



Special Affordable Housing Meeting
January 13, 2020

Borough of Fair Haven,
Monmouth County, NJ



What is Affordable Housing?

The term “affordable housing” is used to describe both renter- and owner-occupied housing options that are affordable to a diverse range of incomes.

Affordable housing is broken down into three income classifications:

- **moderate**
- **low**
- **very low**

In New Jersey, those who qualify to live in affordable housing work in professions that pay good salaries in the private and public sector, including: police, teachers, tradesmen, and other working families.



What Income Levels Qualify for Affordable Housing?

Based on the 2019 Regional Median Income for Mercer, Monmouth, and Ocean Counties:

Maximum Household Income	
	4-Person Household
Median Income (For Reference)	\$103,092
Moderate Income: 50% to 80% of Median Income	\$82,474
Low Income: 30% to 50% of Median Income	\$51,546
Very Low Income: Below 30% of Median Income	\$30,928

What is Considered Affordable Housing in Monmouth County?

Illustrative Affordable Home Sales Prices for Low to Moderate Income Households

One-Bedroom:	\$127,186 to \$154,764
Two-Bedroom:	\$154,763 to \$187,856
Three-Bedroom:	\$180,502 to \$218,743

Illustrative Affordable Rent Prices for Very Low / Low to Moderate Income Households

One-Bedroom:	\$580 to \$1,545
Two-Bedroom:	\$695 to \$1,855
Three-Bedroom:	\$804 to \$2,145

Brief Timeline of Affordable Housing in New Jersey



1975

Mount Laurel I

Municipalities have a **constitutional** obligation to provide realistic opportunities for affordable housing

1985

NJ Fair Housing Act

Created Council on Affordable Housing "COAH" to administer FHA

March 10, 2015

Supreme Court disbands COAH and declares COAH "moribund:"

Trial Courts to assume COAH's functions i.e. reviewing, processing, and approving municipal affordable housing plans

"Mount Laurel IV"

1983

Mount Laurel II

"Builder's Remedy Lawsuit" (Builder can sue to build at greater densities if municipality has not addressed its affordable housing obligations)

1986-2014

COAH Rule Making

COAH administers the Fair Housing Act and creates *First, Second, and Third Round* rules and obligations

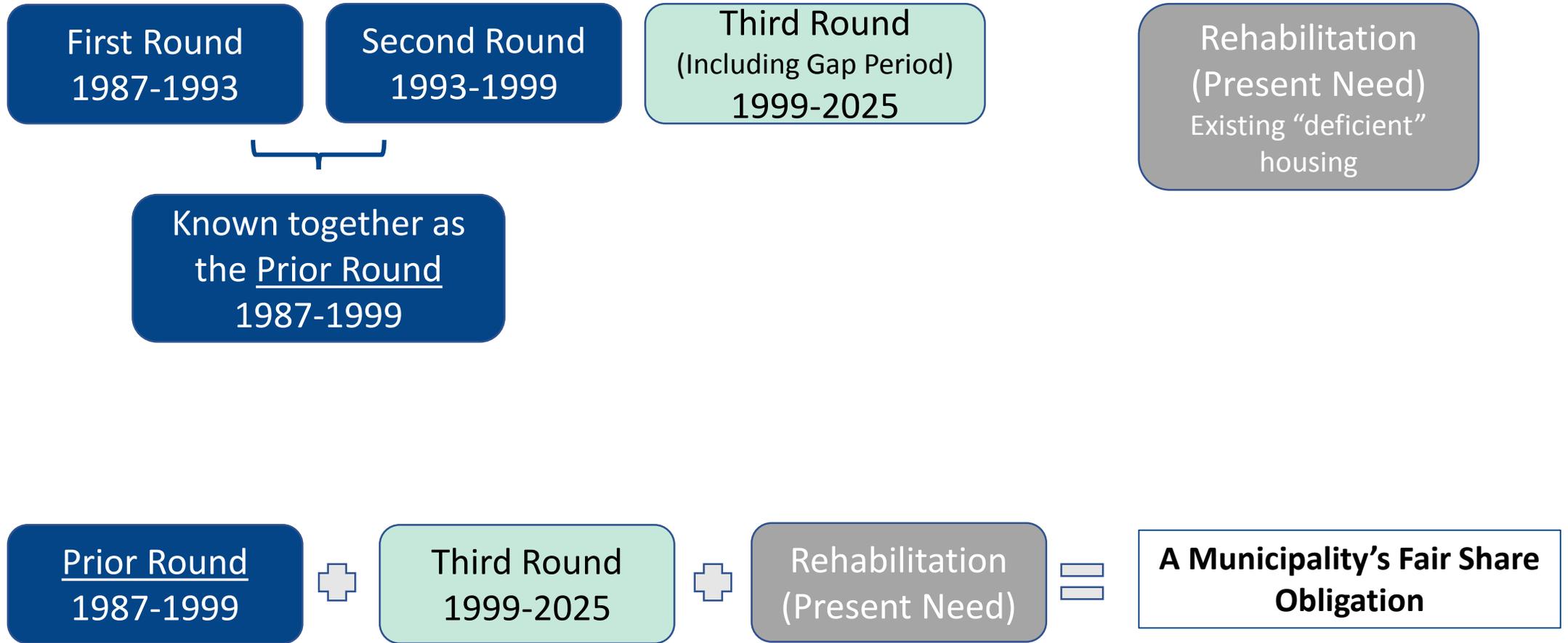
January 18, 2017

Gap Period Need

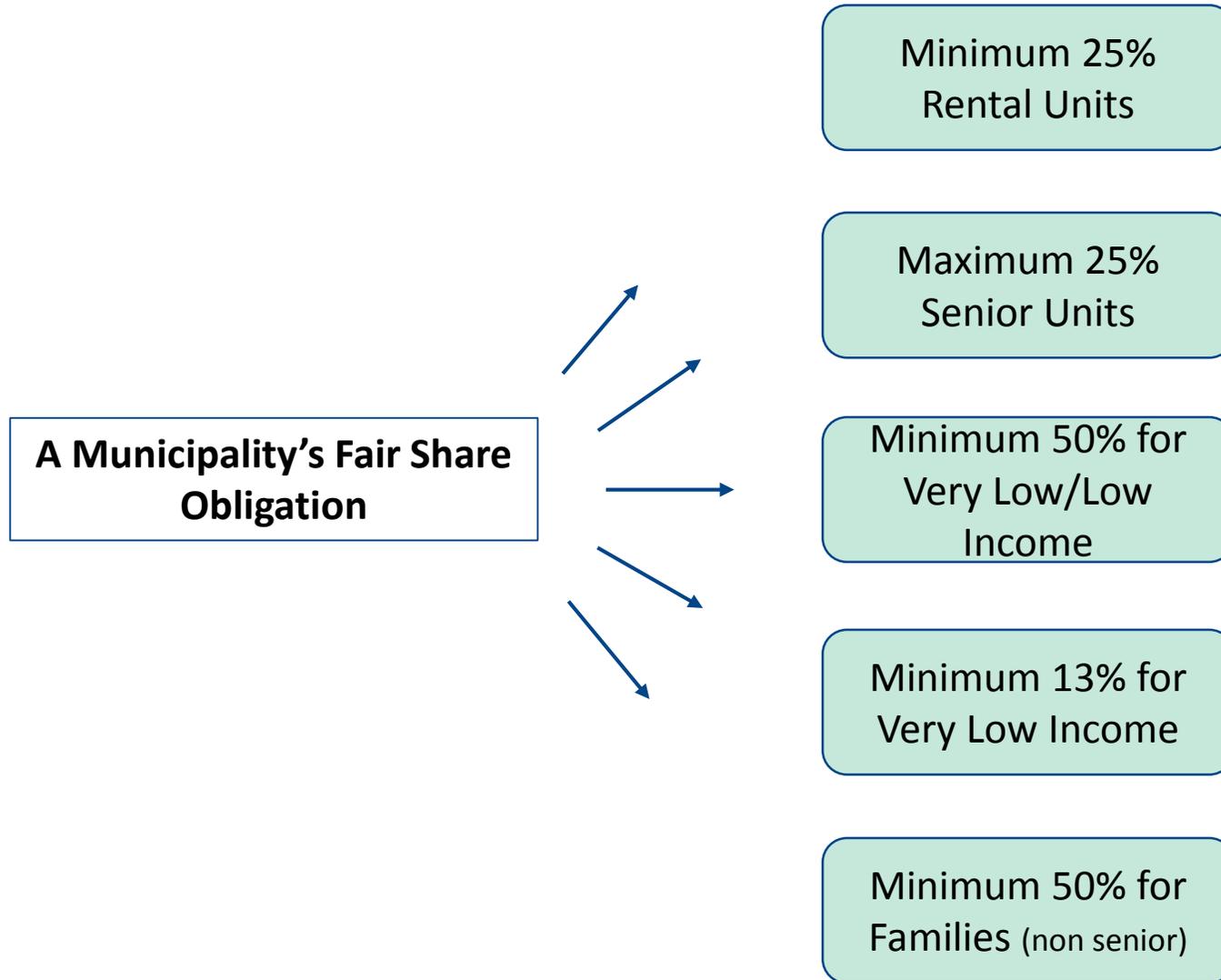
Established 1999 to 2015 need "Mount Laurel V"



Establishment of “Rounds” and Fair Share Obligation



A Municipality's Fair Share Obligation is Comprised of:



Fair Haven's Fair Share Obligation

Prior Round 1987-1999	=	135
Third Round 1999-2025	=	236
Rehabilitation (Present Need)	=	0
<hr/>		
TOTAL	=	371

Fair Haven's Third Round Vacant Land Adjustment (VLA)



Vacant Land Adjustments

- Municipalities can request an “adjustment” to their obligation → Not sufficient vacant or developable land within the municipality.
- A Vacant Land Adjustment (VLA) → Determines the amount of parcels available for development.
- The end result of a VLA → Determination of the Borough’s Realistic Development Potential (RDP) for new affordable units.
- RDP → Portion of the Borough’s fair share obligation that can be realistically created after accounting for the lack of vacant land. This number can change based on changes in circumstances.
- Unmet Need → The portion of the Borough’s fair share obligation that cannot realistically be created because of the lack of developable land.

Fair Haven's Timeline To-Date

August 2016 The Planning Board adopts the Master Plan Reexamination Report.

2017 The Planning Board adopts the Fair Haven Active Transportation Plan.

January 2018 to March 2019 The Borough's Housing Element and Fair Housing Subcommittee, which consists of various members of the Governing Body and Planning Board, along with Borough Professionals, holds ongoing meetings to formulate the Borough's Housing Element and Fair Share Plan.

March 7, 2019 The Borough files a Declaratory Complaint in Monmouth County Superior Court, Law Division and receives immunity from builder's remedy lawsuits.

March 19, 2019 The Planning Board adopts the Borough's Housing Element and Fair Share Plan.

March 25, 2019 Fair Haven Governing Body adopts a resolution that memorializes their endorsement of the adopted Housing Element and Fair Share Plan.

March 19, 2019 through January 6, 2020 Under the jurisdiction of Monmouth County Superior Court, the Borough oversees negotiations between the Borough, representatives from Fair Share Housing Center, and M&M Realty (Interested Party as the owner/developer of the Sunoco site on River Road). The Mt. Laurel Committee meets to give their ongoing input into the negotiation process.

Satisfying the Obligation 2019



- Fair Haven adopted a Housing Element and Fair Share Plan on March 19, 2019.

Adopted 2019 Housing Element and Fair Share Plan

Fair Share Obligation: 371

RDP: 1 unit

The development of the Borough's DPW lot to create 2 affordable units, one to be applied to the RDP, developed by a nonprofit (e.g. Habitat for Humanity)

Unmet Need: 370 unit

The second unit from the DPW site
Accessory Apartment Program
Overlay zoning - Methodist Church
Overlay zoning – A portion of the Business District
Borough-wide affordable set-aside





RDP: 1

Municipally Sponsored

100% Affordable Development

- DPW Site – 1 unit, developed by a nonprofit (*e.g. Habitat for Humanity*)

Unmet Need: 370

Municipally Sponsored

- DPW Site – 1 unit

Overlay Zoning

Overlay zoning allows the existing underlying zoning and its uses to remain, but with the option of developing inclusionary zoning through the Overlay.

- Methodist Church Overlay
- Business District Overlay

Other Mechanisms

- Accessory Apartment Program
- Borough-wide affordable set-aside





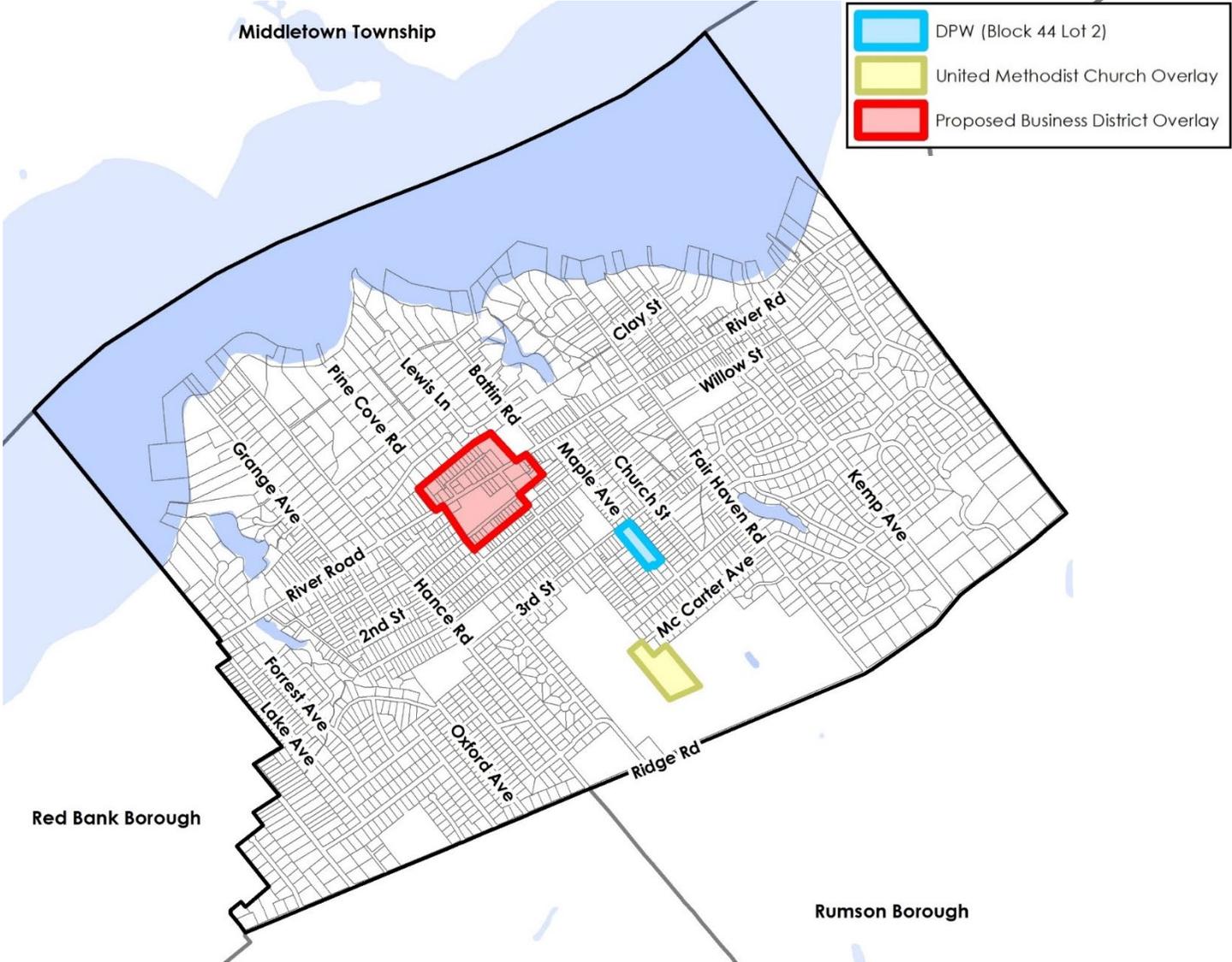
Unmet Need: 370



Overlay zoning **allows the existing** underlying zoning and its uses to remain but **adds the option** of developing inclusionary zoning through the Overlay.

For Example: In the Business District Overlay, the existing business zoning standards continue to apply. The Overlay adds another **option** for what is permitted for future development.

Satisfying the Obligation 2019





- Since the 2019 Housing Element and Fair Share Plan was adopted, the Borough has entered into negotiations with **Fair Share Housing Center (FSHC)** to determine the ways in which the Borough will meet its fair share obligation.
- FSHC is a nonprofit organization that has historically challenged the affordable housing requirements of New Jersey municipalities and has **been recognized by the Court** as an interested party in New Jersey's affordable housing matters.
- The Court appoints a **"Court Master"** (typically a planner) who assists in negotiating a settlement agreement and serves as the Court's expert.



Satisfying the Obligation 2020



Adopted 2019 Housing Element and Fair Share Plan	Proposed 2020 Settlement agreement with FSHC
Fair Share Obligation: 371	Fair Share Obligation: 371
<i>RDP: 1 unit</i> <ul style="list-style-type: none">• DPW Site	<i>RDP: 4 units</i> <ul style="list-style-type: none">• Development of M&M Site (626 River Road) (2 units)• Habitat for Humanity Site (Hendrickson Place & Allen Street) (2 units)
<i>Unmet Need: 370 unit</i> <ul style="list-style-type: none">• DPW site• Accessory Apartment Program• Overlay zoning - Methodist Church• Overlay zoning – A portion of the Business District• Borough-wide affordable set-aside	<i>Unmet Need: 367 Units</i> <ul style="list-style-type: none">• Accessory Apartment Program• Overlay zoning - Methodist Church• Overlay Zoning – A portion of the Business District• Borough-wide affordable set-aside





RDP: 4

Inclusionary Zoning

Municipally Sponsored

Unmet Need: 367

Overlay Zoning

Other Mechanisms

Zoning that requires market rate residential development to include affordable housing.

- M&M Site – 626 River Road – creation of 12 market rate units and 2 affordable units for a total of 14 units; M&M to pay \$175,000 to Habitat for Humanity for creation of 1 very low income unit, as required.
- Habitat for Humanity Site – 100% affordable development; 1 for-sale unit and 1 rental unit at the corner of Hendrickson Place and Allen Street

- Methodist Church Overlay
- Business District Overlay

- Accessory Apartment Program
- Borough-wide affordable set-aside
- Development Fee Ordinance

Satisfying the RDP 2020



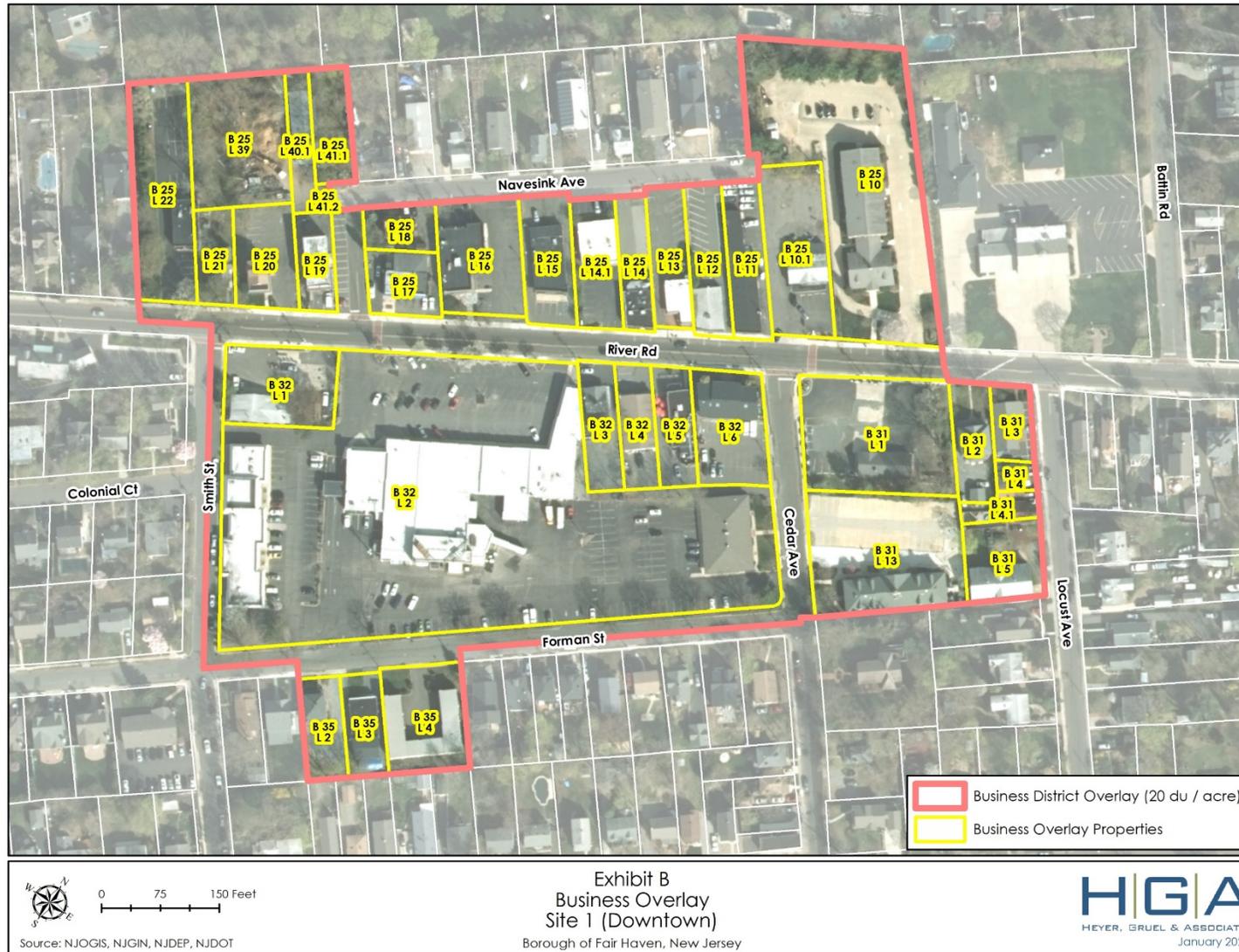
Satisfying the RDP 2020



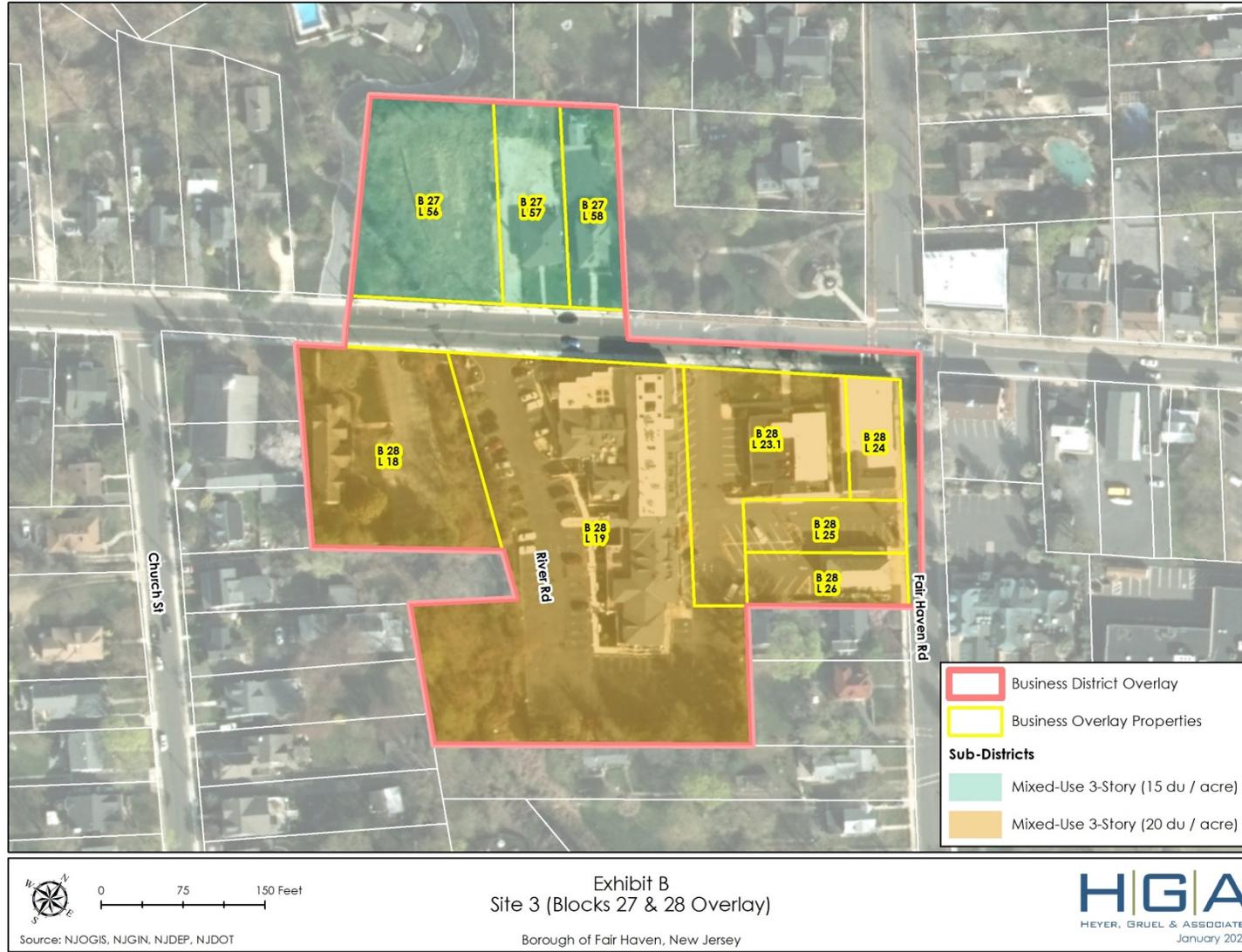
Satisfying the Unmet Need 2020



Satisfying the Unmet Need 2020



Satisfying the Unmet Need 2020



What Happens if Fair Haven Does Not Negotiate in Good Faith and/or Settle?

Without a Court-approved Housing Element and Fair Share Plan:

- The current RDP is 4 units instead of complying with the full obligation of potentially 371 units.
- The Borough does not receive long-term immunity and is open to builder's remedy lawsuits. If determined by a judge that Fair Haven practices **exclusionary zoning** and has not addressed its affordable housing obligation, the judge could give a developer permission to construct high-density inclusionary development anywhere within the Borough.
- ***The Borough loses control over where and how development will occur.***
- Fair Haven could fight but would have significant risks and costs with very little, if any, upside.



- ▶ Resolution by Governing Body Authorizing Execution of Settlement Agreements with FSHC and M&M
- ▶ Fairness Hearing - Court
- ▶ Adopt Amended Housing Element and Fair Share Plan (Planning Board) and Implementing Ordinances and Resolutions (Governing Body)
- ▶ Compliance Hearing - Court
- ▶ Judgment of Compliance and Repose – *establishes immunity from builder's remedy lawsuits until July 1, 2025*
- ▶ After July 1, 2025? – New calculations of obligation and the process begins again for all municipalities in New Jersey