

e. This requirement does not apply to any sites or specific zones otherwise identified in the Borough's Settlement Agreement with Power Station at Allenhurst. LLC and/or FSHC, or in the Borough's Housing Element and Fair Share Plan, for which density and set aside standards shall be governed by the specific standards set forth therein.

f. Furthermore, this section shall not apply to developments containing four (4) or less net new dwelling units.

g. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.

- h. Where a developer demolishes existing dwelling units and with the intent to construct new dwelling units on the same site, the provisions of this section shall apply only if the net number of new dwelling units is five (5) or more.
- i. All affordable housing units built as required by this section will comply with the requirements of Chapter 22 and any other applicable provisions of the Allenhurst Municipal Code relating to affordable housing.
- j. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. For example, a developer cannot subdivide a project into two lots and then make each of them generate a number of units that is lower than the threshold.

22-6 New Construction. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units.

- a. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for very low-, low- and moderate-income units whether developed in a single- phase development or in a multi-phase development:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate- Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

- b. Design
 - 1. In inclusionary developments, to the extent possible, very-low, low- and moderate- income units shall be integrated with the market units.
 - 2. In inclusionary developments, very-low, low- and moderate-income units shall have access to all of the same common elements and facilities as the market-rate units.
- c. Payments in lieu and off-site construction. Off-site construction of required affordable units shall not be permitted. Payments in lieu of constructing affordable units on-site shall not be permitted, with the exception of fractional units that are part of a required set-aside calculation, as follows:

In the event that the 20% inclusionary set-aside percentage of the total number of residential units does not result in a full integer, the developer may choose one of two options of addressing the fractional unit:

- 1. If the set-aside includes a fractional unit equal to 0.5 or more, the developer shall round the set-aside upward to construct a whole additional affordable unit; or
 - 2. If the set-aside includes a fractional unit less than 0.5, the developer may either round the set-aside upward and provide an additional affordable unit; or may round the set-aside downward and construct the lesser whole number of affordable units, in which case the developer shall also make a payment in-lieu of constructing the fractional additional unit ("fractional payment in-lieu").
 - i. The fractional payment in-lieu amount shall be calculated as the fractional unit multiplied by the base payment in-lieu dollar amount established N.J.A.C. 5:97-6.4(c)3, as may be increased. For Example: If seven (7) total units are developed at an inclusionary site, a 20% set-aside would require 1.4 affordable units. Per the requirements above, the developer shall either:
 - A. Round up the 0.4 unit to one (1) whole affordable unit so as to construct a total of two (2) affordable housing units; or
 - B. Round the set-aside downward so as to construct only (1) affordable unit AND shall pay into the Borough's affordable housing trust fund a fractional in-lieu payment equal to 0.4 times the dollar amount established in N.J.A.C. 5:97-6.4(c)3, as may be increased.
- d. Utilities. Affordable units shall utilize the same type of heating source as market units

within the affordable development.

- e. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
1. The fair share obligation shall be divided equally between low- and moderate-income units N.J.A.C. 5:93-2.20, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 2. In each affordable development, at least 50 percent of the restricted units shall be affordable to low-income households. Also, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
 3. Within rental developments, of the total number of affordable rental units, at least 13 percent shall be affordable to very-low income households.
 4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total very-low, low- and moderate-income units;
 - ii. At least 30 percent of all very-low, low- and moderate-income units shall be two bedroom units;
 - iii. At least 20 percent of all very-low, low- and moderate-income units shall be three bedroom units; and
 - iv. The remaining affordable units may be allocated among 2 and 3 bedroom units at the discretion of the developer.
 5. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted very-low, low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two- bedroom unit for each efficiency unit.
- f. Accessibility Requirements:
1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and the following:
 2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel on the first floor;
 - iv. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - v. If not all of the foregoing requirements in 2.i. through 2.iv can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs 2.i) through 2.vi) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - A. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - B. To this end, the builder of restricted units shall deposit funds within the Borough of Allenhurst's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - C. The funds deposited under paragraph (f.2.vi.B) herein, shall be used by the Borough for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - D. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Allenhurst.
 - E. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet

the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Allenhurst's affordable housing trust fund in care of the Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

F. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

g. Maximum Rents and Sales Prices. In conjunction with realistic market information, the following criteria shall be used in determining maximum rents and sale prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court and detailed herein.

Regional income units shall be established for the region that the Borough is located within (i.e., Region 4) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional

weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted very-low, low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.

3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both very-low, low-income and moderate-income units.

- i. Very low-Income. At least 13 percent of all very-low, low- and moderate-income rental units shall be affordable to households earning no more than 30 percent of median income.

4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.

5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:

- i. A studio or efficiency unit shall be affordable to a one-person household;

- ii. A one-bedroom unit shall be affordable to a one and one-half person household;

- iii. A two-bedroom unit shall be affordable to a three-person household;

- iv. A three-bedroom unit shall be affordable to a four and one-half person household; and

- v. A four-bedroom unit shall be affordable to a six-person household.

6. In determining the initial sales prices and rents for compliance with the

affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be met:

- i. A studio or efficiency unit shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied very-low, low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. The rent of very low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9 percent in any one year. Rent increases for units constructed pursuant to very-low, low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

22-7 Condominium and Homeowners Association Fees

For any affordable housing unit that is part of a condominium association and/or homeowners association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100 percent of the market rate fee.

22-8 Affordable Unit Controls and Requirements

- a. Purpose. The requirements of this subsection apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide very-low, low- and moderate- income housing units.
- b. Affirmative Marketing
 1. The Borough shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
 2. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 4 and is required to be followed throughout the period of deed restriction.
 3. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 4, comprised of Mercer, Monmouth and Ocean counties.
 4. The municipality has the ultimate responsibility for adopting the affirmative marketing plan and for the proper administration of the affirmative marketing

program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the affirmative marketing plan for the municipality.

5. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to very-low, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The affirmative marketing process for available affordable units shall begin at least 4 months (120 days) prior to the expected date of occupancy.

7. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Allenhurst.

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Allenhurst Borough, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton Branches of the NAACP, and the Supportive Housing Association.

10. The affirmative marketing plan shall include posting of all affordable units on the New Jersey Housing Resource Center ("HRC") website in accordance with applicable law. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this Paragraph.

c. Occupancy Standards

1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:

- i. Provide an occupant for each bedroom;
- ii. Provide children of different sex with separate bedrooms;
- iii. Prevent more than 2 persons from occupying a single bedroom; and
- iv. Provide separate bedrooms for parents and children.

2. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

d. Selection of Occupants of Affordable Housing Units

1. The Administrative Agent shall use a random selection process to select occupants of very-low, low- and moderate- income housing.

2. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.1 et seq.

e. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this ordinance for a period of at least thirty (30) years, until Allenhurst Borough takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

5. The affordability controls set forth in this ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

f. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

3. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the very-low, low- and moderate-income unit owners and the market unit owners.

4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

5. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

g. Buyer Income Eligibility

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

2. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

3. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can

demonstrate that there is an insufficient number of eligible low-income purchasers in the housing

region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.

4. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- h. Limitations on Indebtedness Secured by Ownership Unit; Subordination
 1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
 2. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).
- i. Control Periods for Restricted Rental Units
 1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this ordinance for a period of at least 30 years, until Allenhurst Borough takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
 2. Rehabilitated renter-occupied or owner-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
 3. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
 4. A restricted rental unit shall remain subject to the affordability controls of this section, despite the occurrence of any of the following events:
 - i. Sublease or assignment of the lease of the unit;
 - ii. Sale or other voluntary transfer of the ownership of the unit; or
 - iii. The entry and enforcement of any judgment of foreclosure on the property containing the unit.
- j. Rent Restrictions for Rental Units; Leases
 1. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
 2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
 3. Application fees (including the charge for any credit check) shall not exceed 5 percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this section.
 4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 20% of the total number of dwelling units are restricted rental units in compliance with this ordinance.
- k. Tenant Income Eligibility
 1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - i. Very low-income rental units shall be reserved for households with

- a gross household income less than or equal to 30 percent of regional median income by household size.
 - ii. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of regional median income by household size.
 - iii. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of regional median income by household size.
 - 2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - i. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - ii. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - iii. The household is currently in substandard or overcrowded living conditions;
 - iv. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - v. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
 - 3. The applicant shall file documentation sufficient to establish the existence of the circumstances in paragraphs k.2(i) through k.2(v) above with the Administrative Agent, who shall counsel the household on budgeting.
- l. Conversions. Each housing unit created through the conversion of a non- residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.
- m. Alternative Living Arrangements
 - 1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - i. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - ii. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
 - 2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
 - 3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

22-9 Administration

- a. Unnecessary Cost-Generating Features. Section 14(b) of the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. incorporates the need to eliminate unnecessary cost-generating features from Allenhurst Borough's land use ordinances. Accordingly, the Borough will eliminate development standards that are not essential to protect the public welfare and to expedite or fast-track municipal approvals/denials on inclusionary development applications. Allenhurst Borough will adhere to the components of N.J.A.C. 5:93-10.1 - 10.3.
- b. Municipal Housing Liaison
 - 1. The Borough shall appoint a Municipal Housing Liaison by duly adopted resolution of the Borough, and be subject to the approval by the Superior Court.
 - 2. The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Allenhurst.

3. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in N.J.A.C. 5:93.

4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Allenhurst, including the following responsibilities which may not be contracted out to the Administrative Agent:

- i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- ii. The implementation of the Affirmative Marketing Plan and affordability controls;
- iii. When applicable, supervising any contracting Administrative Agent;
- iv. Monitoring the status of all restricted units in the Borough of Allenhurst's Fair Share Plan;
- v. Compiling, verifying and submitting annual reports as required by the Court and this ordinance;
- vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
- vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as approved by the Superior Court.

c. Administrative Agent

1. Should affordable units be developed through any of the Borough's Unmet Need mechanisms, the Borough shall designate by resolution of the Borough, subject to the approval of the Court, one or more Administrative Agents to administer and to affirmatively market the affordable units in accordance with N.J.A.C. 5:93, UHAC and this ordinance.

2. An Operating Manual for each program shall be provided by the Administrative Agent(s) to be adopted by resolution of the Governing Body and subject to approval of the Superior Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk, the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s).

3. The Administrative Agent(s) shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:

- i. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.
- ii. Affirmative marketing:
 - A. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Allenhurst and the provisions of N.J.A.C. 5:80-26.15; and
 - B. Providing counseling or contracting to provide counseling services to very-low, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 - C. Household certification:
 1. Soliciting, scheduling, conducting and following up on interviews with interested households;
 2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a very-low, low- or moderate-income unit;
 3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 5. Creating and maintaining a referral list of eligible

- applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Allenhurst when referring households for certification to affordable units.
4. Affordability controls:
- i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - ii. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - iii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or Monmouth County Clerk's office after the termination of the affordability controls for each restricted unit;
 - iv. Communicating with lenders regarding foreclosures; and
 - v. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
5. Records retention; Per State of New Jersey, Municipal Agencies General Records Retention Schedule, subsection M500000-002, Municipal Housing and Development records retention guidelines.
6. Resale and re-rental:
- i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
 - ii. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
7. Processing requests from unit owners:
- i. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this ordinance;
 - ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
 - iii. Notifying the municipality of an owner's intent to sell a restricted unit; and
 - iv. Making determinations on requests by owners of restricted units for hardship waivers.
8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality:
- i. Securing annually from the municipality a list of all affordable for-sale housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgment of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - iii. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
 - iv. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-

26.18(d)4;

v. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

vi. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough and the Court, setting forth procedures for administering the affordability controls.

9. Preparation of monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this ordinance; and

10. The Administrative Agent shall, as delegated by the Borough, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

d. Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a very-low, low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take

the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

i. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:

A. A fine of not more than five hundred (\$500.00) dollars or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

B. In the case of an Owner who has rented his or her very-low, low- or moderate- income unit in violation of the regulations governing affordable housing units, payment into the Borough of Allenhurst Affordable Housing Trust Fund of the gross amount of rent illegally collected;

C. In the case of an Owner who has rented his or her very-low, low- or moderate- income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

ii. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the very-low, low- and moderate-income unit.

3. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the very-low, low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

4. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the very-low, low- and

moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

5. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very-low, low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

6. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the very-low, low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the very-low, low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

7. Failure of the very-low, low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the very-low, low- and moderate-income unit as permitted by the regulations governing affordable housing units.

8. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

e. Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this section shall be filed in writing to the Borough.

SECTION II.: REPEALER. The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION III.: INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION IV.: SEVERABILITY. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION V.: EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication according to law.

For comments refer to the attached transcript.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

RDINANCE #2024-04 – Final Reading

ORDINANCE #2024-04

**AN ORDINANCE OF THE BOROUGH OF ALLENHURST TO CREATE THE
MAIN STREET COMMERCIAL DISTRICT INCLUSIONARY OVERLAY
ZONE (MS CD) AS REQUIRED BY THE SETTLEMENTS WITH FAIR SHARE
HOUSING CENTER AND POWER STATION AT ALLENHURST, LLC**

Offered By: Deputy Mayor McLoughlin

Seconded By: Comm. Cumiskey

WHEREAS, the Borough of Allenhurst (“Borough”) in the County of Monmouth and State of New Jersey, in furtherance of its settlement agreements with Fair Share Housing Center ("FSHC") and Power Station at Allenhurst, LLC and to comply with the Order of Fairness and Preliminary Compliance entered by the Superior Court of New Jersey on July 31, 2023, must supplement and revise portions of its existing Borough Code, and;

WHEREAS, the Borough has sought, to the best of its ability as a built out municipality with a lack of available vacant land, to meet the intent and spirit of the Affordable Housing process by drafting an affordable housing plan, participating in the court led settlement process, and reviewing its existing land use ordinances, and;

WHEREAS, the FSHC settlement agreement and Order of Fairness and Preliminary Compliance require the Borough to enact a number of ordinances including a Development Fee Ordinance, an Affordable Housing Ordinance, a Mandatory Set Aside Ordinance, an Overlay Zone Ordinance and a Redevelopment Plan Amendment all in accordance with the Borough's Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Borough's affordable housing obligations.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Allenhurst that the Borough Code of the Borough of Allenhurst, be and is hereby amended, revised and supplemented to establish the Main Street Commercial District Inclusionary Overlay Zone (MS CD) as follows:

SECTION I. The Borough Code of the Borough of Allenhurst be and is hereby amended to revise sections of Chapter 26 to create the Main Street Commercial District Inclusionary Overlay Zone (MS CD) as follows:

A.: Insert under §26-3 ZONING DISTRICTS AND ZONING MAP:

The MS CD zone shall include the following lots as described on the Tax Map of the Borough of Allenhurst:

Block 9, Lot 1
Block 10, Lots 1 and 18
Block 14 Lots 1.01, 1.02, 2.01, 13, 14, 15 and 16
Block 16, Lots 1, 2 and 19
Block 19, Lots 1 and 2
Block 21, Lots 1, 1.01, 8, 9, 10, 11, 12 and 13
Block 22, Lots 1, 2 and 3
Block 23, Lot 2
Block 24, Lots 1, 2, 3 and 4
Block 25, Lot 1

B.: The existing Chapter §26-3.1 is hereby deleted to be replaced in its entirety by the following:

26-3.1 For the purposes of this chapter, the Borough is hereby divided into seven (7) districts with one Overlay zone as follows:

Zone Designation	Primary Use
R 1	Residential

R 2	Residential
B 1	Business Office
B 2	Business Office
C 1	Commercial
C 2	Commercial
C 3	Commercial
MS CD	Main Street Commercial District Inclusionary Overlay Zoning

C.: The existing Chapter 26-3.2 is hereby deleted and replaced in its entirety by the following:

26-3.2 Zoning Map: The boundaries of each of the districts are established as shown on the map entitled "Allenhurst Borough Zoning Map" prepared by Leon S. Avakian, Inc. dated August 26, 2020, which is hereby made a part of this chapter. The Zoning Map referred to herein can be found on file at the office of the Borough Clerk.

D.: The existing Chapter 26-4.10 entitled "Multifamily Overlay District" is hereby deleted, to be replaced in its entirety by the following:

26-4.10 Main Street Commercial District Inclusionary Overlay Zone

- a. Purpose. The purpose of this section is to establish a Main Street Commercial District Inclusionary Overlay Zone (MS CD) that places an overlay zone over specific areas of the Borough. Given the built out nature of the Borough, an effective inclusionary housing overlay zone will produce affordable units when suitable opportunities become available through redevelopment or other planning mechanisms. This overlay zone would provide for inclusionary residential housing to be developed either over first floor commercial development along Main Street or completely as inclusionary residential development not fronting Main Street on tax lots included in the overlay zone. The specific areas included are
- the portions of the Borough that can realistically accommodate inclusionary housing development, which are in proximity to public transit and the Borough's main mixed use commercial thoroughfares.

The inclusionary overlay zone will regulate said developments through bulk and design standards. However, the Borough's underlying zoning will still be in effect. This will allow inclusionary affordable housing to be approved under local ordinance and regulations without detriment to the existing Borough zoning plan and ordinance. This creates a realistic opportunity to provide for the development of affordable housing in conformance with the requirements of the Court, the Fair Housing Act (N.J.S.A. 52:27D-301), the New Jersey Council on Affordable Housing ("COAH") prior round regulations, the Housing Element and Fair Share Plan of the Borough of Allenhurst prepared by the Borough to address its Prior Round and Third Round affordable housing obligation and the court-approved Settlement Agreement between the Borough and FSHC. Permitted and conditional uses within the MS-CD Inclusionary Overlay Zone shall include all permitted and conditional uses in the underlying zoning district in which the Overlay Zone is located and allow for inclusionary housing development within the provisions of this section.

- b. Principal Permitted Uses:
1. All uses permitted within the zoning districts underlying this overlay zone.
 2. Multi-family residential development for sale or for rent, as follows:
 - i. On upper floors above ground-floor commercial space (mixed use buildings) of properties that front on Main Street;
 - ii. On any floor of properties that do not front on Main Street.
- c. Permitted Accessory Uses: Uses that are customary and incidental to multi family housing, including, but not limited to:
1. Parking
 2. Garages

3. Signs
 4. Fences
 5. Trash Enclosure
 6. Temporary construction trailers
 7. Utility pump stations, transformers, switches and meter facilities to support the development
 8. HVAC units
 9. Generators
- d. Bulk regulations: For purposes of this Overlay District, for lots that abut Main Street and also abut any other intersecting street, Main Street shall be considered the front yard and any intersecting street shall be considered the side yard.

No.	Description	Measurement in Feet (unless noted otherwise)
1.	Minimum Lot Frontage (Feet)	50
2.	Minimum Lot Depth (Feet)	75
3.	Minimum Front Yard Setback (Feet)	0 feet, unless not facing Main Street, in which case setback shall be as per underlying zone requirements
4.	Minimum Side Yard Setback (Feet, total both)	6 (only when building not attached to adjacent building)
5.	Minimum Rear Yard Setback (Feet)	15 feet or 20% of lot depth, whichever is greater.
6.	Maximum Height (Stories/Feet)	3 stories/ 45 feet
7.	Maximum Building Coverage (Percent)	45%
8.	Maximum Improved Lot Coverage (Percent)	85%
9.	Maximum Residential Density	15 units/acre

- e. Projections from buildings, such as, but not limited to balconies, patios, chimneys and windows, may extend into the building set back provided they shall be set back a minimum of 5' from all property lines.
- f. All property lines abutting a residential use (unless the building abuts an adjacent building) shall provide a 5 foot landscaped buffer . Said buffer shall not be in addition to the required setback.
- g. Area, Yard and Bulk Requirements for Accessory Structures (including parking) & Uses. No accessory structures shall be permitted in the front yard set back.

No.	Description	Measurement in Feet (unless noted otherwise)
1.	Minimum Side Yard Set back (Feet)	3
2.	Minimum Rear Yard Setback (Feet)	5
3.	Minimum Distance Between Accessory and Principal Structures (Feet)	0
4.	Maximum Height (Stories/Feet)	1 story /15 feet

- h. Parking
1. Commercial uses: 0 spaces
 2. Residential uses: 1.5 spaces of off street parking per unit as may be further modified through shared parking studies.
- i. Affordable housing requirement: A 20% set aside shall apply. In the event that the 20% inclusionary set-aside percentage of the total number of residential units does not result in a full integer, section 22-6.c. et seq. of the Borough of Allenhurst's Affordable Housing Ordinance shall apply. All affordable housing developments shall conform to the standards found in the Borough of Allenhurst's Affordable Housing Ordinance including provisions for affordability, very low income units, and UHAC standards as modified per the Borough's FSHC Settlement Agreement.

SECTION II.: REPEALER. The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION III.: INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION IV.: SEVERABILITY. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION V.: EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication according to law.

For comments refer to the attached transcript.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

ORDINANCE #2024-05 – Final Reading

ORDINANCE #2024-05

AN ORDINANCE OF THE BOROUGH OF ALLENHURST TO ADOPT THE AMENDED MAIN STREET REDEVELOPMENT PLAN AS REQUIRED BY THE SETTLEMENT WITH POWER STATION AT ALLENHURST, LLC

Offered By: Deputy Mayor McLoughlin

Seconded By: Comm. Cumiskey

WHEREAS, on November 15, 2004, in accordance with the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law"), the Borough designated certain properties fronting on Main Street and Deal Lake as an area in need of redevelopment (as further described in the Redevelopment Plan defined below, the "Redevelopment Area"); and

WHEREAS, in accordance with the provisions of the Redevelopment Law, the Borough enacted the "Main Street Redevelopment Plan" in October 2006, as amended November 2007 (the "Prior Redevelopment Plan") for the Redevelopment Area; and

WHEREAS, an action entitled *Power Station at Allenhurst, LLC v. Borough of Allenhurst, Board of Commissioners of the Borough of Allenhurst and Allenhurst Planning Board*, Superior Court of New Jersey, Law Division, Docket No.: MON-L-2551-21 was brought by Power Station at Allenhurst, LLC (hereinafter "Developer") alleging that the Borough had failed to provide a realistic opportunity for the construction of affordable housing and to meet the Borough's fair share of the region's need for such housing, in addition to related relief in accordance with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 and Mount Laurel jurisprudence (hereinafter "Builder's Remedy Action"); and

WHEREAS, as a result of extensive settlement negotiations and in excess of a year of mediation between the Parties, the Parties arrived at agreements to resolve their differences and at a Fairness Hearing on July 6, 2023 before the Superior Court of New Jersey, the Hon. Linda Grasso Jones, J.S.C. determined the Affordable Housing Settlement Agreement to be fair, reasonable, and adequately protects the interests of very low, low, and moderate-income households, and the Court hereby approves"; and

WHEREAS, in order to comply with the Affordable Housing Settlement Agreement and the Order of Fairness and Preliminary Compliance entered by the Superior Court on July 31, 2023, the Board of Commissioners of the Borough of Allenhurst is obligated to adopt an amended and restated redevelopment plan for the Redevelopment Area; and

WHEREAS, an amended and restated AMain Street Redevelopment Plan was prepared by the Borough's Planner, Jennifer C. Beahm, PP, AICP, in keeping with the terms and conditions of the settlement agreements between the parties and the Order of the Court, which Amended Redevelopment Plan is on file in the Office of the Borough Clerk and available for public inspection; and

WHEREAS, the Borough now desires to adopt the Amended Main Street

Redevelopment
Plan.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Allenhurst that the Borough Code of the Borough of Allenhurst, be and is hereby amended, revised and supplemented to adopt the amended Main Street Redevelopment Plan as follows:

SECTION I. ADOPTING THE AMENDED MAIN STREET REDEVELOPMENT PLAN PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW

A.: The recitals set forth above be and are hereby incorporated in this Ordinance as if more fully set forth herein at length.

B.: In further compliance with the Settlement Agreements and as directed by the Court in the July 31, 2023 Order of Fairness and Preliminary Compliance, the Amended Main Street Redevelopment Plan be and is hereby approved and adopted pursuant to N.J.S.A. 40A:12A-7 and shall supersede any previous Redevelopment Plan in its entirety. As such, the Prior Redevelopment Plan is no longer of any effect.

C.: The Board of Commissioners does hereby refer the Amended Main Street Redevelopment Plan to the Planning Board for their determination that the same is in accordance with the master plan and the Planning Board's obligations as a party to the Settlement Agreements and the Order of Fairness and Preliminary Compliance set forth above.

D.: All of the provisions of the Amended Main Street Redevelopment Plan shall supersede the applicable development regulations of the Borough's municipal code in accordance with the terms of the Amended Main Street Redevelopment Plan, and the sections of the zoning map of the Borough that relate to the Redevelopment Area are hereby amended to incorporate the provisions of the Amended Main Street Redevelopment Plan.

E.: If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

F.: In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Allenhurst, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Allenhurst are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION II.: REPEALER. The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION III.: INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION IV.: SEVERABILITY. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section,

paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

For comments refer to the attached transcript.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

RESOLUTIONS

RESOLUTION #2024-55

A RESOLUTION TO DISPENSE WITH READING OF MINUTES

Offered By: Comm. Cumiskey

Seconded By: Deputy Mayor McLoughlin

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

A RESOLUTION TO RATIFY AND APPROVE MINUTES

BE IT RESOLVED, That the minutes of the Regular Meeting of January 23, 2024 be ratified and approved.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

A RESOLUTION TO APPROVE CHANGE ORDER #2 FOR RECONSTRUCTION OF OCEAN PLACE CONCRETE WALL

Offered By: Comm. Cumiskey Seconded By: Deputy Mayor McLoughlin

WHEREAS, A contract was awarded to DeMac Concrete Inc. for the Reconstruction of Ocean Place Concrete Wall and,

WHEREAS, The scope of work was changed to provide for the following:

SA2-1 Credit for Wall Removal	-\$25,000.00
SA2-2 Cleaned up Concrete and Debris Under Boardwalk	\$2,950.00
SA2-3 Form and Poured Additional Slab for Step Landing	\$1,250.00
SA2-4 Additional 35 Day Rental of Concrete Forms Awaiting Pile Installation	\$5,600.00
NET CHANGE	-\$15,200.00

WHEREAS, DeMac Concrete Inc., has submitted a request for a Change Order for the changes in work in the net decrease in the amount of \$15,200 which request has been reviewed by the Borough Administrator and Engineer, and found to be acceptable;

NOW, THEREFORE, BE IT RESOLVED, That Change Order No.1, resulting in a net decrease of \$15,200 be approved, thereby amending the contract total to \$341,275.00.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

A RESOLUTION TO APPROVE ENGINEER CERTIFICATE #3 FOR RECONSTRUCTION OF OCEAN PLACE CONCRETE WALL

Offered By: Comm. Cumiskey Seconded By: Deputy Mayor McLoughlin

WHEREAS, A contract was awarded to DeMac Concrete Inc. for the Reconstruction of Ocean Place Concrete Wall and,

WHEREAS, The Borough Engineer has reviewed the project and recommended payment as provided for in Engineer's Certificate #3, which is on file in the Clerk's office;

WHEREAS, Funds for this purpose shall be provided through the Ordinance “Reconstruction of Ocean Place Concrete Wall - 2023-09 C-04-55-988-005”, and the CFO has so certified;

NOW, THEREFORE, BE IT RESOLVED, That De Mac Concrete Inc. be compensated in the amount of \$87,761.28 for work done in accordance with the Engineer's Certificate #3.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

A RESOLUTION TO AWARD CONTRACT FOR POOL CLEANING

Offered By: Comm. Cumiskey Seconded By: Deputy Mayor McLoughlin

WHEREAS, The Borough has been using a professional pool cleaning service to clean the pools at the Allenhurst Beach Club four days per week; and,
WHEREAS, The following quote was received and is on file with the Borough Clerk:

MVP Power washing

WHEREAS, Funds for this purpose shall be provided in the 2024 Temporary Budget, Beach OE;

THEREFORE, BE IT RESOLVED, That a contract be awarded to MVP Painting and Power Washing, the only quote that was received for cleaning the Allenhurst Beach Club pools four days a week at the following rates:

Maintenance of salt water swimming pool (4 days/week)	\$215.50 per cleaning
Additional cleaning of concrete decks as requested	45.75/per cleaning
Overnight pump adjustment	115.00 per call out
Main Pool Stain Removal (Non Acidic) (2x/week)	215.00 per cleaning
Baby Pool Stain Removal (Non Acidic) (2x/week)	83.25 per cleaning
Additional Main Pool Stain Removalss (Above 2x per week)	256.00 per cleaning
Additional Baby Pool Stain Removals (Above 2x per week)	98.85 per cleaning
Pre-Season Initial Cleaning (Both Pools)	820.00
Steam Cleaning of Fiberglass Gutter	695.00 per cleaning

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

RESOLUTION #2024-60
A RESOLUTION TO AWARD CONTRACT FOR PURCHASE OF DOORS FOR USE AT THE ALLENHURST BEACH CLUB

Offered By: Comm. Cumiskey Seconded By: Deputy Mayor McLoughlin

WHEREAS, There is a need for new doors at the Allenhurst Beach Club; and,
WHEREAS, Funds for this purpose will be provided for in the current account known as “Beach Club Improvements #C-04-55-990-100”, and the Chief Finance Officer has so certified;
WHEREAS, The following three quotes were received from the following vendors and are on file with the Borough Clerk:

Neptune Door Company	\$31,900.00
Superior Door Systems	\$33,400.00
EZ Slide Garage Doors	\$34,100.00

THEREFORE, BE IT RESOLVED, That a contract be awarded to Neptune Door Company for a cost of \$31,900.00, the lowest of quotes received for New Doors at the Allenhurst Beach Club

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

RESOLUTION #2024-61
A RESOLUTION TO APPROVE CLEAN OCEAN BEACH SWEEPS

Offered By: Comm. Cumiskey Seconded By: Deputy Mayor McLoughlin

WHEREAS, The Clean Ocean Action has asked for Allenhurst Borough’s approval to conduct their annual Spring Beach Sweeps on Saturday, April 13, 2024 and the Fall Beach Sweeps on Saturday, October 19, 2024 from 9:00 am to 12:30 pm;
NOW, THEREFORE, BE IT RESOLVED, By the Board of Commissioners, that approval is hereby given to Clean Ocean Action to conduct their Spring and Fall Beach Sweeps on April 13, 2024 and October 19, 2024.
NOW, THEREFORE, LET IT ALSO BE RESOLVED, By the Borough of Commissioner, that they encourage Clean Ocean Action reconsider their position and to support the extension of the Asbury Park Outflow Pipe.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

Seconded By: Deputy Mayor McLoughlin

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

Offered By: Comm. Cumiskey Seconded By: Deputy Mayor McLoughlin

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

Seconded By: Deputy Mayor McLoughlin

Current Fund					From	To
Group Health Insurance					37,600.00	
Legal OE						21,000.00

Commissioners of the Borough (the “**Commissioners**”) designated certain property fronting on Main Street or Deal Lake, consisting of Block 18, Lot 1, Block 19, Lots 1 and 2, Block 21, Lots 2, 3, 5, 6, 8, 9, 10, 11, 12 and 13, and Block 31, Lot 3 on the official tax maps of the Borough, as an area in need of redevelopment (as further described in the hereinafter defined Redevelopment Plan, the “**Redevelopment Area**”); and

WHEREAS, in accordance with the provisions of the LRHL, the Commissioners enacted the “Main Street Redevelopment Plan” dated October 2006 (and as amended November 2007) for the Redevelopment Area; and

WHEREAS, on July 22, 2021, Power Station at Allenhurst, LLC (“**Power Station**”), filed a Mount Laurel exclusionary zoning suit with the Superior Court of New Jersey (the “**Court**”), captioned Power Station at Allenhurst, LLC v. Borough of Allenhurst; Board of Commissioners of the Borough of Allenhurst; and Allenhurst Planning Board, Docket No. MON-L-2551-21, seeking to compel the Borough to provide a realistic opportunity for the construction of affordable housing for very-low, low and moderate income households and to meet the Borough’s fair share of the housing region’s need for such housing, in addition to related relief in accordance with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 and Mount Laurel jurisprudence (the “**Builder’s Remedy Action**”); and

WHEREAS, the parties to the Builder’s Remedy Action entered into a Settlement Agreement dated February 23, 2023 (the “**Settlement Agreement**”), pursuant to which the Borough and an affiliate of Power Station, Main Street Allenhurst Urban Renewal, LLC (the “**Redeveloper**”), agreed to, among other things, enter into good faith negotiations for the execution of a redevelopment agreement consistent with the Redevelopment Plan; and

WHEREAS, after a duly noticed Fairness Hearing held on July 6, 2023 before the Honorable Linda Grasso Jones, J.S.C., the Court approved the Settlement Agreement as reflected in a Court Order dated July 31, 2023; and

WHEREAS, on February 13, 2024, in accordance with the provisions of the LRHL and in furtherance of the terms of the Settlement Agreement, the Commissioners adopted Ordinance #2024-05 (the “**Redevelopment Plan Ordinance**”), enacting the “Main Street Redevelopment Plan 2023” (as the same may be amended and supplemented from time to time, the “**Redevelopment Plan**”); and

WHEREAS, Redeveloper is the fee simple record title owner of that certain real property located within the Redevelopment Area formally identified on the official tax maps of the Borough as Block 18, Lot 1 (the “**East Side**”) and Block 21, Lots 5 and 6 (which includes former Lot 7) (the “**West Side**”) and commonly known as 315 Hume Street and 500-523 Main Street, and the Borough is fee simple record title owner of that certain property located within the Redevelopment Area formally identified on the office tax maps of the Borough as Block 31, Lot 3 (the “**Lake Drive Property**”) and commonly known as Lake Drive; and

WHEREAS, the Borough will, at its sole cost, subdivide Lake Drive into two lots (the “**Lake Drive Subdivision**”), including a lot that will be retained by the Borough (the “**Borough Lake Drive Lot**”) and a lot that the Borough will contribute and dedicate in fee simple interest to the Redeveloper (“**Lake Drive**” and, together with the East Side and the West Side, the “**Property**”), which Lake Drive shall be deed restricted for the development of up to 23 affordable housing units, and no less than 20 affordable housing units in accordance with the requirements of the Settlement Agreement, and upon which Redeveloper shall construct the hereinafter defined Lake Drive Project; and

WHEREAS, Redeveloper has an easement right to use a portion of that certain real property located within the Redevelopment Area formerly identified on the official tax maps of the Borough as Block 21, Lot 4 (now merged with Lot 3), which is currently owned by JCP&L, for parking; and

WHEREAS, Redeveloper proposes to (i) Remediate (as defined herein) the Property pursuant to the terms hereof, (ii) raze the structures on the West Side, and together with new construction, to implement 62 residential market-rate for sale or rental units, as more specifically described in Section 4.1(a) of the hereinafter defined Redevelopment Agreement, together with structured and surface parking, ground floor retail and amenity space (the “**West Side Project**”), (iii) raze the structures on the East Side and improve the East Side with 28 market-rate for-sale townhouse units, related surface parking, and other on-site and off-site improvements, as more specifically described in Section 4.1(a) of the Redevelopment Agreement (the “**East Side Project**”), and (iv) raze structures on Lake Drive (excluding removal of existing cellular equipment atop the existing water tower) and improve Lake Drive with up to 23 affordable housing units, and no less than 20 affordable housing units in accordance with the requirements of the Settlement Agreement, related surface parking, and other on-site and off-site improvements, as more specifically described in Section 4.1(a) of the Redevelopment Agreement

(the “**Lake Drive Project**” and, together with the West Side Project and East Side Project, the “**Project**”); and

WHEREAS, Redeveloper will design, finance, construct, and implement the Project; and

WHEREAS, the Redeveloper has represented that it possesses the proper qualifications and experience to implement and complete the Project in accordance with the Redevelopment Plan, the LRHL, this Agreement and all other applicable laws, ordinances, and regulations; and

WHEREAS, in order to effectuate the Settlement Agreement, the Redevelopment Plan and the redevelopment of the Property, the Borough has determined to enter into a redevelopment agreement with the Redeveloper (substantially in the form on file in the office of the Borough Clerk, the “Redevelopment Agreement”), which designates Redeveloper as the “redeveloper” of the Property in accordance with the LRHL, and which specifies the respective rights and responsibilities of the Borough and the Redeveloper with respect to the Project.

NOW THEREFORE BE IT RESOLVED by the Borough Commissioners of the Borough of Allenhurst, in the County of Monmouth, New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Redeveloper is hereby designated as the “redeveloper” of the Property pursuant to the LRHL.

Section 3. The Mayor is hereby authorized and directed to execute the Redevelopment Agreement, in substantially the form on file in the office of the Borough Clerk, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Borough's general counsel, redevelopment counsel and other Borough professionals.

Section 4. The Borough Clerk is hereby authorized and directed, upon the execution of the Redevelopment Agreement in accordance with the terms of Section 3 hereof, to attest to the signature of the Mayor upon such agreement and is hereby further authorized and directed to affix the corporate seal of the Borough upon such agreement. Upon execution and attestation of same, the Mayor is hereby authorized to deliver the Redevelopment Agreement to the other party thereto.

Section 5. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

Section 6. This Resolution shall take effect immediately.

RESOLUTION #2024-68

A RESOLUTION TO APPROVE BILLS (1-24-2024 to 2-13-2024)

Offered By: Deputy Mayor McLoughlin Seconded By: Comm. Cumiskey

BE IT RESOLVED, That bills totaling \$847,009.95 be approved for payment; and,

BE IT FURTHER RESOLVED, That the February 13, 2024 consolidated bill list be attached hereto and made a part thereof.

VOTE: Deputy Mayor McLoughlin - AYE; Comm. Cumiskey - AYE.

ITEMS FOR DISCUSSION

See Attached Transcript.

PUBLIC COMMENTS

See Attached Transcript.

There being no further business or comments, Mayor McLaughlin moved, seconded by Comm. McLoughlin that the meeting move to executive session at 8:45PM. Motion carried.

After reconvening, Comm. McLoughlin moved, seconded by Mayor McLaughlin that the meeting be adjourned at 9:05 PM. Motion carried.

Donna M. Campagna

Donna M. Campagna
Administrator/Clerk

9 T R A N S C R I P T of the digitally
10 recorded proceedings in the above-entitled matter as
11 taken by KALLIE M. PRERA, a Certified Court
12 Transcriptionist of the State of New Jersey, held on
13 February 13, 2024.

1 P R E S E N T:

2 MAYOR MCLAUGHLIN

3 COMMISSIONER CUMISKEY

4 COMMISSIONER MCLAUGHLIN

5 MATTHEW JESSUP

6 ARTHUR NEISS, ESQ.

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1 MR. MCLAUGHLIN: Yes, Mayor McLaughlin
2 (indiscernible) this evening. So, I'd like to
3 announce that the notice of requirements statute has
4 been satisfied by delivering the required notice had
5 been posted in the Asbury Park Press, posting notice
6 on the borough -- on the board in the borough hall,
7 and filing a copy of said notice with the borough
8 clerk. Are there any communications for an absence?

9 THE CLERK: Commissioner McLaughlin?

10 MR. MCLAUGHLIN: Here.

11 THE CLERK: Commissioner Cuminskey?

12 MR. CUMISKEY: Present.

13 THE CLERK: And Mayor McLaughlin
14 (indiscernible) is too. Yes, we have a notice from
15 JCP&L advising the public hearing to be held on
16 February 29th, 2024 regarding their petition to
17 establish a Rate for Rider Lost Revenue Adjustment
18 Mechanism. And we have a notice from New Jersey
19 Transit advising a public hearing be held regarding
20 proposed fare changes, which will be effective as of
21 July 1 of 2024.

22 Our announcement is, the Fire Department will
23 be holding their "Breakfast with the Easter Bunny" on
24 Saturday, March 23rd, from 9:00 to 11:00. And then,
25 the Annual Easter Egg Hunt will take place at

1 Railroad Plaza Park at 11:30. And in case of
2 inclement weather, the egg hunt will be held at the
3 firehouse. That's it.

4 MR. MCLAUGHLIN: There are four
5 ordinances, all pertaining to the redevelopment zone.
6 I am going to introduce all four, with the
7 pre-supposition that Commissioner Cumiskey is going
8 to second them. We will then open the floor to any
9 comments, questions, concerns regarding any of them
10 before we take any action.

11 I would ask anyone who has anything to say to
12 step forward, if you don't mind, because we don't
13 have microphones throughout the hall here. So, we do
14 need your name, your address and, you know, then feel
15 free to make a statement or a question. To that end,
16 I would like to introduce Ordinances 2024-02, 03, 04
17 and 05. I will offer them.

18 MR. CUMISKEY: Second.

19 MR. MCLAUGHLIN: Before we take any action
20 on them, does anyone have any comments or questions
21 concerning these ordinances? Please step forward.

22 MR. NEISS: Good evening, members of the
23 council. As I think you may know, my name is Arthur
24 M. Neiss, N-e-i-s-s. I'm a member of the firm
25 Beattie Padovano. My firm represents the Allenhurst

1 Taxpayers' Association. I have -- I have a few --
2 actually, I have a few questions, and then I have a
3 few comments, if you'll entertain me for that.

4 First -- first things first, I think, as you
5 know, our PEW case in the Superior Court was
6 dismissed, and is now on appeal. My being here, I
7 just want to make clear that we don't waive any of
8 the claims in that action, and -- or, in the appeal.
9 The ATA has requested that I reiterate our prior
10 comments and position that the ATA has no objection
11 to the Affordable Housing component of the project.

12 With that, I have a few questions, and then
13 some comments. We submitted our letter dated
14 February 12, 2024. That was from my partner, John
15 Jay Lamb. If -- if you want, I can -- I have a copy
16 -- copies. I have two additional copies, if --

17 THE CLERK: Uh, yeah. I think we all -- I
18 think we all had gotten them too.

19 MR. MCLAUGHLIN: We'd actually gotten them
20 sent to us, which -- regardless of whether that was
21 proper or not. And also, we'll put this into the
22 record. Thank you.

23 MR. NEISS: I appreciate that. Thank you.
24 We -- the first question I have is, whether or not
25 the planner, Jennifer Bean, or someone from her

1 office, did any review memo of any of -- or, any
2 comparison of the 2024 plan that is being considered
3 and the 2023 plan?

4 MR. MCLAUGHLIN: May I? No, there's no
5 such memo.

6 MR. NEISS: Okay.

7 MR. MCLAUGHLIN: She was very much
8 involved of the drafting of the document, but there's
9 no review memo.

10 MR. NEISS: Is there any planning memo on
11 the consistency of this 2024 plan with the settlement
12 agreement?

13 MR. MCLAUGHLIN: There's no memo.

14 MR. NEISS: Or any changes to the
15 settlement agreement?

16 MR. MCLAUGHLIN: There are no changes to
17 the settlement agreement. They are in those changes
18 to the settlement agreement.

19 MR. NEISS: I have a different point of
20 view on that --

21 MR. MCLAUGHLIN: So, the difference --

22 MR. NEISS: And I'll express that in a few
23 moments. Ms. Bean was providing input to the borough
24 even though there was no memo or testimony tonight,
25 correct?

1 MR. MCLAUGHLIN: It's her -- it's her
2 plan.

3 MR. NEISS: So, she --

4 MR. MCLAUGHLIN: (Indiscernible) she
5 signed the plan.

6 MR. NEISS: Okay. And I am also correct
7 that she, Ms. Bean, serves as the planning consultant
8 for the borough in addition to the planning board?

9 MR. MCLAUGHLIN: No, that's incorrect.

10 MR. NEISS: Okay. Can --

11 MR. MCLAUGHLIN: The planning board has no
12 planner consultant. She is the borough planner.

13 MR. NEISS: She -- if my memory serves,
14 she testified at the November hearing on the plan?

15 MR. MCLAUGHLIN: Correct.

16 MR. NEISS: As the borough planner.

17 MR. MCLAUGHLIN: As the borough planner.

18 MR. NEISS: Okay.

19 MR. MCLAUGHLIN: Yes, sir.

20 MR. NEISS: Has anyone --

21 MR. MCLAUGHLIN: And it was her plan.

22 MR. NEISS: I --

23 MR. MCLAUGHLIN: Both the 2023 and the
24 2024.

25 MR. NEISS: Thank you. Has any -- ever --

1 anyone ever raised the issue -- well, forget that.

2 Are there any restrictions on -- on use applicable to
3 any of the three parcels, lake side, west side or
4 east side?

5 MR. MCLAUGHLIN: I'm sorry, I'm not sure
6 that I --

7 MR. NEISS: Do you have restrictions of
8 any kind?

9 MR. MCLAUGHLIN: I'm sorry. I'm not sure
10 I understand your question.

11 MR. NEISS: I -- it's pretty
12 straightforward. Are there -- is the borough aware
13 of any restrictions on those -- with regard to those
14 properties, whether environmental, deed restrictions
15 or any other kind of restriction? Was the -- were
16 title searches ordered?

17 MR. MCLAUGHLIN: On the properties that
18 don't belong to the borough? No, sir.

19 MR. NEISS: Okay.

20 MR. MCLAUGHLIN: They belong to Power
21 Station.

22 MR. NEISS: Okay.

23 MR. MCLAUGHLIN: As for the lake side
24 property, it's private property and there's no
25 restrictions on it.

1 MR. NEISS: Okay.

2 MR. MCLAUGHLIN: And my understanding is,
3 a Phase 1 environmental report was conducted, and
4 it's clear on the lake side property. I can't speak
5 to the other two. We don't own them. We've never
6 owned them.

7 MR. NEISS: Okay. I -- I know that later
8 tonight, this -- the board is considering a
9 reappointment of a redeveloper.

10 MR. MCLAUGHLIN: That's been carried
11 because an agreement hasn't been reached yet.

12 MR. NEISS: That will be one of my
13 questions, probably, for later. The -- I know that
14 the redeveloper -- or, at least I believe that the
15 redeveloper agreement is "on file in the office of
16 the clerk".

17 MR. MCLAUGHLIN: A draft is on file. It's
18 not been agreed to yet, so it's a draft.

19 MR. NEISS: Okay. But that -- that's
20 going to be carried tonight?

21 MR. MCLAUGHLIN: It's going to be carried
22 because we haven't come to an agreement yet.

23 MR. NEISS: Okay. In terms -- do -- do we
24 have a -- a new day --

25 MR. MCLAUGHLIN: I'm going to ask Matt to

1 put -- Matt's doing the negotiations. Matt, do you
2 (indiscernible) --

3 MR. JESSUP: Yeah. Our expectation is to
4 have that done, so that the resolution that's being
5 carried tonight will be considered at the next
6 borough administration (indiscernible). And as for
7 the resolution, the final (indiscernible) to an
8 agreement will be on file at the clerk's office
9 (indiscernible) for public availability in advance of
10 the meeting.

11 MR. NEISS: That's my question. Thank
12 you.

13 MR. MCLAUGHLIN: This -- it was on -- it
14 was on tonight's agenda because the special master in
15 the builders' remedy suit asked us to put it on the
16 agenda. We would not consider it until the agreement
17 is -- is agreed -- agreed upon by both sides, which
18 it hasn't been yet. So, it's being carried.

19 MR. NEISS: Okay, thank you. In my
20 partner's letter dated February 12th, which we've put
21 into the record again, I don't see the need to
22 reiterate everything that was said in that letter. I
23 would like to just cover some points that were made
24 for your consideration, because we do believe that
25 there are changes or differences between the

1 settlement agreement and the plan that is being
2 proposed. And I'm just going to -- I'm just going to
3 hopscotch over those quickly so I don't take a lot of
4 your time.

5 The -- the fact is that there is an obligation
6 of the borough and the planning board not to deviate
7 from the settlement agreement, and that assumes that
8 it would -- that the settlement agreement was not
9 changed. However, there are, in our view, at least,
10 a number of revisions to the plan that change or
11 modify the settlement agreement that have not been
12 approved by the court unless, of course, you can tell
13 me that there are other documents -- amendments to
14 the plan that we simply don't have, and I -- I don't
15 know the answer to that. But, are there any
16 additional documents? And if so, have they been
17 posted online?

18 MR. MCLAUGHLIN: No.

19 MR. NEISS: Okay. And I want to make it
20 clear on the record that the settlement agreement has
21 not been amended since the original settlement --

22 MR. MCLAUGHLIN: There is no change to the
23 settlement.

24 MR. NEISS: I just want to make it clear
25 on the record. Thank you.

1 MR. MCCLAUGHLIN: It is clear on the
2 record. I've already said it.

3 MR. NEISS: I wanted to note that there
4 appears to be an increase in the west side property
5 in height by 6.5 feet, for something that was termed
6 "ornamental architectural features". That was
7 increased from 10 feet to 16.5 feet, and that adds an
8 extra one and a half stories to the maximum height.
9 Under the -- the height allowed on the west side
10 under the settlement agreement was five stories and
11 65 feet.

12 We noted that the proposed increase is exactly
13 10% of the 65 maximum feet allowed. And it appears
14 that there was no intention to -- to exceed the 10%,
15 but it seems to us that there is -- that that
16 increase is rather substantial. The increase
17 appeared to be carefully orchestrated with no
18 indication or disclosure that it was a change or
19 different than the settlement agreement.

20 We therefore would like to lodge our objection
21 to the change in the settlement agreement height.
22 With regard to the height -- the increase in height
23 as a result of the rooftop amenity on Page 17, 11.5
24 feet are proposed, where it was 10 feet in the
25 settlement agreement. So, that was raised by 1.5

1 feet, or a height increase of 15%.

2 With regard to the east side, there's an
3 increase in maximum height as well. The maximum
4 height is shown in the proposed plan as 38 feet.
5 However, in the settlement agreement, it was 37.5
6 feet. The settlement agreement says, "The east side
7 townhomes are to be developed per the 2021
8 redevelopment plan, which provides a 37.5-feet
9 height, and the -- the 2024 -- the new plan now has
10 38 feet." So, that change has not otherwise been
11 disclosed.

12 With regard to the -- the west side, the
13 parking standard for four-bedroom units was added.
14 On the parking standards on Page 18, four-bedroom
15 units equate to 2.1 spaces per unit. That was added,
16 and that was not in the settlement agreement. We
17 note that the RSIS standards only go up to
18 three-bedroom units for a mid-rise garden apartment.

19 And we believe, and I think you would probably
20 agree that 2.1 spaces per bedroom for four-bedroom
21 apartments is too low and does not comply with the
22 RSIS. We might even go so far as to say that it
23 violates the RSIS. With regard to EV stations on
24 Page 19, it notes that it is a "new requirement".
25 Why was this requirement indicated as "new", but

1 other changes had no such designation?

2 MR. MCLAUGHLIN: Because it was missing in
3 the 2023 document.

4 MR. NEISS: Okay.

5 MR. MCLAUGHLIN: (Indiscernible) thank
6 you, sir.

7 MR. NEISS: It appears -- to us, it
8 appeared that it was trying to be slipped in.

9 MR. MCLAUGHLIN: Nope.

10 MR. NEISS: I'm just pointing out how we
11 -- by the way, you know, we analyze -- obviously, we
12 analyzed this very, very carefully. And when I think
13 about that, I have to consider, how does the public
14 analyze a document as an -- as closely as we did?
15 There -- there's nothing that's really available to
16 the public to assist in its review of the documents.

17 On Page 19 of the 2024 plan, it references EV
18 stations, signs -- sign size limits, sign lights,
19 lighting, lighting style, design practices and
20 residential-area signage. These are all new, and
21 they are not referenced in the settlement agreement,
22 nor were they -- based on our research, nor were they
23 based or found in the 2021 plan, which again, I think
24 was the foundation for the 2024 plan.

25 Another question that we had related to the

1 overlay zone, it -- it appears that there is no
2 parking for residential uses in the overlay zone,
3 something that we would -- we would ask you to
4 consider.

5 MR. MCLAUGHLIN: (Indiscernible) this
6 overlay zone requires 1.5 spaces per unit created in
7 the use of the overlay on-site in the zone. It's not
8 in the ordinance.

9 MR. NEISS: Do we know -- and I think I've
10 asked you this before. Do we know how many units --

11 MR. MCLAUGHLIN: No one knows. No one
12 could know. They're privately-owned properties that
13 may never be developed. So, zero is possible. Or,
14 each person could choose to develop, if they meet the
15 parking standards, some number of units. It is
16 impossible to make that calculation. No one knows.

17 MR. NEISS: And so, therefore --

18 MR. MCLAUGHLIN: (Indiscernible).

19 MR. NEISS: And therefore, it was not
20 analyzed as such --

21 MR. MCLAUGHLIN: It can't be.

22 MR. NEISS: And that's your point -- I
23 understand your point --

24 MR. MCLAUGHLIN: Thank you, sir.

25 MR. NEISS: You're welcome. I would get

1 -- I would have the same question for the southern
2 gateway as well, whether or not there's been any
3 analysis on how many residential units can be added
4 to that overlay zone. And I imagine that there's
5 been no analysis of that either? Would that be a
6 correct statement?

7 MR. MCLAUGHLIN: Both the properties are
8 privately owned. It is the same exact problem. It
9 might be zero. How many it could possibly be depends
10 on what the private owners choose to do.

11 MR. JESSUP: I think I would just add, you
12 do know, of course, how many additional affordable
13 housing units the borough has to -- it -- it has to
14 provide zoning for to try to satisfy its
15 (indiscernible) number, all right? That is it a
16 well-documented and known number, 64 units at the --
17 at the Power Station is built. So, we do all know
18 how many additional affordable housing units we need
19 to provide a realistic opportunity for development
20 of. Or, we know that number.

21 We know -- we also know, per the zoning
22 ordinances, how many units per acre can be developed
23 if that opportunity so arises in each of the
24 applicable zones. And we also know, of those units
25 that are development, comma, if any, right, what

1 percentage of those units have to be affordable. So,
2 we all know the formula for how we satisfy our
3 64-unit shortfall.

4 What we don't know, I think Dave is absolutely
5 right, is whether one property or 100 properties,
6 that -- where a private owner decides that they want
7 to develop it in a way that provides for additional
8 units that would now allow for the affordable housing
9 units in accordance with the unit per acre that we
10 know and the percentage of affordable housing that's
11 required.

12 So, we know everything except for which
13 develop -- which property owners are going to want to
14 develop their property, and which ones are not. And
15 as they come to us, we know exactly what -- it's
16 like, hopefully that's helpful to the public, because
17 that does provide that (indiscernible) number.

18 MR. NEISS: Thank you. I appreciate that.
19 Getting back to the plan, on Page 29, there's a
20 reference to "porches". And those were added with a
21 minimum area of 110 square feet. That was not in the
22 settlement agreement. On the terms sheet of the
23 settlement agreement, it says that the townhomes are
24 to be developed from the 2021 plan. But on our
25 review of that 2021 plan, the 110 square foot minimum

1 area is not provided for. We may not have an issue
2 with that, but we wanted to try and understand what
3 the reason was for that change.

4 MR. MCLAUGHLIN: Same law as before.

5 MR. NEISS: Which is?

6 MR. MCLAUGHLIN: Failed -- failed to
7 appear at the 2023 plan. And a detail needed to be
8 provided so we know what gets filled.

9 MR. NEISS: Okay.

10 MR. MCLAUGHLIN: That's what it says. So,
11 the detail was missing from the 2023 plan.

12 MR. NEISS: So -- and I don't want to
13 argue. But the fact of the matter is that -- was
14 there -- was there an ability on the part of the
15 public to discern that change?

16 MR. MCLAUGHLIN: No. It was an exercise
17 of Paragraph 4.2 of the settlement agreement, which
18 --

19 MR. NEISS: Which --

20 MR. MCLAUGHLIN: -- which I'm sure you've
21 read. As, by the way, are all of these changes.
22 They're all an exercise of Paragraph 4.2 of the
23 settlement agreement.

24 MR. NEISS: With regard to the reference
25 to the lake side property and "public lands", that

1 concept is not mentioned anywhere in the settlement
2 agreement. The public lands inclusionary district is
3 not provided for in the 2021 plan, and there are no
4 express provisions made for any of the bulk standards
5 such as setbacks.

6 MR. MCLAUGHLIN: Do you know why it's not
7 in the 2021 plan?

8 MR. NEISS: Oh, I'm here to ask that
9 question.

10 MR. MCLAUGHLIN: I'm here to tell you the
11 answer, because we weren't giving up the public lands
12 in the 2021 plan. It was the challenge of the 2021
13 plan by your client that caused the 2021 -- 2021 plan
14 to have to be scrapped. And as a result, in order to
15 get compliance and provide affordable housing, the
16 borough has had to give up its land, the public
17 lands, in order to find a way to get 23 affordable
18 housing units in this project.

19 MR. NEISS: I understand that.

20 MR. MCLAUGHLIN: That -- that's why it
21 wasn't in the 2021 plan, because we weren't giving up
22 lake side. We were also getting a \$1 million offset
23 contribution in the 2021 plan that disappeared
24 because of the challenge to the 2021 plan.

25 MR. NEISS: Okay.

1 MR. MCCLAUGHLIN: Mr. Neiss, do you have
2 anything else? Because I would like to get the
3 public if they have questions or comments.

4 MR. NEISS: I'm almost done, actually.
5 Thank you. The overall site layout on Page 24 of the
6 2024 plan was not in the settlement agreement.
7 Paragraph states and acknowledges that it was added,
8 and did not exist. And obviously, this was prepared
9 by Power Station's engineer. This is just another
10 example of calling out some of the provisions that
11 were "added", but did not so reference this in -- in
12 -- as as change, other addition or revision.

13 The last comments I'm just going to make were
14 previously raised in our PWI, which is just asking
15 you to consider the fact that as a borough, you can
16 be empowered to affect a change to the settlement
17 agreement that benefits the people of the Borough of
18 Allenhurst. Right now, it looks to me, and I'm --
19 I'm editorializing, but it looks to me like the
20 borough is marching to the tune of the developer.

21 There are some changes, and we would ask you
22 to consider some of these changes as part of your
23 consideration. The summer moratorium, we have strong
24 objections to ignoring the summer moratorium. We --
25 we would recommend that the moratorium apply for a

1 shorter period of time in the summer to allow the
2 borough residents some peace even if it is not as
3 long as the summer moratorium period as set forth in
4 your ordinance. It's a compromise. It can be
5 achieved.

6 We would ask that you try to put a limit on
7 how long this project will take, that the redeveloper
8 should expedite construction so that the project
9 doesn't run on for year after year after year. There
10 are a number of safeguards that could be used to
11 expedite construction and the start date, and we
12 would ask that this -- this body consider those.

13 We also believe that the demolition ordinances
14 are applicable. We would recommend that the
15 demolition process ordinances be applied to the west
16 side parcel. We don't have any objection to the east
17 side parcel demolition. We do still maintain that
18 the existing historic building can and should be
19 preserved. We believe it may not be officially
20 designated as a historic site, but it was recommended
21 to be preserved and not demolished in the two prior
22 redevelopment plans. This would cause the project
23 not to lose units, and may even add to the number of
24 units.

25 The next item relates to the beach club. We

1 believe that the beach club should be addressed with
2 off-site contributions, or at least an expansion
3 plan. One of the important jewels of the borough is
4 the beach club. We recommend that you suggest that
5 the borough have some type of expansion or
6 improvement, or plan on dealing with what is probably
7 going to become a 32% increase in the population of
8 this borough. In our experience, developers are
9 often required to pay for off-track improvements, and
10 we believe that the beach club is one of them.

11 MR. MCLAUGHLIN: Mr. Neiss, I'm going to
12 ask (indiscernible).

13 MR. NEISS: And I only have two more
14 comments to make.

15 MR. MCLAUGHLIN: Okay, thank you.

16 MR. NEISS: In summary, the planning board
17 and the borough have no obligation to approve of
18 changes to the prior approved settlement agreement.
19 There is road to get some concessions and changes
20 that will benefit this borough.

21 MR. MCLAUGHLIN: Thank you, Mr. Neiss.

22 MR. NEISS: Thank you.

23 MR. MCLAUGHLIN: Before I open it up for
24 any other questions or comments, I'm going to take a
25 couple of minutes. I do appreciate -- I do

1 appreciate revisionist history, one of my favorite
2 ones to listen to. As a reminder to everyone here in
3 the room, first of all, there are members of the ATA
4 who tried to buy the very property we're talking
5 about, were outbid, and frankly, are pissed. But
6 we'll let that go.

7 Secondly, we had a deal in principle with the
8 redevelopers for 108 units, 10% set aside for
9 affordable housing, \$1 million donation for off-site
10 improvements, all of which we could do. But in 2020
11 or -- I think it was 2020, I and the -- Terry Bolan,
12 rest in peace, and the mayor were at a firehouse.
13 And everyone said, "Please listen. Please listen to
14 all of us. The community has a lot of people in real
15 estate who are very smart."

16 And a lot of them, they are in real estate,
17 and they are very smart. But they aren't smart
18 enough for this, because we got -- what we got hit
19 with after the fact, now a builders' remedy lawsuit,
20 which then took our knees out from under us. And
21 also, announced to the entire state that we didn't
22 have affordable housing. So now, our 10% became a
23 20%, and we had to give away the part.

24 So, to think that we didn't ask for
25 concessions is mind-blowing to the lawyers of Beattie

1 Padovano, who another member of the ATA has used in a
2 private development and who -- that was very proud,
3 someone mentioned to me, they hung up my development
4 for 10 years. Good, because we had very good
5 attorneys.

6 But right now, the only thing I am marching to
7 is a court-ordered settlement. This is not -- you
8 didn't get everything what you want. What it is is,
9 this is a court-ordered settlement. And if you don't
10 do this, it's going to up a builders' remedy lawsuit
11 again, and 245 units, where we have no say, are going
12 to be built. And I don't know how much clearer I can
13 make that.

14 Having said that, I will turn to Matt or to
15 Dave, just to clarify or correct me if I said
16 anything wrong. But the revisionist history that
17 Beattie Padovano's attorneys are giving you is wrong.
18 And they're going to sue us. They have already
19 increased all of our taxes with the lawsuits that
20 they're throwing out. You know, we have increased
21 our legal fees in this town by 300%. Just keep that
22 in mind. Anyway. Matt, Dave.

23 MR. MCLAUGHLIN: The only thing I would
24 add is, just to be clear, the -- yes, the ATA filed
25 -- has a complaint challenging these -- the

1 settlement. Yes, the court heard a motion for
2 summary judgement and frankly, dismissed the case
3 (indiscernible) with prejudice. Yes, they filed an
4 appeal, but they did not ask the court to stay the
5 order of fairness, which requires this board and this
6 town to adopt the four ordinances that are waiting
7 for a file (indiscernible).

8 We were supposed -- the borough was supposed
9 to have that done in (indiscernible) from the date of
10 the order. The date of the order was July 31st,
11 2023. We were supposed to have that done by October
12 29th. We are now 100 days -- 107 days late. There
13 isn't a choice. These gentlemen are up here
14 willy-nilly, deciding this on their own accord.
15 They're under a court order. They have to approve
16 these ordinances, have to.

17 It's a court order. We wish the ATA great
18 success in their challenge to that court order. But
19 they didn't get a stay on it, so these gentlemen have
20 no choice. Either they vote and approve these
21 ordinances, or the borough is in contempt of court.
22 It's easy for me, as their lawyer. They have no
23 choice. They have to follow the court order, which
24 again, they've already missed by 107 days.

25 So, it's the (indiscernible) later

1 (indiscernible). There is no putting this off. It
2 can't wait until later. We've already stretched the
3 court order and doubled the time limit the court
4 wanted us to take. They have to take action. It's
5 not -- it's not an option. So, with that fact, I'm
6 going to turn it over to Richard and Matthew, if they
7 have --

8 MR. JESSUP: Commissioner, I would just
9 add that -- yeah, the settlement agreement, it's just
10 that, right? Two parties have litigated. We've
11 worked very closely and tirelessly on a settlement.
12 Did we get everything we wanted? Of course not. Did
13 the developer get everything they wanted? Of course
14 not.

15 But in the end, we worked to get a project
16 that was acceptable to the developer, was acceptable
17 to the court, was acceptable to our constitutional
18 obligation that every municipality in the state of
19 New Jersey has to provide affordable housing, which
20 we were deemed not to be doing, which is why we have
21 the obligation to construct this project.

22 But to still construct a project that did, as
23 best as we could, satisfy the requirements of the
24 commissioners (indiscernible) the court to settle,
25 this is not something where, you know, some of these

1 things were not considered. They were not traded
2 back and forth. This was ultimately where the dust
3 settled on a project that both parties in any
4 settlement could agree, and move forward on and,
5 under the court's order, to satisfy our
6 constitutional obligation.

7 MR. MCLAUGHLIN: And there's only one
8 other thing I would like to add, and this goes to Mr.
9 Neiss's comments. Yes, the 2024 plan has additional
10 details that was always contemplated by the
11 settlement. If you look at Paragraph 4.2 of the
12 settlement agreement with Power Station, it was
13 always anticipated that the parties would work to
14 refine the details, as any development of a project
15 required.

16 The changes that show up in the 2024 plan were
17 meticulously mapped out to make sure that they
18 complied with the settlement agreement. And when
19 they don't, it's because the details weren't
20 available at that time, and it's an app -- it's an
21 Application 4.2, providing the details. So yes,
22 there are additional details.

23 MR. MCLAUGHLIN: As -- as --

24 MR. MCLAUGHLIN: Is there anyone else who
25 would like to come up with questions or comments? I

1 ask you just to come forward, please. Again, it's a
2 microphone in front. I just need your name and
3 address, please, if you don't mind. Seeing none --
4 all right. Please?

5 MR. SABBAAH: Joseph Sabbah, 101 Corlies
6 Avenue. Have they ever presented any estimates for
7 the tax revenue -- tax revenues that this project
8 would -- would create for the town, whether these tax
9 revenues create a subsidy for the town or for future
10 tax increases? Has that ever been presented? Have
11 they ever presented also the possible, you know,
12 price ranges we might expect for housing, for the
13 condos, for the range of rents, et cetera? Has any
14 of that been presented?

15 MR. JESSUP: So, the answer is yes to both
16 of those. That's part of the settlement process. We
17 negotiated the pilot payment in lieu of taxes that
18 the developments will pay. I'll come back to those
19 in a minute. And as part of, really, I would say the
20 original negotiation, I believe (indiscernible)
21 pre-COVID during the lawsuit, we had seen performance
22 from the developer which shows assumption in terms of
23 rents, sale prices, et cetera, so that we could
24 evaluate what a fair pilot was. Obviously, I haven't
25 looked at those numbers in quite a while. I can pull

1 them up if --

2 MR. SABBAAH: If you could pull them up,
3 even if it's just a draw -- just a drawing --

4 MR. JESSUP: Yeah, let me -- let me just
5 take you through the pilot, because I think that will
6 provide an order of magnitude as to the benefit,
7 right? So, for the east side and the west side,
8 forget the affordable housing component. But for the
9 market rate projects on the east side and the west
10 side, the pilot is equal to 95% of conventional
11 taxes.

12 So, if you think about the conventional tax
13 dollar in the borough, right, for every tax dollar
14 (indiscernible) non-pilot resident pays, like the
15 commissioners, for example, of that \$1, the borough
16 keeps 19 -- 20 --

17 A VOICE: 20?

18 MR. JESSUP: No, not --

19 A VOICE: Like, what percentage would set
20 back --

21 A VOICE: The municipal share is about
22 50%. Municipal's about 30 and --

23 MR. JESSUP: Okay. So, you -- so, the
24 borough -- the municipal budget keeps about 30 cents
25 out of every tax dollar that every resident pays of

1 its taxes, right? And the balance, 70% of your tax
2 dollars, goes to other taxing (indiscernible) other
3 than the borough. In -- with respect to this
4 redevelopment project, 95% of the pilot value goes to
5 the (indiscernible), right? And the pilot dollar is
6 equal to 95% of conventional taxes. So, that's a
7 significant shift of tax dollars going from other
8 taxing issues to the municipal --

9 MR. SABBAAH: That's to trade it back. So,
10 formulaically, have you ever figured it -- figured it
11 out, what kind of subsidy that would act -- that
12 would do for the -- for the town? Would it stabilize
13 taxes at flat (indiscernible), plus 10%, minus 10%?
14 Has that formula ever been, you know --

15 MR. JESSUP: So, related to -- again, I
16 can pull it up. But we do have schedules that show
17 what the anticipated new revenue, added-in revenue,
18 is to the borough.

19 MR. SABBAAH: Right. So, at least that
20 should be presented, because if we are now going to
21 be moving forward with this project, and we just want
22 to know what type of income it's going to generate,
23 what type of tax revenues, how it's going to
24 stabilize things versus the outflow of it. So, I
25 think that should be presented just, you know, sent

1 out in simple emails, estimates to perform --

2 estimates, I think, is a -- is a --

3 MR. MCCLAUGHLIN: And to your question, in
4 2020, when we were first talking to the developers
5 and before the builders' remedy lawsuit, they were
6 thinking that the townhouses back then were somewhere
7 between \$900 and \$1.3 million.

8 MR. SABBAH: Okay. So, that has to be
9 regenerated back to -- what would that mean for the
10 borough? I mean, would that be stabilizing the
11 factor for all future, you know, for the next three
12 years, five years?

13 MR. JESSUP: Yeah, I -- as I
14 (indiscernible) information. As for broadcasting
15 that information, a couple things. One, I do recall
16 going through the detail when I -- when it was part
17 of what we knew we were going to talk about, right,
18 at one of the firehouse meetings, where we had 100+,
19 200 people, whatever it was at that meeting. We did
20 go through that. So that, I know, has been put out
21 at least once.

22 It will typically be put out again when we
23 talk about the financial agreements, which are the
24 agreements between the borough and the developer, and
25 memorialize the terms of that pilot, which are

1 coming, right? Next -- next meeting, we adopt the
2 redevelopment agreement. After that, we adopt the
3 financial agreement (indiscernible). So, it's a
4 sequential order to all of this.

5 And certainly, in the meantime, I defer to the
6 commissioners and to Donna, who we can certainly
7 figure out a way to -- to put that summary in for
8 each of the (indiscernible). Again, for the benefit
9 of everybody, so they can see that -- that
10 (indiscernible) --

11 MR. SABBAAH: And are -- is there, like, a
12 price range of what they expect, you know, the condos
13 to be selling for, apartment rentals, you know, any
14 subsidized properties --

15 MR. JESSUP: Again, I know the
16 commissioner just mentioned the townhouses --

17 A VOICE: The townhouses were --

18 MR. JESSUP: They have not decided whether
19 or not they're going to sell the condos or they want
20 to rent the condos. But we have put into place that
21 you have year-long rentals. You can't do, you know,
22 you can't -- just summer or things like that, because
23 we didn't want to -- obviously, we want to keep this
24 to be a community.

25 A VOICE: Back then, it was about \$1

1 million, I believe. And since then, I will just tell
2 you, they saw the average -- the average -- average
3 assent value in Allenhurst right now is \$2.5 million.
4 So, I'm assuming that 9 to \$1 million has definitely
5 going to be, you know, increased.

6 MR. SABBAAH: What -- is there a number of
7 -- of students that, if new, you know, new housing --
8 new tenants in the apartments or in the condos,
9 you're going to find some of these people are going
10 to be using the school system. Not the Asbury school
11 system, but the Ocean Township school system. Is
12 there a certain amount of number that we have to sort
13 of get past before we get included into the Ocean
14 Township school system, and our tax pace has a
15 different --

16 MR. MCLAUGHLIN: We will never be included
17 in the Ocean Township --

18 MR. SABBAAH: Which -- which township --

19 MR. MCLAUGHLIN: Right now, we are at Long
20 Branch, but it's a (indiscernible) seed relationship,
21 and on a per-student basis that equates to -- I want
22 to say it's about \$15,000 per student.

23 MR. SABBAAH: So, \$15,000 per student. So,
24 that's another potential liability. You have 15
25 students, 20 students --

1 MR. MCLAUGHLIN: I don't disagree with
2 you.

3 MR. SABBAH: We have \$300,000 --

4 MR. MCLAUGHLIN: And as a reminder, when
5 we only had 10% affordable housing set back then, it
6 made me feel a lot better than the 20%
7 (indiscernible) with now.

8 MR. SABBAH: I agree. Right, right. I
9 agree. Okay. So, that's another fact. So, it's
10 basically (indiscernible) -- \$15,000 -- okay, thanks.

11 MR. MCLAUGHLIN: Thank you, Mr. Sabbah.
12 Any other questions or comments or thoughts? Having
13 said that then, I'm going to ask for a vote on the
14 ordinances 2024-02 through 2024-05. I vote aye.

15 MR. CUMISKEY: Aye.

16 MR. MCLAUGHLIN: And the mayor's not here.
17 They pass. Accept the agenda -- let's go -- accept
18 the agenda, 2024-55, 2024-66. I'll call for that?

19 MR. CUMISKEY: Second.

20 MR. MCLAUGHLIN: All those in favor? Call
21 for a resolution, 2024-68, approving bills and
22 payroll totalling \$847,009.95. I'll offer it.

23 MR. CUMISKEY: Second.

24 MR. MCLAUGHLIN: All those in favor?

25 MR. MCLAUGHLIN: Aye.

1 MR. CUMISKEY: Aye.

2 MR. MCLAUGHLIN: On resolution 2024-67, as
3 mentioned earlier, designating a redeveloper is being
4 carried to the next meeting. That being said, before
5 I open it up for general items of discussion for the
6 town, I did have a question for our head of DPW, if
7 you can give me just an update on the timeline of the
8 boardwalk, and the timeline of the new liner for the
9 pool, please.

10 A VOICE: I -- I can give you a timeline
11 --

12 MR. MCLAUGHLIN: Okay.

13 A VOICE: Right now, the -- prior to
14 meeting here, he met with the -- the timeline that
15 was sent out is, right now, the -- they are targeting
16 the end of March, middle of April, for them to finish
17 the boardwalk, and the railings should be coming in
18 approximately that time too. So, bearing in mind we
19 don't have another snowstorm or, you know, bad
20 weather, I think it's looking more towards --

21 A VOICE: First week of April, roughly?

22 A VOICE: I would say mid-April.

23 A VOICE: Okay.

24 A VOICE: But again, I (indiscernible)
25 will keep you up to date on that.

1 MR. MCLAUGHLIN: Excellent. Pool liner?

2 A VOICE: Pool liner, the -- the team is
3 supposed to come at the end of February, and they can
4 start doing all their felt work on the
5 (indiscernible) work. And they're printing right
6 now, the new liner. So, they'll lay the liner in,
7 and then the (indiscernible) goes in to hold the
8 metal (indiscernible) up. So, we should be starting
9 to put the liner in about the end of February.

10 MR. MCLAUGHLIN: Okay. And then, when
11 will you test the pipes again? When do you -- when
12 do those get fired up, end of -- end of March?

13 A VOICE: No, we usually fire up the pumps
14 in the beginning of April.

15 MR. MCLAUGHLIN: Got it, okay.

16 A VOICE: That's -- the fear is that if we
17 go any sooner, we'll have to keep draining the
18 (indiscernible) the ice.

19 MR. MCLAUGHLIN: Okay.

20 MR. CUMISKEY: The -- the repairs to the
21 -- to the lockers, when is that going to --

22 A VOICE: How has -- Billy has -- all
23 doors have been repaired for -- all the locks have
24 been checked. All the new keys have been made. He's
25 got one more day left on the pegs on the interior of

1 the lockers. The wood came in end of last week of
2 (indiscernible), but we just decided to press on with
3 the -- with the pegs to knock those all out. And
4 then, the top varnish should go (indiscernible). We
5 already did the ones that you have in your approved
6 design, that's -- we made it in such a way that we
7 can basically make all of the walls, and then just
8 cut the (indiscernible).

9 MR. CUMISKEY: Thank you. Do you have
10 anything else?

11 MR. MCLAUGHLIN: No.

12 MR. MCLAUGHLIN: Open to the public for
13 any questions, comments, concerns.

14 MR. ADJMY: Alex Adjmy. On -- on the
15 boardwalk, is any detail on what is being done? I
16 understand that the boardwalk took a \$1.8 million
17 loan out to basically repair or replace. Is there
18 details on what is being done for that amount of
19 money on the boardwalk? Is it just changing the --

20 A VOICE: It's all ipe a quarter of a mile
21 down for about the entire structure. It's the
22 handrails that you see through Asbury Park, Ocean
23 Grove, Spring Lake, have the towns' name on the
24 railing going all the way down, putting new
25 streetlights up, and then putting the new brick face

1 in. It sounds like a lot and I'm not going to
2 (indiscernible) with you --

3 A VOICE: And all new piles --

4 MR. MCLAUGHLIN: And all new piles --

5 MR. ADJMY: So, the whole structure is
6 being (indiscernible) --

7 A VOICE: (Indiscernible) as well --

8 A VOICE: (Indiscernible) the concrete --

9 A VOICE: (Indiscernible) and like you, I
10 saw that in my math problem. But again, in the
11 business we're in, we have to pay per pail and wage.
12 You can't, you know, you have to go (indiscernible)
13 --

14 A VOICE: (Indiscernible) allowed to --
15 cable -- cable, fiber optics (indiscernible) --

16 MR. ADJMY: So, it's basically a total
17 renovation of the entire boardwalk structure, the
18 wall --

19 A VOICE: (Indiscernible) --

20 A VOICE: (Indiscernible) take out the
21 sand, the (indiscernible) --

22 A VOICE: (Indiscernible) all the electric
23 underneath, all the electric will be renewed. So,
24 it's all new conduit, all new wires, all new poles,
25 all new heads. It'll all be LED, and for the -- if

1 anybody here lives by the boardwalk, you got some
2 lights so that it won't shine into your residence.
3 We had complaints.

4 We put in new conduits for fiber optics in
5 case of -- we had wanted to upgrade the Internet down
6 at the cabanas. We put in a whole other line just in
7 case we ever have to run something else down there.
8 And, like they were saying, we replaced every piling,
9 every trigger, every (indiscernible) everything is
10 new --

11 A VOICE: Including the structural wall?

12 A VOICE: Yes --

13 A VOICE: They had replaced and repaired
14 --

15 A VOICE: Not the -- not the seawall --

16 A VOICE: Not the seawall, the one on the
17 street.

18 A VOICE: Yes, yes.

19 A VOICE: And the ipe that -- like he
20 said, that's 897 feet of wood. That's over \$3,000,
21 just in wood. And every part of those boards, every
22 hole in there has to be independently drilled by
23 hand, and there's standards (indiscernible). So, it
24 won't last forever. It certainly won't.

25 MR. ADJMY: Thank you.

1 MR. MCLAUGHLIN: Sure, absolutely. Thank
2 you. Any other questions? Please, Joe.

3 MR. DURECK: Hi, everybody. Joe Dureck,
4 Allen Avenue. I --

5 MR. MCLAUGHLIN: What's your number on
6 Allen, just so we can write --

7 MR. DURECK: 117 Allen Avenue. There was
8 a -- I don't know how far. I think it's preliminary,
9 about stopping garden work, outdoor work on Sundays.

10 MR. MCLAUGHLIN: That wasn't -- that
11 hasn't been brought up in quite a while.

12 MR. DURECK: It's brought up --

13 MR. MCLAUGHLIN: I -- I'm happy to address
14 it. But from two years ago, maybe three years ago in
15 the middle of the pandemic, there was some discussion
16 about, is there a day that we should not do any work
17 because the leaf blowers are constant.

18 MR. DURECK: Right.

19 MR. MCLAUGHLIN: And there was quite
20 amount of blow -- there was quite a lot of blow-back,
21 and it died on the vine. As I --

22 MR. DURECK: Well, that's from -- from the
23 vendors, from the gardeners?

24 A VOICE: No, it's (indiscernible) -- so,
25 what happened -- yeah. See, you have a good memory.

1 So, we were asked to do it and they just randomly
2 picked Saturday. But that kind of got in discussion
3 of why Saturday, not Sunday, and --

4 MR. DURECK: Oh, why Saturday, not --
5 okay.

6 A VOICE: Yeah. So it was, you know --

7 MR. DURECK: Right.

8 A VOICE: -- and I don't think there was
9 any objection not to do it. The only thing is to not
10 do any work on the weekend other -- other blow-back
11 we got from, you know, because --

12 MR. MCLAUGHLIN: Some homeowners were
13 like, that's the only time I can --

14 A VOICE: That they can -- because some
15 homeowners --

16 MR. DURECK: Oh, that homeowners could do
17 their own work.

18 A VOICE: Yeah, they like to --

19 MR. MCLAUGHLIN: (Indiscernible) don't
20 have to (indiscernible) --

21 A VOICE: -- actually mow their grass, so
22 --

23 MR. DURECK: Right, so you can do your own
24 work, but not bring in the trucks. I would like of
25 course if it's Saturday and Sunday, let's have a

1 clean weekend. But my other question was, I have
2 heard about numbers of towns out in the west, out in
3 California, banning gas powered devices and forcing
4 the vendors to change over to electrics, which are
5 apparently quieter and -- and has that ever been
6 brought up?

7 MR. MCLAUGHLIN: It hasn't. It hasn't,
8 but that's an interesting idea. I don't know how --

9 MR. DURECK: Sooner or later, all those
10 machines are going electric. We know it. But if you
11 -- if you force it, if you give them three years to
12 do it or two years to do it, something like that.
13 But I know there were towns that have converted to
14 electric power.

15 A VOICE: (Indiscernible) we heard this in
16 other towns that did it, that (indiscernible) --

17 MR. MCLAUGHLIN: Well, actually, did it
18 work in a week? Is it horrible, is --

19 MR. DURECK: So, from what I understand,
20 the only town that has done it in New Jersey is
21 Princeton, and they didn't ban everything gas because
22 gas lawnmowers, especially the, you know, big ones --
23 most people have gardeners. It's very prim. But the
24 loud thing that people found obnoxious was the
25 blowers --

1 A VOICE: Yeah, the blowers. Yeah, the
2 leaf blowers.

3 MR. DURECK: They did a program of
4 supplying vendors with electric leaf blowers and if
5 there's a certain number of ones in -- in town, and
6 providing batteries. I haven't looked into that. I
7 have -- I (indiscernible) --

8 A VOICE: Did it not work?

9 MR. DURECK: From what I understand, it
10 did, but I don't know how successful.

11 MR. MCLAUGHLIN: Well, listen. I like the
12 idea you have. I'd be on board. But I -- I don't
13 know if I (indiscernible) leaf blowers.

14 MR. MCLAUGHLIN: They're going
15 (indiscernible) almost everywhere.

16 A VOICE: (Indiscernible) --

17 A VOICE: (Indiscernible) it was ever
18 (indiscernible), I think everybody would be --

19 MR. MCLAUGHLIN: All right --

20 A VOICE: (Indiscernible) and just coming
21 up with a day, because when we said Saturday, then
22 there was people who were like, why are you picking
23 Saturday? And then it was Sunday, you know, and then
24 there was people that said, well, I -- I actually
25 enjoy a -- I don't know who those people are. I know

1 it's definitely not my husband, I enjoy cutting my
2 own grass and I work during the week. So, I think
3 there was a point where what -- what day do you pick,
4 or how do you do it to make everyone happy? That --
5 that was one of the points --

6 MR. DURECK: So, and -- and going back to
7 just one of the things that was mentioned, and
8 previously was about the beach access and increasing
9 the town by however many apartments, however many
10 families and the beach itself, oh my God. Everyone
11 here is going to definitely come to Allenhurst. Do
12 we have a limit? Is there a -- a numerical limit
13 that -- that we have at the Allen Avenue entrance, at
14 the Cedar Avenue entrance, or Corlies? Is -- do we
15 count people that come on the beach? I know there
16 are some other beaches that stop, that's it, no more
17 for the day.

18 MR. MCLAUGHLIN: We -- we do count -- we
19 do count, and we generally leave it up to the head
20 lifeguard and the manager when they look at it and
21 they're like, this is insane. Now, we've got to
22 stop. And then, they will just stop selling tickets.
23 Having said that, as a, you know, a locker or a
24 member, it's not -- I can't stop you from, you know,
25 bringing 10 of your friends to --

1 MR. DURECK: No, I understand. But is
2 there -- is there some number somewhere --

3 MR. MCLAUGHLIN: Yes, yes.

4 MR. DURECK: -- it's a regulation, no more
5 than X --

6 MR. MCLAUGHLIN: It's not (indiscernible)
7 a set number. It's a visual, because there used to
8 be back in the 70s, I want to say, or early 80s, it
9 was 100, you know, 100 pairs of feet or something on
10 the beach after -- you had to guarantee that many.
11 And obviously, clearly we go well above that.

12 MR. DURECK: Right.

13 MR. MCLAUGHLIN: So at this point, we do
14 -- and I think it has happened at least on one or two
15 occasions --

16 A VOICE: It did happen, I know, on --

17 MR. DURECK: Where we stopped, where the
18 people are coming down and then sorry, we're -- we're
19 full?

20 MR. MCLAUGHLIN: We stopped -- we stopped
21 selling --

22 MR. DURECK: The beach is full.

23 MR. MCLAUGHLIN: Yeah, we stopped selling
24 the daily --

25 A VOICE: Stopped selling daily and --

1 MR. MCLAUGHLIN: But we don't stop members
2 from bringing their --

3 MR. DURECK: Right. So, there -- there is
4 a number somewhere, but -- okay. That's all right.

5 A VOICE: (Indiscernible) by a member --

6 MR. MCLAUGHLIN: And a lot of times, it's
7 based on -- on --

8 MR. DURECK: On the day?

9 MR. MCLAUGHLIN: -- well, on the beach. I
10 mean, you look at the beach now compared to how the
11 beach is going to look in May, right? You know,
12 right now it's looking a little thin. And if we, you
13 know, 60 days, it's going to get bigger --

14 MR. DURECK: We're going to groom the
15 beach? We're going to push the sand down. Is that
16 what happens?

17 MR. MCLAUGHLIN: We always groom the beach
18 to make it look good.

19 MR. DURECK: Right, right, right. Okay.

20 A VOICE: We can't groom it
21 (indiscernible) --

22 MR. DURECK: Yes.

23 A VOICE: -- to groom the beach with the
24 DEP probably around --

25 MR. MCLAUGHLIN: They're only allowed to

1 go north to south. They're not allowed to go eas to
2 west.

3 MR. MCLAUGHLIN: We can't -- we can't
4 (indiscernible) --

5 A VOICE: It's against federal law. Don't
6 ask.

7 MR. MCLAUGHLIN: It's a state law. Is it
8 a state law, or is it federal?

9 A VOICE: Well, because the --

10 A VOICE: It's state, with the fact that
11 -- it's all the DEP --

12 A VOICE: And with all the -- because we
13 got the replenishment, there's only certain --
14 there's all these rules because we got that
15 replenish, you know, with (indiscernible) we got the
16 replenishment. There's only certain things you're
17 allowed to do and not, you know, they're very, very
18 strict. You can't have birds --

19 A VOICE: When was the replenishment?
20 When was the replenishment, and when do we do it
21 again?

22 A VOICE: The replenishment --

23 A VOICE: Two years ago.

24 A VOICE: Two?

25 A VOICE: Well, the --

1 A VOICE: It was the second time. This
2 was the second time.

3 A VOICE: Yeah, the second time.

4 A VOICE: The first one was after Sandy,
5 and it --

6 A VOICE: Right, after Sandy is when it --
7 it exploded, and then we did it again two years ago
8 --

9 A VOICE: When the Army Corps says you're
10 going to do it -- you've got to do it --

11 A VOICE: (Indiscernible) turn around
12 (indiscernible) --

13 A VOICE: Yeah, and just (indiscernible)
14 -- following the Army Corps with that. When they
15 come, we'd be like that --

16 A VOICE: It's up to them.

17 A VOICE: You can't say "no, we don't want
18 it" because when we accepted it way back when, we
19 signed that agreement --

20 MR. MCLAUGHLIN: The town was required,
21 and in fact even some of the private property owners,
22 were required to give easements to the state of New
23 Jersey and the DEP, and the Army Corps. So, they're
24 -- the Army Corps and the --

25 A VOICE: I was going to say,

1 (indiscernible) --

2 MR. MCLAUGHLIN: -- easement all the way
3 across -- Mr. Adjmy, you just bought 2 Allen. You
4 know it, because it shows up in your title search.
5 It's a -- there's an easement that runs across the
6 entire beach for the --

7 A VOICE: So the army can run a rough shot
8 over the beach --

9 MR. MCLAUGHLIN: Pretty much, yes, and
10 it's either you do the easements or you don't get the
11 replenishment.

12 A VOICE: Right.

13 MR. MCLAUGHLIN: It's the price of doing
14 the replenishment. They get -- they give --
15 essentially, the -- it's -- it's a -- it's a question
16 mark. It's do the easement, or don't get the
17 replenishment. That's (indiscernible) --

18 A VOICE: And that's --

19 A VOICE: (Indiscernible) insurance.

20 A VOICE: And the replenishment is, do the
21 replenishment when we offer, or you're never going to
22 get it again.

23 A VOICE: Correct.

24 A VOICE: And we said yeah, we kind of
25 (indiscernible) --

1 A VOICE: Yeah, they would excuse it --

2 A VOICE: But it's up to them. It's up to
3 them.

4 A VOICE: It's up to them, yeah.

5 MR. MCLAUGHLIN: It's up to them,
6 essentially. And there's nothing that the town can
7 do to force or change that --

8 A VOICE: Or ask for it.

9 MR. MCLAUGHLIN: Or ask for it, yeah.

10 A VOICE: Thank you.

11 MR. MCLAUGHLIN: All right. Yes, sir?

12 MR. SABBAAH: Mitch Sabbah, 309 Corlies. I
13 have two safety issues. One is something that I keep
14 asking over and over again. And with the -- with the
15 advent of the development that's going to be going
16 up, the Allen Avenue railroad crossing is something
17 that's going to be vital. And I would think that the
18 developer should have as part of their deal, to at
19 least go to the state and help replace that, because
20 there's no way a fire truck or an ambulance, or a
21 police car or even deliveries can get there unless
22 they're going to go via Corlies, and take, like --
23 and take up Lake Drive. And I know that the Corlies
24 Avenue bridge is going to get reconstructed soon.
25 So, this is going to be a nightmare.

1 MR. MCLAUGHLIN: If I -- if I may, because
2 this board tried very hard to keep New Jersey Transit
3 from closing the Allen Avenue crossing. And even
4 with the help of Congressman Palone and every
5 political angle we could pull --

6 A VOICE: (Indiscernible) three times --

7 MR. MCLAUGHLIN: -- New Jersey Transit
8 basically said, uh, no, we're closing it. And
9 there's nothing we can do to stop it. And it
10 certainly isn't something we can force the developer
11 to do. The -- your answer was just no --

12 MR. SABBAH: Because I thought
13 (indiscernible) --

14 MR. MCLAUGHLIN: I mean, we agree with
15 you. Everybody here (indiscernible) --

16 MR. SABBAH: All right, uh --

17 MR. MCLAUGHLIN: -- it's a fight we tried
18 and it's a fight we lost.

19 MR. SABBAH: I'm just -- I'm just very
20 surprised -- sorry --

21 A VOICE: (Indiscernible) that issue --

22 MR. MCLAUGHLIN: (Indiscernible) --

23 MR. SABBAH: And then, the other is, you
24 know, at the end of the boardwalk, I guess where the
25 public area is and where the -- where the -- I guess

1 where the cabanas get driven in and out of --

2 A VOICE: On Cedar?

3 MR. SABBAH: Yeah, that -- that concrete
4 ramp is, like, in my opinion, one of the most
5 unsafest things to walk down.

6 MR. MCLAUGHLIN: It's not -- it's not
7 supposed to be a pedestrian -- you're not -- people
8 do. But that's the reason why we have the ramp that
9 goes down behind the cabanas, because that's the --
10 that's the way to go down --

11 MR. SABBAH: Yeah, because even that's,
12 like, a little precarious.

13 MR. MCLAUGHLIN: It's really -- the one
14 that we had -- the one that we had --

15 MR. SABBAH: No, no, no. It's -- because
16 people walk down that ramp, and so --

17 MR. MCLAUGHLIN: (Indiscernible) -- right,
18 to be -- be compliant --

19 A VOICE: (Indiscernible) --

20 MR. MCLAUGHLIN: There's a smooth section
21 of the large ramp going straight into the J. That's
22 what you're talking about, right?

23 MR. SABBAH: Yeah, it's not really --

24 MR. MCLAUGHLIN: It -- it's the -- the
25 rough end --

1 MR. MCLAUGHLIN: Right. What I'm saying
2 is, then there's the entire ADA-compliant ramp that
3 we put behind the cabanas that makes the -- right,
4 that goes down the --

5 MR. SABBAH: No, no --

6 MR. MCLAUGHLIN: -- (indiscernible) and
7 then makes the right.

8 MR. SABBAH: No, I'm not talking about
9 that. I'm talking about the --

10 MR. MCLAUGHLIN: Right. What I'm saying
11 is --

12 A VOICE: It's concrete --

13 MR. MCLAUGHLIN: -- pedestrians are
14 supposed to be using that.

15 A VOICE: What about to get to the public
16 park that's not --

17 MR. MCLAUGHLIN: Correct. And actually,
18 they should walk down that because that's why we have
19 the booth sitting there, and then you can go sit that
20 way. I don't disagree with you. The jetty's
21 horrible, but it was never meant to -- it was only
22 really ever meant to be for vehicles.

23 MR. SABBAH: Okay.

24 A VOICE: Yeah, I know. A lot of people
25 use it.

1 A VOICE: Along with the second jetty, do
2 you want to --

3 MR. SABBAH: At one of the firehouse
4 meetings, I had mentioned to the mayor regarding the
5 -- that the houses on the lake, is that we do a -- we
6 ask for a pedestrian bridge over where the Allen
7 Avenue crossing, from the houses to -- to on Main
8 Street. That's it. I asked some developers for it.
9 I asked, I don't know, at one of the firehouse
10 meetings, I had brought it up and I asked the mayor
11 about it. And, you know, whatever. I --

12 MR. MCLAUGHLIN: (Indiscernible) --

13 MR. SABBAH: I would -- I don't -- again,
14 you can -- look, I know we're doing what we have to
15 do --

16 A VOICE: It's worth looking into doing it
17 even if we do it ourselves.

18 MR. SABBAH: Right, a pedestrian bridge to
19 go from however far it is from Corlies, just to go
20 around the --

21 MR. MCLAUGHLIN: (Indiscernible) up and
22 over the tracks.

23 MR. SABBAH: Yep, up and over the tracks
24 so people can at least escape if something happens,
25 or --

1 A VOICE: Well, (indiscernible) is that we
2 -- we have applied for an open space grant on the
3 grassy area of that -- or, we're applying for it.
4 So, where the water tower is --

5 MR. SABBAH: Right.

6 A VOICE: -- (indiscernible) everything
7 else, the grassy area leading to the water, we're
8 applying for an open space grant (indiscernible)
9 there for a number of reasons, not the least of which
10 we -- we'd like to have a pedestrian walkway along
11 the lake that could kind of match --

12 MR. SABBAH: Okay. That's -- that's nice
13 --

14 A VOICE: -- (indiscernible) and then, to
15 maybe your idea is maybe to tie that in with the
16 pedestrian --

17 MR. SABBAH: Something to go over Allen
18 Avenue and maybe an ADA thing that can get people up
19 and over easily enough, and they're not isolated.
20 It's not a, you know, a ridiculous cul-de-sac to get
21 there.

22 A VOICE: Right. Well, I know from when
23 we -- as part of that development, we will looking to
24 do a full right angle that will tie in with the
25 Corlies Avenue bridge water. So, that'll extend the

1 bridge. We will, as part of our, you know,
2 applications for the open space, look to have a Lake
3 Avenue that is in right angle so that trucks and
4 everything can make turns --

5 MR. SABBAH: Can make the right turn off
6 the bridge into the lake --

7 A VOICE: -- correct, we -- we --

8 MR. MCLAUGHLIN: May I, because I know
9 this subject -- I'm sorry to interrupt. The -- the
10 plans that the county is preparing for the
11 (indiscernible) but for the rebuilding of the Corlies
12 Avenue bridge, they're going to -- we've asked the
13 county, and the county has agreed, they're going to
14 square up that Lake Drive, Corlies Avenue entrance --
15 now, there's that awful -- it's a sharp curve.

16 So, if you're making -- you're heading east on
17 Corlies and you're trying to make a -- a right down
18 Lake, that's a brutal turn. So, the -- when the
19 bridge is redone, the county has agreed they'll
20 square that up. So, that --

21 A VOICE: It'll make it easier to drive.

22 MR. MCLAUGHLIN: Make it easier to -- make
23 it easier to make that right turn off of Corlies
24 heading east onto Lake, make more room there for
25 emergency vehicles. It's a concern that we've had,

1 and the county has graciously agreed they'll do that,
2 so --

3 A VOICE: And the bridge should be
4 substantially wider.

5 MR. MCCLAUGHLIN: The bridge is going to be
6 substantially wider. Those plans, I think they're
7 online on the county website, the -- the plans.

8 A VOICE: Yes, I'm sorry. You in the back
9 -- I'm sorry, Alex. You --

10 A VOICE: Go ahead. You can
11 (indiscernible) --

12 A VOICE: Ladies first.

13 MS. CARELLO: So, I just have a -- thank
14 you. I just have a question --

15 A VOICE: Name and address, please?

16 MS. CARELLO: Joan Carello, 320 Corlies
17 Avenue. Excuse me. I lost my voice two weeks ago.
18 But my question is, my building, the back of my
19 building, the property butts up to this, like, shared
20 driveway behind Main Street, the stores that are on
21 Main Street. Are you familiar with where I'm talking
22 about, where (indiscernible) --

23 A VOICE: (Indiscernible) --

24 A VOICE: Oh, you're Salon L.

25 MS. CARELLO: Salon L, right.

1 A VOICE: Okay.

2 MS. CARELLO: So, the -- the back of my
3 building, the property --

4 A VOICE: Butts up to the common driveway
5 --

6 MS. CARELLO: -- butts up to the shared
7 common driveway.

8 A VOICE: Right.

9 MS. CARELLO: So for years, we've been
10 questioning, like, it's been a lot of grey area as to
11 who's responsible for that property, like -- like,
12 leading up to my property, like, that whole driveway
13 there. At one point, I was --

14 A VOICE: Has anyone done a title search?

15 MS. CARELLO: Well, I know where my
16 property line is. And -- and unfortunately, past my
17 property is this -- I've done a title on -- a title
18 search on my property.

19 A VOICE: Right, okay.

20 MS. CARELLO: The question is, so -- so
21 originally, I was told that it was each person's
22 building, each person is responsible for what's
23 behind their property, the little section there. But
24 who enforces that? Like, because now that back --
25 it's a -- it's a mess back there. It's -- I have

1 plenty of pictures that I could email you.

2 A VOICE: You can -- because when we get
3 complaints, you have to -- I can't -- we can't do
4 anything if we don't know about it.

5 MS. CARELLO: Right, right.

6 A VOICE: So, we have had problems.
7 People have come to us. They take pictures, and we'd
8 send the code officer out.

9 MS. CARELLO: But who is responsible for,
10 like, it needs to be repaved --

11 A VOICE: Well, each -- well, that -- I --
12 as I know it, that -- just as I said, is the owners
13 that are responsible --

14 MS. CARELLO: But who enforces it, the
15 town --

16 A VOICE: For a -- for a full -- if you're
17 asking for a full retarring of that back --

18 A VOICE: Yeah, that would be --

19 A VOICE: -- if that's the question --

20 MS. CARELLO: Well, I feel like it just
21 keeps going, like, you know, the -- somebody fills in
22 a hole with rocks for a little while, and it looks a
23 little bit better --

24 A VOICE: But I believe it's all privately
25 owned. So, we can't pave, you know, we would --

1 MS. CARELLO: But who -- but who -- but
2 that's what I want to find out. Like, who really
3 owns --

4 A VOICE: Dave --

5 MR. MCLAUGHLIN: (Indiscernible) else is
6 (indiscernible). The -- the only way you can -- the
7 crux is, they're both private properties.

8 A VOICE: They're all -- it's all --

9 A VOICE: It looks like all of those
10 individual buildings are private properties, probably
11 who have a shared easement of that common driveway.

12 MS. CARELLO: Right.

13 A VOICE: So, if that common driveway --
14 if something wanted to be done to it, how would that
15 get done?

16 MR. MCLAUGHLIN: Well, you -- there's only
17 one way. There has to be an agreement amongst the
18 people who are all --

19 MS. CARELLO: To share --

20 MR. MCLAUGHLIN: -- (indiscernible)
21 easements over it, to share --

22 A VOICE: Is it -- is it possible for the
23 town to go to each of the buildings, ask them if
24 they're amenable to it, get a quote to do it and put
25 an assessment, assuming everyone agrees?

1 MR. MCLAUGHLIN: (Indiscernible) you can't
2 put an assessment --

3 A VOICE: (Indiscernible) --

4 (Whereupon, several people are speaking
5 simultaneously.)

6 MR. MCLAUGHLIN: -- but you can't do
7 assessments that way. You're talking about
8 (indiscernible) -- you can't do spot assessments.
9 But if you -- you can certainly inquire if the -- the
10 short answer for you is, the only way to find out is
11 to do a title search to find out who owns that
12 property back there, who owns what. Because the
13 thing you --

14 MS. CARELLO: So, past my property, do a
15 title search of the property beyond my property?

16 MR. MCLAUGHLIN: Well, because you haven't
17 -- you have to be an easement. So, the
18 (indiscernible) you referenced in your own property
19 to be easement access --

20 MS. CARELLO: Yes, there is an easement.
21 The side where the JCP&L building is, that walkway
22 there, that's really my property. But they're
23 allowed to use it.

24 MR. MCLAUGHLIN: Right. That's -- you are
25 giving the easement to them, correct.

1 MS. CARELLO: Right, right. I know I have
2 that.

3 MR. MCLAUGHLIN: Right.

4 MS. CARELLO: But I don't -- but I know --
5 but where my property line is, and then I didn't know
6 I was responsible for anything past that.

7 MR. MCLAUGHLIN: You may not be. Again, I
8 can't answer that (indiscernible) question --

9 MS. CARELLO: Right. But then, what --
10 so, my point then -- so, that's just it. Like, that
11 whole back is really getting worse and worse. And
12 like, in the summertime, there's big puddles that get
13 bugs, and you know --

14 MR. MCLAUGHLIN: Right.

15 MS. CARELLO: It's just really bad back
16 there.

17 A VOICE: But the borough doesn't own it.
18 We can't -- we can't --

19 MS. CARELLO: I know.

20 A VOICE: We can't repave it for you.

21 MS. CARELLO: Right.

22 MR. MCLAUGHLIN: That was why I was asking
23 --

24 MS. CARELLO: Yeah, so that was my
25 question. Like, how do I go about --

1 A VOICE: (Indiscernible) and all of that,
2 you had --

3 MS. CARELLO: Right, right.

4 A VOICE: -- (indiscernible) the people,
5 like, they -- you know, they -- not emptying the
6 dumpsters --

7 MS. CARELLO: Right.

8 A VOICE: There was someone else that
9 wasn't emptying in their grease. We -- I had code go
10 out. I had the board of health go out. We can do
11 those types of things. But as far as the road, I
12 mean, if you wanted to find (indiscernible) --

13 MS. CARELLO: Right. I just need to find
14 out the grey area --

15 A VOICE: I believe the -- I mean, you can
16 go (indiscernible) -- we can try to give you -- the
17 problem is, we don't know who owns that
18 (indiscernible) -- if it's an LLC --

19 MR. MCLAUGHLIN: I don't think we -- I
20 don't think we have any information on that that
21 would be helpful. It's --

22 A VOICE: Maybe I can give you the
23 businesses, but that -- that's a set of --

24 A VOICE: You can give her the tax map.

25 A VOICE: Well, they're -- a lot of things

1 are LLCs, but we don't have any other information on,
2 like, it would really be for you to --

3 MR. MCCLAUGHLIN: (Indiscernible) --

4 MS. CARELLO: It's not for the
5 (indiscernible) -- because we don't --

6 MR. MCCLAUGHLIN: We could probably
7 identify the owners of the lots through the tax map,
8 but that's --

9 MS. CARELLO: Yeah, but like she said, a
10 lot of them are LLCs --

11 A VOICE: But that's something -- that's
12 something to identify --

13 MS. CARELLO: As well as the other
14 question is, is there -- is there supposed to be
15 parking back there? Because is that -- is that a
16 fire hazard for -- for them to be able -- especially
17 in the summertime, it gets tight back there. Like,
18 for them -- for fire trucks --

19 A VOICE: Our -- our DPW has to be able to
20 get through. So, that's the extent that
21 (indiscernible) is --

22 A VOICE: Are there people parking back
23 there?

24 MS. CARELLO: In the summertime more so.
25 I mean, you know, businesses.

1 A VOICE: We've had the board of health
2 back there with the dumpsters, and we've had -- as
3 I've said, code (indiscernible) --

4 A VOICE: Yeah, code enforcement has been
5 back there on numerous occasions. And they'll --
6 they'll basically tell them, you've got to remedy the
7 situation or we're going to issue a summons. And
8 that's when usually the problem gets fixed, but --

9 A VOICE: Can they park back there?

10 A VOICE: They are allowed to park back
11 there. And again, with -- with the ownership part,
12 that's where it gets confusing. Who's allowed to
13 park back there --

14 MS. CARELLO: I know, and that's always
15 been confusing. And I'm figuring, while there's so
16 much change going on, the town is really getting
17 busier. I really need to know where I stand as far
18 as what I'm responsible for, and whom I even go to to
19 find out who enforces the rest.

20 MR. MCLAUGHLIN: If it's a garbage issue,
21 it's code enforcement. If it is --

22 MS. CARELLO: For me right now, it's the
23 -- the big hole -- there's big holes --

24 A VOICE: Yeah, that -- that would be
25 (indiscernible) --

1 MS. CARELLO: -- in the pavement.

2 MR. MCLAUGHLIN: That's not the town.

3 That would be you finding out the name of the owners
4 and coming to some sort of an agreement --

5 MS. CARELLO: And what happens if they
6 don't want to do it? I mean, what do I do?

7 A VOICE: It's like -- it's like if your
8 neighbor won't, you know, you can only --

9 MS. CARELLO: Yeah, yeah. I see.

10 A VOICE: (Indiscernible) -- your neighbor
11 --

12 MS. CARELLO: So, that -- that's like
13 their backyard, basically?

14 A VOICE: Yeah, yeah. So, we can't --
15 when it gets to the backyard for people --

16 MR. MCLAUGHLIN: Like, I can't make my
17 next door neighbor fix a pothole --

18 MS. CARELLO: Yeah, yeah, yeah. I see,
19 okay.

20 MR. MCLAUGHLIN: I'm sorry.

21 MS. CARELLO: Okay, thank you.

22 MR. MCLAUGHLIN: Thanks, Joan. Yes, Alex?

23 MR. ADJMY: One last question.

24 MR. MCLAUGHLIN: You can have absolutely
25 (indiscernible).

1 MR. ADJMY: It's a two-party question.

2 Regarding the overlay on Main Street, I know that we
3 are obligated -- do we know what the number is of
4 affordable that we have to provide for the town? How
5 many are we short after the development?

6 MR. JESSUP: 64.

7 MR. ADJMY: We're short 64 after the
8 developer provides?

9 MR. JESSUP: It's 64 affordable units,
10 yes.

11 MR. ADJMY: 6 -- 64 more?

12 MR. JESSUP: 64 additional after the Power
13 Station development project is complete.

14 MR. MCLAUGHLIN: But as of right now with
15 this settlement, there is no more developable land
16 per say. That being said, this overlay -- and Matt
17 alluded to it earlier. If someone who owns an
18 apartment on Main Street decides that they would like
19 to, you know, renovate or add a second floor to their
20 -- their business or to an apartment up there, one of
21 -- was it one of five would have to be affordable?

22 MR. MCLAUGHLIN: It's 20%.

23 MR. JESSUP: 20%, yeah.

24 MR. MCLAUGHLIN: 20% would have to be --
25 whatever -- so, whatever you put up there, 20% would

1 have to be set aside for an affordable.

2 MR. ADJMY: And does our overlay approval
3 that we're giving to Main Street expire after we
4 deliver that 67 units? So for instance, if 67 new
5 more units come on Main Street over the next 10
6 years, 20 years, whatever, does it go away? Or they
7 can continue to develop over and above the number
8 that's required?

9 MR. MCLAUGHLIN: That was the old number
10 given by what amount -- for the third (indiscernible)
11 at Mount Laurel --

12 MR. JESSUP: Yeah. It's -- it's
13 ultimately a collab -- it's a combination of your
14 prior round, your third round, right, your -- your
15 Atlantic --

16 MR. MCLAUGHLIN: So, to your answer -- and
17 correct me if I'm wrong, Matt. Yes, it would, unless
18 the state does a Mount Laurel 4 --

19 MR. ADJMY: Increase, got it.

20 MR. MCLAUGHLIN: -- and it tries to --
21 which -- which there is --

22 A VOICE: There is, right, (indiscernible)
23 --

24 MR. MCLAUGHLIN: So, there are two things
25 to be -- I -- for everybody's benefit, right? One

1 is, we don't have an obligation to fill 64 units.

2 MR. ADJMY: Understood.

3 MR. MCLAUGHLIN: We have an obligation to
4 create a realistic opportunity for some of them to be
5 filled. We do that by adopting the zoning ordinance.
6 Once we got the zoning ordinance, we're done. If
7 none of those property owners want to develop or
8 redevelop their property, then no more units get done
9 --

10 A VOICE: And there's no obligation for
11 them to.

12 MR. MCLAUGHLIN: Right. We're still
13 obligated.

14 MR. ADJMY: Understood.

15 Mr. MCLAUGHLIN: But that -- this -- all
16 of this that's being done only gets us through to
17 June of 2025. And in July of 2025, there is going to
18 be 100% --

19 MR. ADJMY: I know --

20 MR. MCLAUGHLIN: -- a new, 10-year new
21 number --

22 MR. ADJMY: From the state.

23 MR. MCLAUGHLIN: -- there is a law
24 currently being amended -- created, amended,
25 negotiated, and will hopefully get adopted soon by

1 the legislature that will set out a different process
2 for how you come up with the number, what your
3 obligation is, how you're immune from builders'
4 remedy lawsuits, the Power Station suit can't happen
5 again as long as you follow the steps in the laws,
6 and provide a new number for -- for all
7 municipalities that they'll have to afford -- they'll
8 have to (indiscernible). So, we're going to have a
9 new number, 100%, going forward for the next 10-year
10 period and every 10-year period after that.

11 MR. ADJMY: Is -- is there a way to --
12 through the approval process to increase the parking
13 amount for the overlay area, excluding the
14 development? Say, I own the gas station, for
15 instance. I came up with this idea, if you remember,
16 at the planning board to put the parking, which there
17 was none in the original plan. And I was screaming
18 at the meeting that we're going to have a lot of
19 development at this street. Okay, it was to create
20 new value. Is there a way to increase the parking
21 requirement over and above what's there now?

22 MR. JESSUP: Can we go more -- can we go
23 above the recent standard? Can we -- can we adopt
24 something like, if the reason -- I think that that's
25 what you're --

1 MR. ADJMY: Yes.

2 MR. JESSUP: (Indiscernible) -- if we are
3 at SIS standard for a three-bedroom townhouse or a
4 four-bedroom townhouse, it's 2.2 spaces. Can we --
5 it's a no. That's fine for recents, but we have a
6 different standard. We want it to be three spaces
7 for every --

8 MR. ADJMY: Or maybe even add the retail
9 into it, like the ground that you've got to provide
10 parking for that.

11 MR. JESSUP: All right. So -- so, I would
12 just say -- say that the ordinance, the overlaying
13 zone ordinance, does provide a parking requirement if
14 you may not have --

15 MR. MCLAUGHLIN: 1.5 spaces per -- per
16 unit, yes, sir.

17 MR. JESSUP: -- (indiscernible) which I
18 (indiscernible) was created by our planner, who's --
19 who agreed that that was the appropriate number in
20 light of the development that was --

21 MR. MCLAUGHLIN: Logistically --

22 MR. JESSUP: -- (indiscernible) to
23 possibly happen, right?

24 MR. MCLAUGHLIN: It was a negotiated
25 number between us and in that case, Fair Share

1 Housing Center.

2 MR. JESSUP: Right.

3 MR. MCLAUGHLIN: So -- but then, they --
4 yeah, the Fair Share Housing Center --

5 MR. ADJMY: Understood.

6 MR. MCLAUGHLIN: -- there's actually two
7 settlements. There's one with Power Station and
8 there's one with Fair Share Housing. It's Fair Share
9 Housing Center that demanded --

10 MR. ADJMY: But they're independent?

11 MR. MCLAUGHLIN: They're -- they're --

12 A VOICE: You're talking about --

13 MR. MCLAUGHLIN: It's all one gigantic
14 package, but there are two separate settlements. The
15 Fair Share is the one that demanded both the 20% set
16 aside (indiscernible) for the entire borough, and the
17 -- they're the ones who negotiated the overlay zone
18 extent and 1.5 spaces. It's the negotiated number.

19 MR. ADJMY: Is there -- is there a way to
20 add retail to that number? Meaning, if I have 3,000
21 square feet of a retail store I'm building --

22 MR. MCLAUGHLIN: Right.

23 MR. ADJMY: -- I need to provide parking
24 of X for the retail? We have that in New York City,
25 as an example.

1 MR. MCLAUGHLIN: It should be in the zone
2 (indiscernible) --

3 A VOICE: Because it's already in the
4 underlying zone --

5 MR. MCLAUGHLIN: Don't -- don't forget
6 that this is an overlay. So, what does the overlay
7 mean? So, you -- you have -- you own the gas station
8 --

9 MR. ADJMY: Yup.

10 MR. MCLAUGHLIN: -- and you use your --
11 that -- that gas station is already zoned for
12 something. I don't know which one it is, C-1, 2 or
13 3, or D-1 or 2. I don't know which one it is. So,
14 that's already got a zone assigned to it. The
15 overlay does not change that zoning.

16 MR. ADJMY: Can you add zoning that has
17 (indiscernible) on top of it?

18 A VOICE: It has parking associated with
19 it.

20 MR. MCLAUGHLIN: Correct. Now, I don't
21 know off the top of my head what the zoning
22 requirement is for that lot under its regular -- how
23 it's presently zoned. I don't know that off the top
24 of my head. But there's a -- there's a requirement,
25 and I don't know what -- I don't know what that is --

1 MR. ADJMY: Got it. Thank you.

2 MR. MCLAUGHLIN: Yeah, I don't know what
3 that one is.

4 MR. GLYNN: Thomas Glynn, 312 Elberon. I
5 just wanted for the record to say that there may be a
6 precedent for reopening the railroad crossing. There
7 was a low income housing development done in Point --
8 Perth Amboy, where there was a low income housing
9 development, and they had to build another railroad
10 crossing.

11 My understanding is that you -- the only way
12 to get something like that done is to go to the New
13 Jersey Transit board meeting and raise a stink. So,
14 other -- I would recommend Rose, maybe, and Frieda to
15 --

16 A VOICE: Yes.

17 MR. MCLAUGHLIN: Put together a group,
18 yeah. And then go do it, because that's the -- the
19 --

20 A VOICE: That'd be great. That's a good
21 idea --

22 MR. MCLAUGHLIN: -- they were brutal. And
23 -- and the -- they did not negotiate for the -- for
24 members of the board --

25 MR. GLYNN: Well, this is -- I think it's

1 just for senior level at the board meetings where you
2 could actually maybe change some minds.

3 A VOICE: We went down to -- we actually
4 did a (indiscernible), where we report to --

5 A VOICE: Different commissions --

6 A VOICE: Yeah, to the Department of
7 Transportation commissioners. The prior one, and the
8 (indiscernible). I mean, we've gone to -- we went --
9 I can't remember how many meetings we went down to
10 Trenton -- yeah --

11 A VOICE: Tom, do you know, was it a new
12 crossing? Or was it a --

13 MR. GLYNN: Yeah, it's a new crossing.

14 A VOICE: New -- new crossing.

15 MR. GLYNN: It was a --

16 A VOICE: So, that's something that
17 (indiscernible) --

18 A VOICE: No, that's (indiscernible) --
19 there's an additional opening that was created --

20 A VOICE: It was something that was
21 closed. I -- I understand, it got reopened because
22 they did not want to -- you're not going to isolate
23 Fair Housing --

24 A VOICE: Right, right.

25 A VOICE: -- and discriminate against

1 people who need access (indiscernible) --

2 A VOICE: (Indiscernible) --

3 A VOICE: -- (indiscernible) did not

4 reverse --

5 MR. MCLAUGHLIN: We'd love it -- we would

6 love it.

7 A VOICE: The only upshot to this would be

8 --

9 A VOICE: -- we should really consider --

10 A VOICE: -- this development in that

11 corner of the town.

12 MR. MCLAUGHLIN: Okay, cool. Cool. Any

13 other questions, thoughts, comments or concerns?

14 MS. ADJMI: I have one question.

15 MR. MCLAUGHLIN: Frieda, sure.

16 MS. ADJMI: The open parks. It's free --

17 the open parks -- is it just (indiscernible) --

18 A VOICE: Sure, (indiscernible) --

19 MS. ADJMI: (Indiscernible) I'm very

20 concerned that we're getting rid of -- I know it's

21 been a while since we've had tennis courts, a

22 basketball court, an ice skating rink. Is there any

23 possible way where the baseball field used to be, we

24 could probably put, like, a pickleball court or some

25 kind of a replacement of our open parks and space, if

1 that's the plan to continue?

2 MR. CUMISKEY: It was discussed. It was
3 -- with pickleball in particular. And -- and the
4 problem with pickleball is, everyone loves the
5 fastest-growing sport in the country.

6 MS. ADJMI: Yes.

7 MR. CUMISKEY: People hate the noise.
8 Ping, ping, I mean, that would drive -- could drive
9 people crazy. I personally would love it. I will
10 endorse it 100%. Where people go crazy, they're
11 trying to develop a quiet pickleball.

12 (Indiscernible) --

13 MS. ADJMI: Is there any other area --

14 MR. MCLAUGHLIN: There's a joke in there
15 somewhere.

16 MR. CUMISKEY: (Indiscernible) that is --
17 that is the spot for me.

18 MS. ADJMI: How many -- also, reports from
19 the post office. I know that's not Allenhurst --

20 A VOICE: It's not ours. And also,
21 (indiscernible) --

22 (Whereupon, several people are speaking at
23 once.)

24 A VOICE: -- (indiscernible) DPW into
25 something else. And God bless them, they --

1 MS. ADJMI: Unless, does anyone have a
2 backyard we can use to play --

3 A VOICE: (Indiscernible) to play
4 (indiscernible) --

5 A VOICE: Which one?

6 (Whereupon, several voices are speaking at
7 once.)

8 A VOICE: We are going for another open
9 space, with either (indiscernible) neighbors can
10 (indiscernible) kind of -- where the affordable
11 housing is, is going to be -- what -- Matt and I are
12 working on it, where our path that we have in our --
13 our park right now, we'd like to continue it. We --
14 we don't think can go under the bridge, but it would
15 start right after. We're going to develop that to
16 another nice walking path, like more of a quiet area,
17 benches.

18 MS. ADJMI: By Spring Lake?

19 A VOICE: Exactly, you know, they have the
20 -- the --

21 MS. ADJMI: The flow (indiscernible) --

22 A VOICE: The flow, yeah, with the really
23 nice bricks and stuff. So, Matt -- Matt is drawing
24 the whole plan out. So, we're either going to go for
25 a green acres or for an open space grant. We're in

1 the middle of working on that. And then, we could go
2 for another open space grant if we could all decide
3 on what we want, and that's based on area. So yeah,
4 we talked about the pickleball. But it -- it is a
5 local town. I can't remember if -- you read the
6 article -- is it Ocean Park, or --

7 A VOICE: Well, there's many towns that
8 are complaining. Ocean Grove is one.

9 A VOICE: It -- there is a -- I think it
10 was Ocean Park, or whatever -- I forget where it was.
11 It was -- I read a whole article on the same thing.
12 They put this whole thing in there and everyone
13 thought it was great. But everybody that lived
14 around couldn't stand, you know, I don't -- I'd have
15 to look --

16 MS. ADJMI: Well, they can't just say --
17 they can't just say (indiscernible) -- is there any
18 space left behind the affordable housing, like, if
19 you're going south --

20 A VOICE: No, no. I mean, the baseball
21 field would be a perfect place. It's just, I -- you
22 know, we would -- the neighbors there, I don't know
23 how they would feel. But yeah, that would be a
24 perfect place.

25 MR. CUMISKEY: I mean, honestly, other

1 than the street, and that's part of the settlement
2 agreement, if you took the existing tennis court and
3 where the net was, everything south of the net is now
4 part of the redevelopment.

5 MR. MCCLAUGHLIN: Any other questions,
6 thoughts or concerns, because we do have to go into
7 an executive session. There is no action being
8 taken. Now, in an executive session or when we come
9 out, but we'll go into it. Thank you, everyone.

10 MR. CUMISKEY: Thank you very much. Thank
11 you.

12 (Whereupon, the audio is concluded.)

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1 C E R T I F I C A T E

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5 I, KALLIE M. PRERA, a Transcriber, do hereby

6 certify that the foregoing is a true and accurate

7 transcript of the within proceedings, to the best of

8 my ability.

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17 Transcriber

18 Dated: February 21, 2024

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