

BOROUGH OF RIVERTON PLANNING BOARD

A G E N D A

August 25, 2020 at 7:00 P.M.

****NO NEW APPLICATIONS WILL BE HEARD AFTER 10:00 PM****

To Join Zoom Meeting

<https://zoom.us/j/96457377170?pwd=YkFuYzlxMUNUS3Nna25kYkdVSjNjZz09>

Meeting ID: 964 5737 7170

Password: 402550

Dial in via telephone by calling:

1 646 558 8656 US (New York)

Meeting ID: 964 5737 7170

Password: 402550

1. Meeting called to order at 7:00 PM

2. Salute to the Flag

3. Open Public Meetings Act. Public Notice of this meeting has been provided in the following manners:

- a) Posting written notice on the official Borough website on June 17, 2020
- b) Having written notice published in the Burlington County Times on June 19, 2020.
- c) Forwarding written notice for informational purposes only to the Courier Post on June 17, 2020.

4. Roll Call

5. Adopt July 28, 2020 minutes

6. Old Business

V-06-2020 Continuation

- A** Name: Adam Della Penna
Property: 339 Elm Avenue Block: 501 Lot: 32
Action Desired: Applicant in the R-4 zone seeks relief from Borough Code §128-16B for bulk variances at a corner property for the purpose of construction a functional front porch. Permission sought for a setback of 16.7 feet along Elm wherein 28.3 is required; and a setback of 11.9 feet facing Fourth wherein the Code prescribes for a setback of 20 feet in depth, however the current dwelling exists at 19.9 feet. Applicant also seeks any and all other variances and waivers the Board may require.

7. New Business

V-07-2020

- A.** Name: JPR Arch
Property: 509 Howard Block: 903 Lot: 17
Action Desired: Applicant seeks relief for a Conditional Use Variance (Code § 128-32 C) and Parking Variance (Code § 128-64), together with such bulk variances, submission/ development standard/design waivers or other relief under the Borough of Riverton Zoning Code as may be required, at the premises

at 509 Howard Street, also known as Block 803, Lot 17 for the following reasons: the Applicant's contract purchaser proposes a first and second floor residence and first floor business, where the ordinance permits only second floor apartment and first floor business; and no off-street parking where the ordinance requires 5 parking spaces.

B. PB Master Plan Consistency Review of O-2020-06A and Adoption of Resolution # PB-2020-12

8. Correspondence and Announcements

A. Determination of zoning at 500 Howard Street from Planner.

9. Committee Reports:

A. Council Liaison Report (Mayor Cairns Wells)

B. Environmental Commission Report (Mr. Threston)

C. Minor Site Plans Report (Pete Clifford)

10. Public Comment

11. Adjourn

RIVERTON BOROUGH PLANNING BOARD
MINUTES
July 28, 2020 at 7:00 p.m.

The July 28, 2020 regular meeting of the Riverton Planning Board was called to order at 7:00 PM. Mr. Brandt led the Flag Salute and Board Secretary Michelle Hack read the following statement

OPEN PUBLIC MEETINGS ACT

Public Notice of this meeting has been provided in the following manners:

- a) Posting written notice on the official Borough website on June 17, 2020
- b) Having written notice published in the Burlington County Times on June 19, 2020.
- c) Forwarding written notice for informational purposes only to the Courier Post on June 17, 2020.

The Borough Hall was closed to the general public in accordance with social distancing guidelines in place due to the onset of COVID-19 and the meeting was held via conference call with notice for calling in provided under OPMA. Secretary Michelle Hack was present at the Borough Hall.

Under the guidance of the Governor’s Executive Order 107, the Division of Local Government Services of New Jersey has strongly encouraged all municipalities to conduct public meetings with communications equipment to avoid a public gathering. N.J.S.A 10:4-8(b) authorizes local units to conduct public meetings through use of streaming services and other online meeting platforms. Participant instruction for the public meetings Using a computer, tablet or smartphone, join the Zoom Meeting using this link

<https://zoom.us/j/96457377170?pwd=YkFuYzlxMUNUS3Nna25kYkdVSjNjZz09>

Meeting ID: 964 5737 7170

Password: 402550

Dial in via telephone by calling:

1 646 558 8656 US (New York)

Meeting ID: 964 5737 7170

Password: 402550

ROLL CALL:

Suzanne Cairns Wells, present	Kerry Brandt, present	Joe Della Penna, present
Craig Greenwood, present	Pete Clifford, present	Robert Martin, present
Councilman Ken Mills, present	Ray Paszkiewicz, present	Joseph Threston, present
Rebecca Reis, Alt. 1, present	Adam Flade Alt. 2, absent	Doug Aird, Alt 3, present

MINUTES:

Ms. Hack submitted minutes from June 23, 2020 for approval. Mayor Cairns Wells moved to approve as submitted and Mr. Martin seconded the motion. All approved in the affirmative.

NEW BUSINESS:

A. V-06-2020

Name: Adam Della Penna
Property: 339 Elm Avenue Block: Lot:
Action Desired: Applicant in the R-4 zone seeks relief from Borough Code §128-16B for bulk variances at a corner property for the purpose of construction a functional front porch. Permission sought for a setback of 16.7 feet along Elm wherein 28.3 is required; and a setback of 11.9 feet facing Fourth wherein the Code prescribes for a setback of 20 feet in depth, however the current dwelling exists at 19.9 feet. Applicant also seeks any and all other variances and waivers the Board may require.

Ms. Hack confirmed all jurisdictional items were in compliance. The applicant, Adam Della Penna, Blair Della Penna and their contractor, Albert Minnix were all sworn in to provide testimony for this application. Mr. Joe Della Penna recused himself from the application. The applicants described the application and their proposed plan for the front porch and the setback variances requested. Several members of the Board took issue with the setback on the Fourth Street side of the property and the porch being enclosed. The enclosed space will not have heat or air conditioning, just electric. This will alleviate the cramping inside the house leading to the interior staircase. However, concerns from various board members were this portion of the structure will be not actually a porch, but an addition to the front of the house. Members of the Board questions why the porch doesn't project off the left side of the house. The applicants explained that their goal is to eventually build an addition onto that space and pointed out that it would not be conducive to construct a porch that would face the neighbor's property, a porch should face the street. Along this conversation lines the subject of hardship arose. The applicants' hardship is that the house was built in 1837 prior to zoning laws. The structure is already non-conforming as it sits at the forward corner of the property. Positive criteria noted that it improved current Stormwater drainage runoff, adds value and living space and promotes outdoor living for the family which is much needed for a home with three growing boys. Mr. Minnix stated that the porch will be constructed from composite decking with vinyl railings and a decorative bottom. A swale of rocks and rain garden will be built around the porch to lessen puddling on Fourth Street. After a lengthy discussion the Board asked the applicants to reconsider their setbacks and plan for the porch. They stated they would be will willing to redesign. Motion to table the application for the August 25 meeting made by Mr. Threston. Mayor Cairns Wells provided the second. All approved in the affirmative. The applicant will modify the application plans and the setbacks with respect to the earlier discussion in the interim.

Mr. Della Penna rejoined the meeting.

Adoption of the Amended Housing Element and Fair Share Plan and Resolution # PB-2020-10. Motion to approve by Mr. Della Penna and seconded by Mr. Threston. All approved in the affirmative. Adoption of the resolution is necessary for compliance with the Final Judgment in the Borough's Settlement Agreement with Fair Share Affordable Housing.

Master Plan Consistency Review of 06-2020 and Adoption of Resolution # PB-2020-11. Motion to

approve by Mr. Threston and seconded by Mr. Greenwood. All approved in the affirmative. Adoption of the resolution protects the Master Plan and is needed for compliance of the Judge's order in the Borough's Settlement Agreement with Fair Share Affordable Housing.

Memorialize Resolution# PB-2020-07 for V-03-2020 Edward and Mary Breslin. Motion to approve by Mayor Cairns Wells and seconded by Mr. Threston. All approved in the affirmative. Mr. Paszkiewicz and Mr. Brandt are considered abstain votes due to not being in attendance June 23.

Memorialize Resolution# PB-2020-08 for V-04-2020 Paula Dileo. Motion to approve by Mr. Greenwood and seconded by Mr. Threston. All approved in the affirmative. Mr. Paszkiewicz and Mr. Brandt are considered abstain votes due not being in attendance June 23. Mr. Martin and Mr. Della Penna were not included in the roll call due to their recusal of the original application.

Memorialize Resolution # PB-2020-09 V-05-2020 Dave Campbell. Motion to approve by Mr. Della Penna and seconded by Mr. Threston. All approved in the affirmative. Mr. Paszkiewicz and Mr. Brandt are considered abstain votes due to their not being in attendance of June 23.

OLD BUSINESS: none

CORRESPONDENCE/ANNOUNCEMENTS: None

COMMITTEE REPORTS:

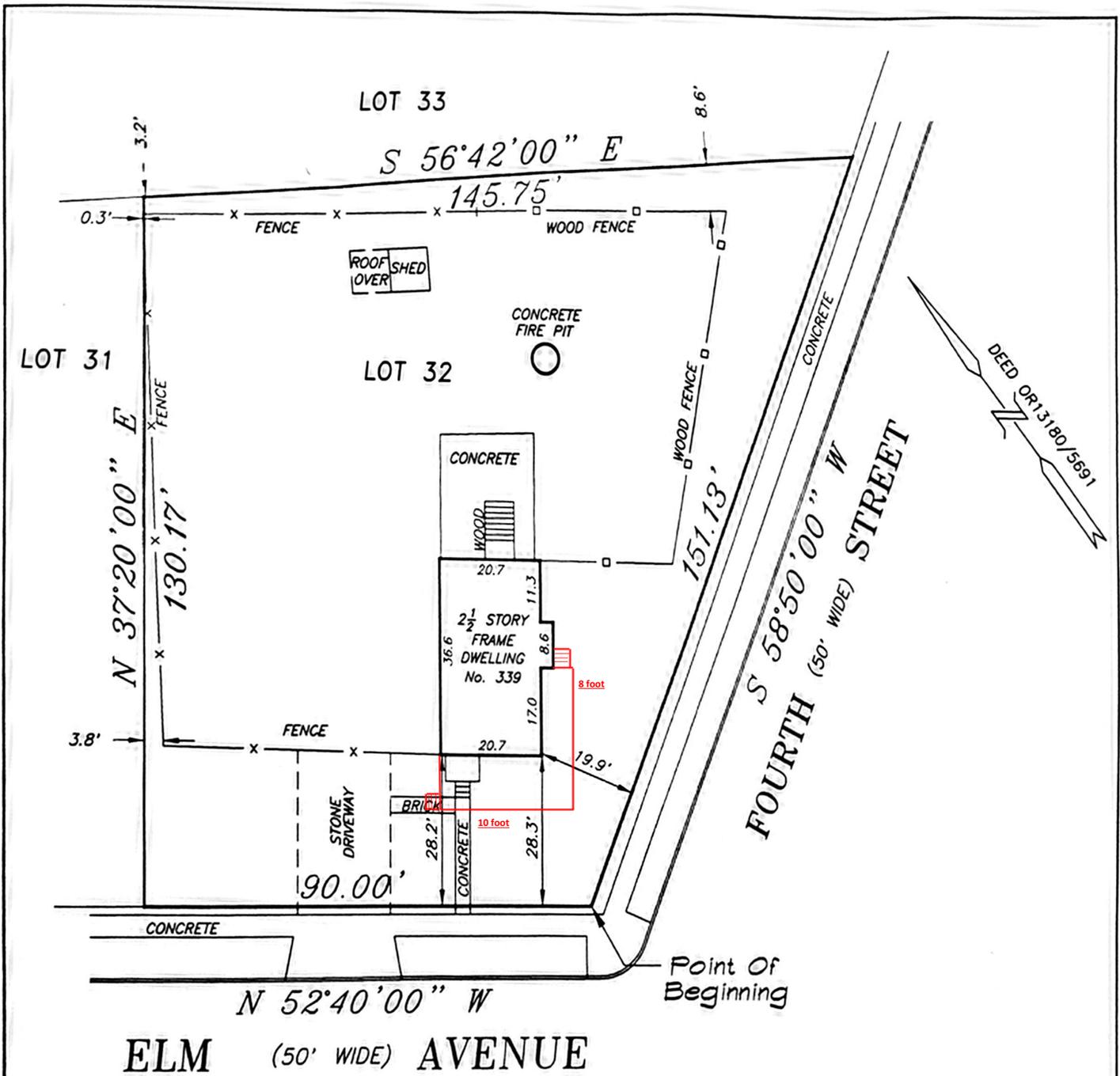
- A. Council Matters of Importance to the Board** –Mayor Cairns Wells gave up date of Borough activities (Food Truck events, movie night and basketball camp). She is working to develop a Diversity Advisory Committee and will be calling a meeting of the Parking Committee by the end of the summer. She has new information to share concerning parking.
- B. Minor Site Plan-** Exotic Levels at 301 S. Broad Street denied due to lack of information.
- C. Environmental Commission-** Working to beautify the rain garden at Riverton School. Green Team has suspended their movie series until 2021.

PUBLIC COMMENT: Joe Rainer of Beechwood was present. He asked for clarification why the garages at 500 Howard Street are zoned residential and the surrounding area is commercial. Ms. Hack will send a memo to Ms. Lee for clarification. He questioned Mayor Cairns Wells when the Parking committee will meet and who will sit on the committee. Mr. Threston requested Planning Board representation on the Committee.

ADJOURNMENT: Motion to adjourn by Mr. Della Penna and seconded by Mr. Greenwood.

Respectfully submitted:

Michelle Hack Secretary
RIVERTON PLANNING BOARD
Adopted on: August 25, 2020



ELM (50' WIDE) AVENUE

NOTES:

- 1) BEING LOT 32, BLOCK 501, PLATE 5 ON THE BOROUGH OF RIVERTON TAX MAP
- 2) LOT AREA:
0.362 ACRES±
15,787 SQ. FT.±

'A WRITTEN 'WAIVER AND DIRECTION NOT TO SET CORNER MARKERS' HAS BEEN OBTAINED FROM THE ULTIMATE USER PURSUANT TO N.J.A.C. 13:40-5.1(d)'

TO:

any insurer or Title relying hereon and any other party in interest. "In consideration of the fee paid for making this survey, I hereby certify to its accuracy (except such easements, if any, that may be located below the surface of the lands or on the surface of the lands and not visible) as an Inducement for any Insurer of Title to insure this title to the lands and premises shown hereon.

REVISED	DESCRIPTION	
	ROBINS ASSOCIATES LAND SURVEYING 9 SCOTT ST., RIVERSIDE NJ 08075 PHONE: 856-461-9494	
	 WILLIAM J. ROBINS LAND SURVEYOR NJ LIC. No. 31663	
SURVEY FOR: ADAM DELLA PENNA		
LOCATION: BOROUGH OF RIVERTON		
BURLINGTON COUNTY, NEW JERSEY		
DATE	SCALE: 1"=30'	DRAWING NUMBER
12-12-2019	DRWN KR	CK'D WR A19-0346

From: [Adam Della Penna](#)
To: [Michelle Hack](#)
Cc: [Blair Della Penna](#)
Subject: Fwd: renderings
Date: Wednesday, August 19, 2020 2:43:18 PM

Hello Michelle,

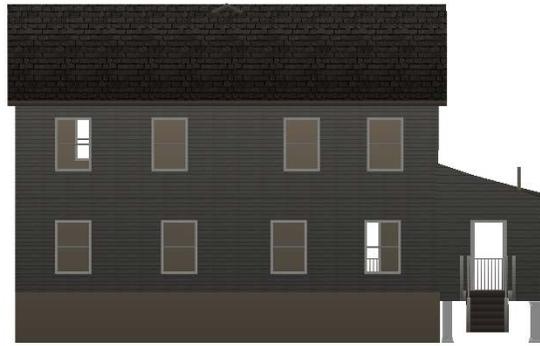
Attached is the updated renderings. Do you want us to mark up another survey to show the new set backs? It was 10 foot in the front of the house (facing Elm Ave.) and 8 foot on the opened side (facing 4th street). No trees will be taking down as they will remain u touched by the porch design.

Thank you,

Adam Della Penna
(856) 600-2957

Begin forwarded message:











ORIGINAL PROPERTY OF
DORIS W. AMESSE BEQUEST
1837

hello



From: [Adam Della Penna](#)
To: [Michelle Hack](#)
Cc: [Blair Della Penna](#)
Subject: Marked in Red Survey (339 Elm Ave)
Date: Thursday, August 20, 2020 11:38:37 AM
Attachments: [339 ELM Aug 20, 2020 at 9.33 AM.PDF](#)

Hello Michelle,

Please see attached. I tried my best to scale it but it is not true to scale but I marked the footage and puts steps in to show that the steps do not go passed the set backs of 10 foot and 8 foot.

I made it in blue beam pdf editor so let me know if it does not come over properly.

Thank you,

Adam Della Penna
(856) 600-2957

Begin forwarded message:

From: Adam Della Penna <adam.dellapenna@graybar.com>
Date: August 20, 2020 at 11:32:52 AM EDT
To: "adam.dellapenna@gmail.com" <adam.dellapenna@gmail.com>
Subject: 339 2

Adam J. Della Penna LC, CLCP | [Account Manager](#)
| [Office \(215\) 218-2432](#) | [Cell \(215\)200-7507](#)

APPLICATION

PLANNING BOARD
BOROUGH OF RIVERTON
505A HOWARD STREET
RIVERTON, NJ 08077
TELEPHONE: (856) 829-0120

This application, with supporting documentation, must be filed with the Secretary of the Planning Board at the above referenced address, for a review and determination as to completeness prior to a hearing date being set or an applicant advertising for, or mailing notices regarding a hearing date. Hearing dates are only set by the Board Secretary and/or Chairman.

This Section to be completed by Planning Board Staff Only

Date File (Received): 7/30/2020 Application No.: V-07-2020
Application Fee: \$ 300 Date of Check: 7/30 Check No.: 338
Escrow Deposit: \$ 700 Date of Check: 7/30 Check No.: 337
Review for Completeness Completed: TBD Hearing Date Set For: TBD

TO BE COMPLETED BY THE APPLICANT

1. SUBJECT PROPERTY:

Location (Street Address): **509 Howard St., Riverton, NJ 08077**

Tax Map: **Block 903 Lot 17**

Dimensions: **Frontage 60' Depth 122' Total Area 7,320**

Zoning District (See Zoning Map): **NB**

2. APPLICANT INFORMATION:

Name: **JRP Arch, LLC**

Address **509 Howard St., Riverton, NJ 08077**

Telephone Number(s): DAY **856-829-9500** EVENING **856-829-9500**

Applicant is a (please check one): Corporation _____ Partnership _____ Sole Proprietor _____
Resident _____ **None of the above: X Limited Liability Company.**

3. DISCLOSURE STATEMENT

Pursuant to N.J.S. 40:55D-48.1, the names and addresses of all persons owning 10% or more of the stock in a corporation that is an applicant, or 10% or greater interest in a partnership that is an applicant, must be disclosed. In accordance with N.J.S. 40:55D-48.2, that disclosure requirement applies to any stockholder in a corporation that is the applicant, or partner in a partnership that is an applicant, who owns or holds 10% or more of its stock, or 10% or greater interest in the partnership, until the names and addresses of the non-corporate stockholders and individual partners, at or exceeding the 10% ownership criterion, have been listed. **[Attach pages as necessary to fully comply with the following information requested for each individual.]**

Name: _____ Percentage of Interest Held: _____%

Address: _____
(Street) (City) (State) (Zip Code)

4. OWNER IF DIFFERENT FROM THE APPLICANT Check here if same

If the owner of the property is someone different from the Applicant, then please complete the following:

Owner's Name: _____

Address: _____
(Street) (City) (State) (Zip Code)

Telephone Number: DAY (____) _____ EVENING: (____) _____

5. PROPERTY INFORMATION

Restrictions, covenants, easements, association by-laws, either existing or proposed on the property:

[] YES (Attach copies) [X] NO [] PROPOSED (Attach Description)

NOTE: All deed restrictions, covenants, easements, association by-laws, either existing or proposed, must be submitted for review, and must be written in easily understandable English in order to be approved.

Present use of the premises: **Offices for Architectural firm**

Note: **No restriction of record. Borough of Riverton has license agreement with Owner to access rear of subject property to park employee vehicles. Contract purchaser does not have employees but similar license would enable them to park owner's vehicles on rear of Property.**

8. RELIEF BEING REQUESTED

The applicant is requesting the following relief from the Planning Board; (List as many forms of relief that are applicable):

SUBDIVISION:

- Major Subdivision Approval Minor Subdivision Approval
 Subdivision Approval (Preliminary) Subdivision Approval (Final)
Number of Lots to be created _____ Number of proposed dwelling units _____

SITE PLAN:

- Major Site Plan Approval Minor Site Plan Approval
 Preliminary Site Plan Approval (phases- if applicable) _____
 Final Site Plan Approval (phases- if applicable) _____
 Amendment of Revision to an Approved Site Plan (Area to be disturbed-square feet)
Total number of proposed dwelling units 1 _____
 Request for Waiver from Site Plan Review and Approval

Reason for request: **No changes are proposed to the grounds on the Property or the exterior or footprint of the building; all proposed changes would be solely to the interior of the building.**

 Informal Review of _____

Appeal decision of an Administrative Officer (N.J.S.A. 40-55D-70a); Describe nature of appeal:

Map or Ordinance Interpretation of Special Question (N.J.S.A. 40:55D-70b); Description:

Variance Relief – "Hardship" (N.J.S.A. 40:55d-70c(1)); Provide Reasons:

Variance Relief – “Substantial Benefit” (N.J.S.A. 40:55D-70c(2); Provide Reasons: **Parking; see Narrative**

Variance Relief – “Use” (N.J.S. 40:55d-70d); Provide Reasons:

Conditional Use Approval (N.J.S. 40:55D-67). Site applicable section of the Riverton Land Use Ordinance: **§ 128-32 C, with variance**

Direct issuance of a permit for a structure in a bed of mapped street, public drainage way, or flood control basin (N.J.S. 40:55D-34). Describe: _____

Direct issuance of a permit for a lot lacking street frontage (N.J.S.A. 40:55D-35) Blk _____ Lot _____
Reason for request: _____

Section(s) of Ordinance from which a variance requested: § 128-64 (Parking); § 128-32 C (Conditional Use Variance. Finally, applicant seeks other bulk variances as the Riverton Zoning Board of Adjustment may deem necessary and appropriate.

Waivers Requested of Development Standards and/or Submission Requirements (attach additional pages as needed): **Submission Requirements Checklist Items 7-43 including but not limited to topographic, drainage, utilities, stormwater, soil erosion, construction details and traffic on grounds that Applicant is seeking waiver of site plan and not proposing any exterior changes to the Property.**

9. SUBMISSION REQUIREMENTS

Attach a copy of the Notice to appear in the official newspaper of the Borough of Riverton (*Burlington County Times*) – see **Form #2**, and the Notice to be mailed to the owners of all real property, as shown on the current tax duplicate, located within 200 feet in all directions of the property which is the subject of this application- see **Form #1**. **NOTE:** Both notices must specify the sections of the Ordinance from which relief is sought, if applicable. Attach a Certification from the Riverton Tax Collector that all taxes on the subject property have been paid up to date- see **Form #4**. Also, attach hereto (or provide at least five days prior to the hearing date) an Affidavit of Service- see **Form #3**. **The publication and the service on the affected owners must be accomplished at least ten (10) days prior to the date scheduled for the hearing. Only an official notice from the Secretary of the Planning Board shall be relied on as to the scheduled hearing date.**

Explain in detail the exact nature of the application and the changes to be made at the premises, including the proposed use of the premises, *if applicable*: **See attached Narrative.** (attach pages as needed)

Please check each of the following that are applicable to this application:

Check here if NONE

Is a public water line available? Is public sanitary sewer available?

Does the applicant propose a well and septic system?

Have any proposed new lots been reviewed by the Tax Assessor to determine appropriate lot & block numbers? YES NO n/a

Are any off-tract improvements required or proposed? Explain: _____

Is the subdivision to be filed by Deed or Plat? Deed: _____ Plat: _____

What form of security does the applicant propose to provide as performance and maintenance guarantees? Explain: _____

Other approvals which may be required, and the dates that plans were submitted:

<u>AGENCY OR PERMIT</u>	<u>DECISION</u>	<u>DATE PLANS SUBMITTED</u>
Burlington County Health Department	<input type="checkbox"/> YES <input type="checkbox"/> NO	_____
Burlington County Planning Board	<input type="checkbox"/> YES <input type="checkbox"/> NO	_____
Burlington County Soil Conservation	<input type="checkbox"/> YES <input type="checkbox"/> NO	_____
NJ Department of Environmental Protection	<input type="checkbox"/> YES <input type="checkbox"/> NO	_____
PSE&G	<input type="checkbox"/> YES <input type="checkbox"/> NO	_____
Other _____	<input type="checkbox"/> YES <input type="checkbox"/> NO	_____

Check nature of approvals needed:

Sewer extension permit;

Sanitary Sewer Connection Permit;

Stream Encroachment Permit;

Wetlands Permit; Tidal Wetlands Permit;

Potable Water Construction Permit;

List of Maps, Reports and other materials accompanying the application (attach additional pages as required for complete listing): SP-1a Existing Site Plan; A-1.1 First & Second Floor Plans prepared by J. Randolph Parry, Architects, Planners, July 28, 2020; Photographs of Property

10. CERTIFICATIONS

APPLICANT

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate applicant and that I am authorized to sign the application for the Corporation, or that I am a general partner of the partnership applicant. (If the applicant is a corporation, this must be signed by an authorized corporate officer as indicated in a resolution of the corporation which must be attached hereto. If the applicant is a partnership, this must be signed by a general partner.)

Sworn to and subscribed before me this

30th day of July, 2020

JRP Arch, LLC

Thomas H. Ehrhardt
Attorney at Law, State of New Jersey

By: _____

J. Randolph Parry, Member
SIGNATURE OF APPLICANT

OWNER (IF DIFFERENT FROM APPLICANT) ■ Check here if not applicable

I certify that I am the Owner of the property which is the subject of this application, that I have authorized the applicant to make this application and that I agree to be bound by the application, the representations made and the decision in the same manner as if I were the applicant(s). (If the owner is a corporation, this must be signed by an authorized corporate officer as indicated in a corporate resolution which must be attached hereto. If the owner is a partnership, this must be signed by a general partner.)

Sworn to and subscribed before me this

_____ day of _____, 2_____

NOTARY PUBLIC

SIGNATURE OF OWNER

10. CERTIFICATIONS

APPLICANT

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate applicant and that I am authorized to sign the application for the Corporation, or that I am a general partner of the partnership applicant. (If the applicant is a corporation, this must be signed by an authorized corporate officer as indicated in a resolution of the corporation which must be attached hereto. If the applicant is a partnership, this must be signed by a general partner.)

Sworn to and subscribed before me this

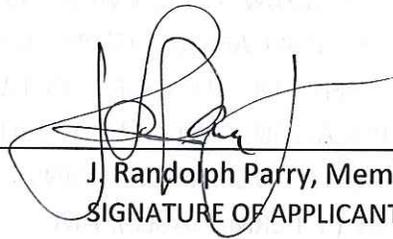
30th day of July, 2020

JRP Arch, LLC



Thomas H. Ehrhardt
Attorney at Law, State of New Jersey

By: _____



J. Randolph Parry, Member
SIGNATURE OF APPLICANT

OWNER (IF DIFFERENT FROM APPLICANT) ■ Check here if not applicable

I certify that I am the Owner of the property which is the subject of this application, that I have authorized the applicant to make this application and that I agree to be bound by the application, the representations made and the decision in the same manner as if I were the applicant(s). (If the owner is a corporation, this must be signed by an authorized corporate officer as indicated in a corporate resolution which must be attached hereto. If the owner is a partnership, this must be signed by a general partner.)

Sworn to and subscribed before me this

_____ day of _____, 2_____

NOTARY PUBLIC

SIGNATURE OF OWNER

CHECKLIST FOR SUBMISSION

Please call for Deadlines
PUBLIC NOTICES DEPARTMENT
Burlington County Times (NJ)
215-949-4112
Fax: 215-259-0603
EMAIL: legals@calkins.com

17 Copies of application and plan with the original being certified and notarized 20 days prior to hearing

_____ 200 Ft List Request form completed

_____ **Application Fee CHECK NUMBER** _____

\$300.00 (check all that apply)

- \$100 Variance Application
- \$200 Waiver of Minor Site Plan (per Board Secretary)
- \$50 Change of Use for Non-Residential
- \$350 Site Plan Application
- \$200 Minor Subdivision
- \$500 Major Subdivision

_____ **Escrow Paid (amount) CHECK NUMBER** _____

\$700.00 (check all that apply)

- \$350 Variance (x 2- parking and Conditional Use)
- \$500 Minor Subdivision
- \$4,000 Major Subdivision
- \$1,000 floor area less than 1,000 sq. feet Site Plan
- \$3,000 floor area between 1,000 – 9,999 sq. feet Site Plan
- \$5,000 floor area 10,000 sq. feet and over Site Plan

_____ Board Secretary confirm date for application hearing

Secretary
Initials _____

_____ Publication in Official Newspaper MUST BE DONE AT LEAST 10 DAYS
PRIOR TO HEARING DATE

_____ Form 2
Public Notice to 200 foot list with Affidavit Form 3

_____ Tax Certification Form 4

TO THE HEARING BRING FORMS 2, 3, 4 with all receipts, proof of mailing, and Affidavits.

TAX PAYMENT CERTIFICATION

Pursuant to the New Jersey State Law, Chapter 174 or 1987, N.J.S. 40:55D-39c and N.J.S. 40:55D-65-h, an applicant may be required to furnish proof that no taxes or assessments for local improvements are due or delinquent on the property for which any relief is being sought through the Planning Board. An applicant must complete Section I of this form and request the Riverton Tax Office to Complete Section II, which verifies that no taxes or assessments are due. When completed, the applicant should attach this form to the application that is to be submitted to the Planning Board.

SECTION I (To be Completed by Applicant):

I JRP Arch, LLC, whose office is located at 509 Howard St., Riverton, NJ 08077, am making an application for the following relief before the Planning Board of the Borough of Riverton: Conditional Use with Variances regarding property known as Block 903, Lot(s) 17 on the Tax Maps of the Borough of Riverton: 509 Howard St., Riverton, NJ 08077; JRP Arch, LLC is the owner of record. I request the Tax Collector of the Borough of Riverton to determine if all taxes and/or assessments are paid on the property that is the subject of my application.

JRP Arch, LLC

DATE OF REQUEST: 07/30/2020

By:

[Handwritten Signature]
J. Randolph Parry, Member

SECTION II (To be completed by Tax Collector)

I certify that: [X] All taxes are paid up to date on the above referenced property
[] All assessments due have been paid
[] The following are delinquent and past due: _____

{Affix Stamp Here & Sign}

Date: 7/31/2020

I verify that this information accurately reflects municipal tax records.

[Handwritten Signature: Dolores Rosso]
Dolores Rosso, CTC
Tax Collector, Riverton Borough
County of Burlington



NARRATIVE

Applicant, JRP Arch, LLC, is the owner of the building at 509 Howard St., Riverton, NJ 08077, Block 903, Lot 17 (the "Property"). In 2009, the applicant obtained Planning Board Approval under Resolution 2009-03, signed February 17, 2009, in order to operate an architectural business at the site- the business has the happy occasion to have outgrown the space and therefore Applicant will relocate within Riverton.

Applicant is under contract to sell the Property to Kathryn and Mark Brown, who own and operate Musik Haus Studios, a music school. Kathryn and Mark originally operated Musik Haus out of their home in Riverton, outgrew it, and the school currently is situated in Palmyra. Because they serve a number of Riverton residents as students, Kathryn and Mark have desired for some years to live in and operate their studio out of a single location in Riverton; this unique property presents them with this opportunity. The Southeastern, Railroad side of the building consists of a second floor with two (2) bedrooms and bathroom, but no kitchen, so for the Browns truly to reside in this section they would also require use of the kitchen, dining room and parlor on the first floor. The Northeastern, River side of the building, on the first floor, would accommodate the music school. The layout of the building lends itself well to this proposed use as, with some interior modifications, it can be fitted out for the Browns to separate the residential from the business use. No exterior or site changes are proposed.

Riverton Borough Ordinance § 128-32 C permits a Conditional Use of an upper level apartment and first floor business- this would exist- but the proposed use varies from the ordinance as to the first floor residence on the Railroad side; hence, a Conditional Use Variance is sought.

Resolution 2009-03 approved a front yard setback of 8.2' where 20' are required in the NB zone (this was an increase from the then-existing front yard setback of 7.9'); and, side yard setbacks of 0' and 1.5' where 10' each side and 20' aggregate are required in the NB zone (unchanged from the then-existing non-conforming condition). These variances continue as they run with the land and no changes to the exterior of the site are proposed.

Under Resolution 2009-03, the Applicant did not propose any parking on the Property, and the prior owner and use, the day care center, likewise did not have any parking on the Property. In 2009, the proposed architectural office required 12 on-site parking spaces. The only area for potential parking is located at the rear of the Property adjacent to the Borough Hall Parking Lot, to which there is no access from Howard Street or otherwise. Following its approvals in 2009, the Applicant entered into a license agreement with the Borough which permitted access through the Borough lot to the rear of the Property, where the employees park.

The current application pertains to the contract purchasers' use of the Property as a residence and music school. Ordinance § 128-64 states that all residences require two (2) parking spaces per unit; and, schools and child-care centers require 1 space for every 600 square feet of floor area plus adequate storage space for pickup and delivery, and 1 additional space for each employee. The music school would have 1,255 SF and zero (0) employees, generating a requirement of three (3) parking spaces; the total requirement would be five (5) spaces. The Applicant does not propose any parking spaces in the current application either, but notes that if the Borough were to enter into a similar access license with the Browns, they would park their own vehicles in the rear of the Property, rather than on the street.

The Applicant and contract purchasers anticipate that there would not in general be an intense parking use by patrons of the business (students and their parents), as the students residing in Riverton could and would walk to the school- this plays a key role in the Browns' desire to locate the music school in the Borough. In addition, the use as a residence is not an intense one. In a conditional use variance application, the focus is on the deviation, the first floor residence component. Applicant proposes to prove that the benefits of the less intense residential use and lesser demand on parking outweigh the burdens of the parking and conditional use variances sought.

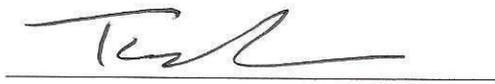


TAMARA LEE CONSULTING LLC

156 Lindbergh Road
Hopewell, New Jersey 08525-2601
(609)333-0678
e-mail: tamaralee@tleplan.com

MEMORANDUM

To: Riverton Planning Board From: Tamara L. Lee, PP, AICP
Re: 509 Howard Street
Block 903, Lot 17
D1 Use Variance with Parking
Variance and Waiver Date: August 16, 2020



This office has received and reviewed the following material for the above referenced application:

- Completed Application Form
- Completed Checklist
- Existing Site Plans, prepared by J. Randolph Parry Architects dated 7/28/20
- First & Second Floor Architectural Plans, prepared by J. Randolph Parry Architects dated 7/28/20
- Photos of the site (4 total)
- An access agreement between the Borough and JRP Arch, dated July 9, 2014
- Planning Board Resolution 2009-03, Variance and Preliminary and Final Site Plan Approvals for Block 903, Lots 17 and 18

After reviewing this information, I offer the following comments:

1.0 Background

This 7,320 sf site is located south of, and directly adjacent to, the Borough Hall on Howard Street in the NB Neighborhood Business zone and within the Historic District. While this is a commercial zoning district, the immediate neighborhood is a mix of both commercial and pre-existing non-conforming residential uses. The subject site was once used as a day care center before a Planning Board approval in 2009 granted permission for the current owner to convert the use to an architectural design office. This application seeks to change the use again; this time creating a music studio on most of the first floor and a residence for the owners of the music studio on the balance of the first floor along with the entirety of the second floor.

The rear of the site has space for some off-street parking, though the only access to this space is through the Borough's municipal parking lot. An access agreement to use this space for parking was created between the Borough Council and the owner of the subject lot but that agreement does not run with the land. At the front of the building there are two (2) on-street parking spaces. These spaces were created when the architecture office was approved. Prior to that, the on-street spaces functioned as a drop off zone for the previous day care center.

The current application proposes no physical changes to the site or exterior of the building. The proposed music studio is a permitted use within the NB zone since "businesses and instructional school(s)" are permitted. (*Section 128-31R*) While there are building setback encroachments, these variance conditions were approved with the prior application for the architecture office and since the current application will not change the setback conditions, the existing conditions are now pre-existing and no new bulk variances are required at this time.

The use variance required for the present application relates to that portion of the proposed residential use that will occupy the first floor. In the NB Zone, residential uses are only permitted as conditional uses when they are located on the second floor and when they are developed in conjunction with commercial uses on the first floor. In this case the applicant proposes to use 1,497 sf of the first floor as a music studio. Another 957 sf of the first floor will be developed with a livingroom, diningroom, kitchen and parlor for a residence. The 609 sf second floor will include two bedrooms and a bathroom. This arrangement is inconsistent with the ordinance and a use variance is required.

In addition to the use variance, the applicant is seeking a parking variance and a waiver of site plan review.

2.0 Zoning/Master Plan

The NB Neighborhood Business zone is "a mixed use zone, characterized by small scale, specialty shops which serve the immediate community." As previously noted, residential apartments are permitted above commercial establishments, however, the 2007 Re-Examination states that the Borough has had mixed success when it comes to integrating residential uses in the downtown and so it is recommended that the zone promote office and retail on the second floor as well as apartments in an effort to expand the Borough's ratable base. Nothing in the 2018 Master Plan Re-Examination Report suggests that this planning policy should be changed.

On the other hand, the 2007 Re-Exam also notes that second floor apartments can be a "useful option" that "make it easier for store owners and managers to live where they work." (*2007 Re-Exam, pg. 8 of 15*) Again, this policy is not reversed or otherwise changed in the subsequent 2018 Re-Exam. This suggests that the Borough's planning policy supports the idea of business owners living on the site

with their business. This juxtaposition of a residential use with a commercial use is a key point to be considered with the current application.

Two (2) internal doors will connect the two-story residence with the one-story music studio. These doors effectively create an intimate relationship between the two uses. If the residential use were completely independent of the music studio, it would be reasonable to anticipate potential future conflicts between the music studio and the tenants of the apartment. But since the two uses will be physically connected with doorways, it's more likely that the occupants of the residence will be the owners or at least employees of the music studio. Their relationship to the business will make it more likely that they will tolerate the activity of the commercial space. Even though the Planning Board is unable to mandate a relationship between the business and the residence, the inclusion of a connective doors is a desirable feature that will encourage a positive relationship between the two uses.

Since there will be no changes to the outside of the building or the site, the architectural character of the building will continue to be consistent with existing development in this area of the Historic District.

3.0 Waivers and Variances Requested/Required

- 3.1 Site Plan Submission Waiver – No changes to the site are proposed so the applicant is requesting a waiver on site plan submission. I have no objection to this request; however, the applicant should be prepared to illustrate for the Board how many parking spaces exist at the rear of the site and explain how many vehicles might be subject to a new access agreement with the Borough.
- 3.2 Use Variance – Residential uses above the first floor are only allowed in the NB zoning district as conditional uses. The two (2) stated conditions are 1) there shall be only one apartment per floor and 2) the apartment shall be at least 600 sf. (*S. 128-110*) The residential space on the second floor satisfies these conditions so it is not the subject of the required variance. Instead, the living space on the first floor is the subject of the required variance and since residential use is not permitted on the first floor under any conditions, a D-1 use variance is required. (*S. 128-31*) This is consistent with past practice on similar applications. Accordingly, the applicant must satisfy the positive and negative criteria for a D-1 variance, demonstrating the following:

Positive Criteria -

- The application advances the purposes of the Municipal Land Use Law.
- The application advances the goals and objectives of the Borough's Master Plan.

- The site is particularly well suited for the proposed use.

Negative Criteria-

- There is no substantial detriment to the public good.
- There is no substantial impairment to the zone plan.
- The applicant must reconcile why the proposed use was not included in the ordinance.

Again, the close relationship between the occupants of the residential use and the operators of the commercial space provides a potential benefit that minimizes typical conflicts between residential and commercial uses. It also maximizes the likelihood that the business will be well cared for.

Moreover, as previously noted, this part of the NB zoning district is a mix of pre-existing residential uses so the first floor residential use is not necessarily inconsistent with the character of the neighborhood. Moreover, there are no commercial ratables north of the site, so there is no possibility for the proposed first floor residential use will discourage pedestrian activity to other commercial sites in the zoning district, which can be a concern with respect to first floor residential uses.

- 3.3 Parking variance – Per the ordinance, Section 128-64, the proposed use will require five (5) parking spaces, including three (3) spaces for the music studio and two (2) spaces for the residence. No parking is proposed, though the applicant has expressed a willingness to enter into a similar access agreement with the Borough as was created between the Borough and the architectural office. The applicant should explain how many vehicles and what type of vehicles would be parked at the rear of the site if the Borough Council is incline to enter into another access agreement. Without an agreement, the Applicant would require a parking variance for 5 parking spaces. With an agreement, the applicant might park personal vehicles at the rear of the site, but it is not recommended that patrons of the music school be allowed to use the rear parking area since that would generate public traffic through the municipal parking lot for the purposes of a private business when the lot might be needed for public use. Therefore, the parking variance required for this application is a variance for somewhere between 3 and 5 parking spaces. Regardless, the parking demand for the proposed use is much less than the architectural office, which required twelve (12) parking spaces.

4.0 Site Plan

- 4.1 Music recitals – The applicant should advise the Board whether or not music recitals will occur on this site and if so, how often and how many people generally attend the recitals. This information will be relevant to any consideration of the parking variance.

- 4.2 Drop-off – As previously noted, the earlier daycare center had a drop off space in front of the building. The applicant should explain how students will arrive at the site on a daily basis. How many students arrive at one time? Are the students predominantly adults or children, which will impact whether the students are dropped off or parking is required? What are the hours of operation? It seems likely that people might use the municipal parking lot since the location of the parking is so convenient and the Board should have a clear understanding of the possible impact of the music studio on the Borough's lot.
- 4.3 The applicant should confirm that any signage for the music studio will comply with local ordinances.

cc: Michelle Hack, PB Secretary, via email
Chuck Petrone, Esq., PB Attorney, via email
Jeff Hanson, PE, PB Engineer, via email
Jack Parry, AIA, Applicant's Architect, via email
Tom Ehrhardt, Esq. via email

RESOLUTION NO. PB-2020-12

**RESOLUTION OF THE PLANNING BOARD
OF THE BOROUGH OF RIVERTON, COUNTY OF BURLINGTON
FINDING BOROUGH ORDINANCE NO. O-2020-06A, THE AMENDED FAIR SHARE
ORDINANCE, AMENDING CHAPTER 128 OF THE RIVERTON BOROUGH CODE
ENTITLED “ZONING,” CONSISTENT WITH THE MASTER PLAN OF THE
BOROUGH OF RIVERTON**

WHEREAS, pursuant to the Municipal Land Use Law of the State of New Jersey (*N.J.S.A.* 40:55D-26 and 64), the Planning Board of the Borough of Riverton (the “Board”) is obligated to review any and all proposed land use control ordinances and make a report of any inconsistencies with the Master Plan prior to adoption by the Borough Council of the Borough of Riverton;

WHEREAS, at its August 18, 2020 meeting, the Borough Council introduced Ordinance No. O-2020-06A, entitled, “AN ORDINANCE OF THE BOROUGH OF RIVERTON AMENDING THE BOROUGH’S FAIR SHARE ORDINANCE, ADOPTED BY BOROUGH COUNCIL ON SEPTEMBER 24, 2019, AS BOROUGH ORDINANCE O-2019-07” amending **Chapter 128 (Zoning) Article XXIII** (Affordable Housing Regulations) of the Borough Code and has referred Ordinance No. O-2020-06A to the Board for the Board’s Master Plan consistency review and recommendation;

WHEREAS, through this resolution, the Planning Board wishes to memorialize its findings concerning the review and analysis of the proposed amendments to the Borough’s Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE PLANNING BOARD OF THE BOROUGH OF RIVERTON, IN THE COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT:

1. The amendments to Chapter 128 of the Zoning Ordinance of the Borough of Riverton, as set forth in the ordinance introduced by the Borough Council on July 21, 2020 as

Ordinance No. O-2020-06A, having been previously reviewed by the Consulting Engineer, Planner and Solicitor to the Planning Board and no objection having been identified, are hereby found by this Board to be consistent with the Master Plan of the Borough of Riverton.

The amendments set forth in the Ordinance No. O-2020-06A are required as a condition of the July 7, 2020 Declaratory Judgment of Compliance and Repose as Ordered by Jeanne T. Covert, A.J.S.C. and the June 9, 2020 Compliance Report of the Special Master to implement the affordable housing mechanisms included in the Housing Element and Fair Share Plan of the Borough of Riverton, adopted by the Planning Board on August 27, 2019, and endorsed by the Borough Council on August 27, 2019, and the Amended Housing Element and Fair Share Plan adopted by the Planning Board on July 28, 2020 to satisfy the requirements of the New Jersey Supreme Court in *In Re Adoption of N.J.A.C 5:96 and 5:97 by New Jersey Council on Affordable Housing*, 221 N.J. 1 (2015), and are, therefore, consistent with the Housing Element and Fair Share Plan of the Borough's Master Plan.

3. This Resolution shall constitute the report of the Planning Board required pursuant to the Municipal Land Use Law (*N.J.S.A. 40:55D-26*) for the Planning Board's review of Borough Ordinance No. O-2020-06A.

4. The Planning Board's Solicitor, Consulting Engineer, Planner and Board Secretary are hereby further authorized to undertake any and all action to forward this Resolution to the Borough Council for their consideration prior to adoption of the Inclusionary Ordinance and the Fair Share Ordinance.

5. This Resolution shall take effect immediately.

MOTION: _____ **SECOND:** _____

ROLL CALL:

AYES: _____

NAYS: _____

CERTIFICATION

I, **MICHELLE HACK**, Secretary of the Planning Board of the Borough of Riverton, County of Burlington, State of New Jersey, do hereby certify the foregoing to be a true and accurate copy of the resolution adopted by the Planning Board of the Borough of Riverton, at its regular meeting held at 7:00 p.m. on August 25 2020 at The Riverton Municipal Building as a virtual meeting in accordance with the Executive Orders issued by the Governor of the State of New Jersey and Guidelines issued by the Department of Community Affairs, to protect the Public, during the COVID-19 emergency.

KERRY BRANDT
Planning Board Chairman

MICHELLE HACK
Planning Board Secretary

BOROUGH OF RIVERTON
Ordinance No. O-2020-06A

**AN ORDINANCE OF THE BOROUGH OF RIVERTON AMENDING THE
BOROUGH'S FAIR SHARE ORDINANCE, ADOPTED BY BROUGH COUNCIL
ON SEPTEMBER 24, 2019, AS BOROUGH ORDINANCE 2019-07**

WHEREAS, the Borough of Riverton (the "Borough") entered into a Settlement Agreement with Fair Share Housing Center, Inc., dated March 4, 2019, agreeing and committing to adopt the requisite Ordinances and municipal planning documents, and to take such other action as necessary to insure that the Borough has removed all legal or regulatory impediments to the construction of the Borough's fair share of affordable housing within the Borough; and

WHEREAS, pursuant to the conditions of the Borough's Order of Fairness and Compliance dated April 29, 2019, finding that the Settlement Agreement is fair and reasonable, and adequately protects the interest of low and moderate income persons within the Borough's housing region based upon the criteria set forth in *East/West venture v. Borough of Fort Lee*, 286 N.J. Super. 311 (App. Div. 1996) for approving a settlement of Mount Laurel Litigation, the Borough Council wishes to repeal and replace the Affordable Housing Regulations of the Borough, as contained in Article XXIII of Chapter 128 of the Borough Code to better serve the Borough in implementing its affordable housing plan.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Riverton, County of Burlington and State of New Jersey that the Riverton Borough Code be amended as follows:

Section 1. Chapter 128 of the Riverton Borough Code, Article XXIII (Affordable Housing Regulations) shall be repealed and replaced as follows:

§ 128-113. Monitoring and Reporting Requirements

The Borough of Riverton 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:

- A. Beginning on April 29, 2020, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (NJDC), 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 Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by NJDC, COAH, or NJLGS. 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.

- B. Beginning on April 29, 2020, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity with the Borough through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for the purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- C. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether and unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity. Any interested party may by motion request a hearing before the Court regarding these issues.
- D. By April 29, 2020, 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.

§ 128-114. Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the Borough to be responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent within the means of a 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.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough’s fair share obligation, and includes, but is not limited to, an inclusionary development or a group home.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, approved for crediting by the Court and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means 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.

“Alternative living arrangement” means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heating and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D, and E boarding homes as regulated by the State of 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.

“Assisted living residence” means 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 four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a very low-income household, low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-3012, et seq.)

“The Department” means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means 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.

“Developer” means 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.

“Development” means the division of a parcel of land into two 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.

“Inclusionary development” means 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.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means 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.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

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

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between spouses; 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.

“Random selection process” means 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).

“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.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means 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.

“Restricted unit” means 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.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means 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 rehabilitation.

§ 128-115. Applicability

- A. The provisions of the Ordinance 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 Riverton pursuant to the Borough’s most recently adopted Housing Element and Fair Share Plan.
- B. Moreover, this Ordinance shall apply to all developments that contain very low, low and moderate-income housing units, including any currently unanticipated future development that will provide very-low, low and moderate-income housing units.
- C. Where applicable within the Borough, there shall be a mandatory affordable housing set-aside of 20%, whether the affordable units are to be for sale or for rent, for any multi-family residential development of at least six (6) units created through any Planning Board action on subdivision or site plan applications; municipal zoning; use or density variance; redevelopment plan or rehabilitation plan that provides a substantial density increase resulting in a minimum density at or above six (6) units per acre (or other compensation benefit). This does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Riverton Borough to grant such rezoning, variance or other relief.

Commented [TL1]: A revision that MB requested last year. This correction might have been made already.

§ 128-115.1 Alternative Living Arrangements (Group Homes)

- A. 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:

1. 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;
 2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. 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.
- C. 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 arrangements.

§ 128-115.2 Phasing Schedule for Inclusionary Zoning

In inclusionary developments the following schedule shall be followed:

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

§ 128-115.3 New Construction

To implement the Borough’s fair share plan in a manner consistent with the terms of the settlement agreement, ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, an affordable housing overlay zone for inclusionary zoning shall be permitted on the properties identified in the Borough’s Fair Share Plan per the terms of the settlement agreement.

- A. 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, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low- income units (affordable to a household earning 30 percent or less of regional median income by household size), with half of the very low-income units being available to families. The very low-income units shall be counted as part of the required number of low income units within the development.

2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - a) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - b) At least 30 percent of all low and moderate-income units shall be two bedroom units;
 - c) At least 20 percent of all low and moderate-income units shall be three bedroom units; and
 - d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low and moderate-income limits within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. 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:
 - a) An adaptable toilet and bathing facility on the first floor; and
 - b) An adaptable kitchen on the first floor; and
 - c) An interior accessible route of travel on the first floor; and
 - d) 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
 - e) If not all of the foregoing requirements in 2.a) through 2.d) 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.a) through 2.d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

- f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A.52:27D-31a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Riverton Borough has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - i) 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.
 - ii) To this end, the builder of restricted units shall deposit funds within the Borough of Riverton's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - iii) The funds deposited under paragraph f) ii) above shall be used by the Borough of Riverton for the sole purpose of making the adaptable entrance of an 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.
 - iv) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Riverton for the conversion of adaptable to accessible entrances.
 - v) 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's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- g) 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

C. Design:

1. In inclusionary developments, to the extent possible, low and moderate-income units shall be integrated with the market units.

2. In inclusionary developments, low and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum Rents and Sales 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 and asset limits published by HUD and the calculation procedures as approved by the Court and detailed herein.

Commented [TL2]: This is a new comment from CCH. I don't believe this revision has been made yet.

“Regional income limits shall be established for the region that the Borough is located within (i.e. Region 5) 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...

The Regional Asset Limit used in determining an applicant’s eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to the paragraph above over the previous year’s income limits, and applying the same percentage increase to the Regional Asset Limits from the prior year. In no event shall the Regional Asset Limit be less than that of the previous year.”

Commented [TL3]: This is a new comment. I don't believe this revision has been made. CCH wants paragraph 11c from the Settlement Agreement incorporated into the ordinance.

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 rental 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 low-income and moderate income units,

provided that at least 13 percent of all low and moderate-income units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

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 sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age- restricted developments, the following standards shall be used:
 - a) A studio shall be affordable to a one-person household;
 - b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - c) A two-bedroom unit shall be affordable to a three-person household;
 - d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e) 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 used:
 - a) A studio shall be affordable to a one-person household;
 - b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c) 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 size household, including an allowance for tenant paid utilities, 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 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 rents of very low, low and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

§ 128-115.4 Utilities

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

§ 128-115.5 Occupancy Standards

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

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;

- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

§ 128-116. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- A. 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 the 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.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. 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.
- D. 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.
- E. 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.
- F. 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.S(a), as may be amended and supplemented.

§ 128-116.1 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:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- D. 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 anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 128-116.4.

§ 128-116.2 Buyer Income Eligibility

- A. 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.
- B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, 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.

- C. 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.
- D. 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 eligible monthly income.

§ 128-116.3 Limitations on Indebtedness Secured by Ownership Unit; Subordination

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination 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.
- B. With the exception of First Purchase Money Mortgages, 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 the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

§ 128-116.4 Capital Improvements To Ownership Units

- A. 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 made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. 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.

§ 128-116.5 Control Periods for Restricted Rental Units

- A. 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 Riverton 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.
- B. 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 Burlington. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 128-116.6 Rent Restrictions for Rental Units; Leases

- A. A written lease shall be required for all restricted rental units 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.

- B. 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.
- C. Application fees (including the charge for any credit check) shall not exceed five 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 Ordinance.
- D. 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 15 percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§ 128-116.7 Tenant Income Eligibility

- A. 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:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, 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:
 - 1. 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;

2. 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;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. 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.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in A.1. through B.5. above with the Administrative Agent, who shall counsel the household on budgeting.

§ 128-117. Municipal Housing Liaison

- A. The Borough of Riverton shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Borough's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Borough's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Riverton Borough shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough, including the following responsibilities which may not be contracted out to the Administrative Agent:
 1. Serving as Riverton's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 2. Monitoring the status of all restricted units in Riverton's Fair Share Plan;
 3. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
 4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the Court, the Borough shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

§ 128-117.1 Administrative Agent

An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

A. Affirmative Marketing:

1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough and the provisions of N.J.A.C. 5:80-26.15; and
2. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

B. 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 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;
6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough when referring households for certification to affordable units; and
7. Notifying the following entities of the availability of affordable housing units in the Borough: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Southern Burlington County Branch of the NAACP, Willingboro NAACP, Moorestown Ecumenical Neighborhood Development (MEND), Lutheran Social Ministries (LSM) and the Burlington County Community Action Program (BCCAP).

C. Affordability Controls:

1. 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;
2. 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;
3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Burlington County Register of Deeds or Burlington County Clerk's office after the termination of the affordability controls for each restricted unit;
4. Communicating with lenders regarding foreclosures; and
5. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Rentals:

1. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
2. 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.

E. Processing Requests from Unit Owners:

1. 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;
2. 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;·
3. Notifying the municipality of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

1. Securing annually from the municipality a list of all affordable 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;
2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development , written acknowledgement 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;
3. 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;
4. 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;
5. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
6. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
2. The Administrative Agent shall prepare 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.
3. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§ 128-117.2 Affirmative Marketing Requirements

- A. The Borough of Riverton shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. 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 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 marketing activities toward Housing Region 5 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Burlington, Camden, and Gloucester Counties.
- D. 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 rentals. The Administrative Agent designated by the Borough of Riverton shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. 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.
- I. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in the 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, the Southern Burlington County Branch of the NAACP, Willingboro NAACP, Moorestown Ecumenical Neighborhood Development (MEND), Lutheran Social Ministries (LSM) and the Burlington County Community Action Program (BCCAP).
- J. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 128-117.3 Enforcement of Affordable Housing Regulations

- A. Upon the occurrence of a breach of any of the regulations governing an 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, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a 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(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - 1. 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 adjudged 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 \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - b) In the case of an Owner who has rented a low or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Riverton Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - c) In the case of an Owner who has rented a 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.
2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such 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 low- or moderate-income unit.
- a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the 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 his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - b) 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 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 the full 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.

- c) 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 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.
- d) 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 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 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.
- e) Failure of the 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 low and moderate- income unit as permitted by the regulations governing affordable housing units.
- f) 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.

§ 128-117.4 Appeals

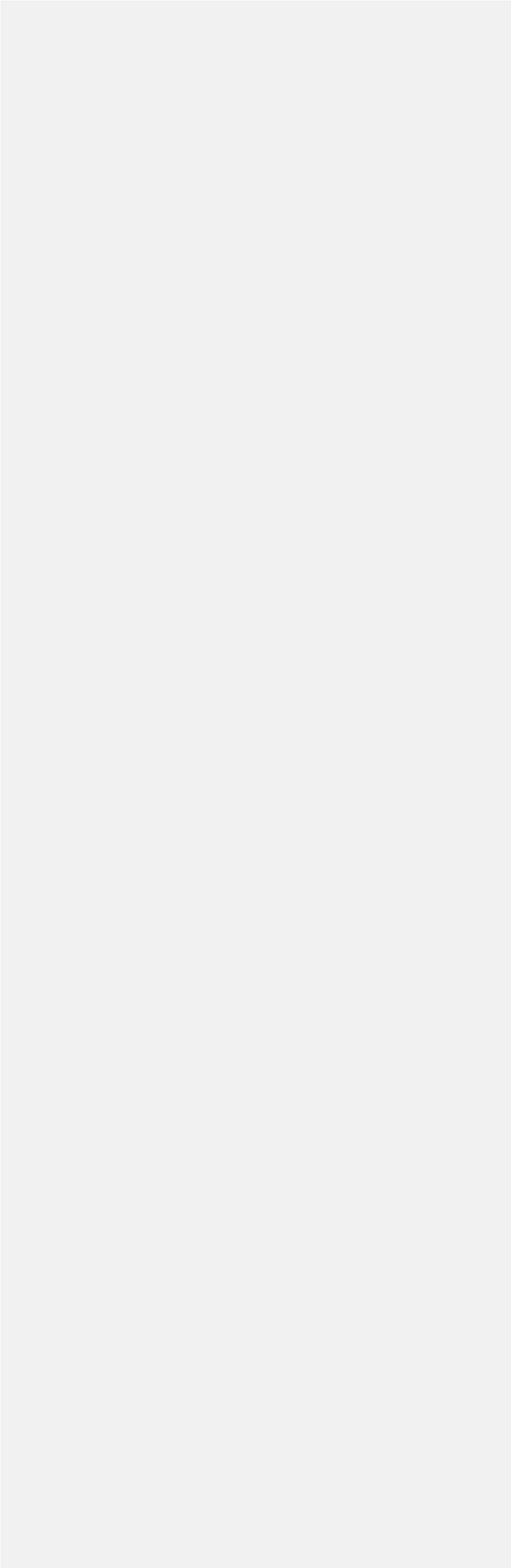
Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

Section 2. Repealer. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Effective Date.

This Ordinance shall take effect upon passage and publication as provided by law.



Mayor
Suzanne Cairns Wells

Borough Council
William Corbi, Council President
Hank DeGeorge, Councilman
Kirk Fullerton, Councilman
Laura Major, Councilwoman
Kenneth Mills, Councilman
James Quinn, Councilman



Michelle Hack, RMC, CMR
Municipal Clerk
mhack@riverton-nj.com

TELEPHONE: (856) 829-0120
Fax: (856) 829-1413
www.riverton-nj.com

BOROUGH HALL
505A Howard Street
Riverton, NJ 08077

August 19, 2020

Mr. Joseph Rainer
rainerpainting@comcast.net

SENT VIA EMAIL ONLY

Re: 500 Howard Street
Block: 803/Lot: 2 Class 4A

Dear Mr. Rainer:

I am attaching correspondence concerning your recent inquiry related to the zoning of the property you own at the aforementioned address.

Sincerely,

Michelle Hack

Michelle Hack, RMC
Planning Board Administrative Officer & Secretary

cc: K. Brandt, Chairman
C. Petrone, Solicitor



BOROUGH HALL

505A Howard Street Riverton, NJ 08077
856-829-0120 Phone
856-829-1413 FAX

**MEMORANDUM FROM THE
OFFICE OF PLANNING BOARD**

TO: Tamara Lee, AICP, PP

FROM: Michelle Hack, RMC, CMR
Planning Board Secretary, Administrative Officer
mhack@riverton-nj-com

DATE: August 3, 2020

RE: 500 Howard Street
Block: 803 Lot: 2 Class 4A

The property owner of the aforementioned property has made an inquiry as to why the property is zoned residential. The property consists of garages only. The property owner disagrees with the classification and doesn't believe it accurately reflects the use of the property.

Thank you,
Michelle Hack

From: [Tamara Lee](#)
To: [Michelle Hack](#)
Subject: Re: 500 Howard
Date: Monday, August 3, 2020 3:11:03 PM

Michelle,

When it comes to land uses, zoning does not necessarily reflect the existing use of a property. Oftentimes it reflects the municipality's desire for how the property should eventually be developed. Zoning reflects the town's vision for the future. In this case, the property is surrounded on three sides by residential uses, plus there's a residential use cady corner across the street. When this area was zoned residential, it was determined that the existing use on this lot was relic of a different time and it no longer represents the best use of the site.

While it is permitted to continue as a pre-existing, non-conforming use, the residential zoning indicates that the Borough determined that the best use for this site would be residential and residential zoning was implemented to make it easier for a residential use to be developed on the site. That idea was first developed by the Planning Board as the planning policy in the Master Plan and subsequently reinforced by the Governing Body when it implemented the zoning by adopting the zone plan. Both the Planning Board decision and the Governing Board's action were taken following public hearings and input.

To zone this site anything other than residential is to potentially compromise the quality of life on the residential lots that surround the site and risk significant land use conflict problems in the neighborhood. The property owner is free to submit a use variance for a use that is not permitted by zoning, but in doing so, they will need to satisfy the required proofs, including proving that a non-permitted use will be consistent with the goals and objectives of the Master Plan in spite of the fact that the use is not permitted.

Does this cover it? Let me know if you need anything more.

Tam

On Mon, Aug 3, 2020 at 2:48 PM Michelle Hack <mhack@riverton-nj.com> wrote:

Tamara, please see the attached memo.

I will not need a response until the August agenda.

Thank you,

Michelle

[Michelle Hack, RMC, CMR](#)

Riverton Borough Clerk

Registrar of Vital Statistics

Planning Board Secretary



Borough of Riverton

505A Howard Street

Riverton, NJ 08077

856-829-0120

Fax 856-829-1413

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Tamara Lee, PP, AICP
Tamara Lee Consulting, LLC
156 Lindbergh Road
Hopewell, NJ 08525
609-333-0678

From: [Rainer Painting](#)
To: [Michelle Hack](#)
Subject: Re: 500 Howard Street Determination
Date: Wednesday, August 19, 2020 11:03:22 AM

Thanks, this explains it.

Sent from my iPhone

On Aug 19, 2020, at 10:50 AM, Michelle Hack <mhack@riverton-nj.com> wrote:

Hi Joe: please see the attached correspondence concerning the property zoning at 500 Howard. This will also be mentioned at the meeting next week.

Thank you,
Michelle

Michelle Hack, RMC, CMR

Riverton Borough Clerk
Registrar of Vital Statistics
Planning Board Secretary

<[image003.jpg](#)>

Borough of Riverton

505A Howard Street
Riverton, NJ 08077
856-829-0120
Fax 856-829-1413

<[PB MEMO 500 howard.pdf](#)>