

# **HARRISON TOWNSHIP**

## **MASTER PLAN**

### **HOUSING ELEMENT AMENDMENT**

Prepared for:

Harrison Township Planning Board  
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## *Introduction*

Harrison Township adopted a housing element to its Master Plan on February 18, 1999. Subsequently, the Township has reached a tentative settlement to Mount Laurel litigation filed by Leigh Court Limited Partnership (Leigh Court) in the summer of 1997. The settlement requires the Township to rezone Block 45, Lots 17.01 and 20 (approximately 55.37 acres) for single family detached homes.

The property is currently zoned for single family detached housing on one (1) acre lots (without sewers). The settlement provides for the extension of sewer and water lines to the subject property and provides for up to 162 single family detached units on the Leigh Court property. The settlement requires larger lot sizes along the perimeter of the property than in the interior of the proposed development. The purpose of the varied lot sizes is to provide lot sizes along the perimeter that are more consistent with the lot sizes that exist and are required in this area of the Township.

The settlement allows the Leigh Court developer to construct 24 single family homes affordable to low and moderate income households within the interior of the development. In the alternative, the developer may choose to make a monetary contribution in lieu of constructing affordable housing on site.

The New Jersey Fair Housing Act allows a municipality to transfer up to half of its housing obligation to another municipality via a regional contribution agreement. Typically, pursuant to such an agreement, a “sending municipality” will enter into a contract with an urban center to construct or rehabilitate low and moderate income housing. The “sending municipality” will transfer money to the urban center in return for the urban center’s agreement to accept this housing responsibility. If the Leigh Court developer chooses to make a monetary contribution, the settlement agreement requires the contribution to be sufficient to pay for a 24 unit regional contribution agreement.

The New Jersey Fair Housing Act requires that a municipal housing element address various issues. The Township's 1999 Housing Element adequately addresses these issues, including:

- An inventory of the municipality's housing stock by age condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
- A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next six years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age; and
- An analysis of the existing and probable future employment characteristics of the municipality.

The amendments required of the Housing Element do not require changes to these sections. However, this document will amend those portions of the housing element that analyze the Harrison Township housing obligation and the Township's response to the housing obligation.

### *Determination of Low and Moderate Income Housing Need*

The *Mount Laurel* Decisions established that every municipality is responsible for a share of a regional housing need. COAH, pursuant to the Fair Housing Act, is responsible for defining regions and developing criteria for establishing each municipality's share of the regional need. Harrison Township lies within a region consisting of Gloucester, Camden and Burlington Counties.

The Harrison low and moderate income housing responsibility consists of: a present need; a share of the low and moderate income households that COAH has estimated to have formed from 1987-1993; and a share of the low and moderate income households that COAH projected forming during the 1993-1999 period. The present need is an estimate of substandard units occupied by low and moderate income households. It is estimated for each municipality and for the housing region through use of the 1990 census. COAH then establishes a *regional* standard of low and moderate income households living in substandard housing. The following excerpt from *The COAH Handbook* describes the calculation of the *regional* standard and its use:

The standard is determined by dividing the number of substandard units occupied by low and moderate households by the total occupied housing units in the region. In examining the census estimates of substandard housing units occupied by low and moderate income households within each municipality, the municipal responsibility for addressing substandard units is limited by this regional standard. Thus, if the regional standard is two percent and within a specific municipality three percent of the occupied housing stock represents substandard units occupied by low and moderate income households, the municipal responsibility is capped at the regional standard of two percent. The remaining obligation becomes a regional obligation assigned to municipalities within the housing region.

The logic of reallocating a portion of the present need stems from language in the *Mount Laurel II* Decision. The court determined that some municipalities had a disproportionate share of low and moderate income housing in substandard condition because the municipalities had housed a disproportionate share of low and moderate income

households. Therefore, the court "capped" an individual municipality's responsibility at a regional standard. The substandard low and moderate income units that remain the municipal responsibility represent the municipal *indigenous need*. The substandard units that become a regional responsibility are called *reallocated present need*.

In Harrison, COAH estimates that there are 39 substandard units occupied by low and moderate income households. COAH has determined that Harrison is responsible for 25 of these units. Thus, Harrison Township has a 25 unit indigenous need. COAH has also determined that the Township has a responsibility for 28 units that are generated from the regional reallocated present need.

In 1986, COAH projected the 1987-1993 housing need for each municipality based on the population projections available at the time. Population projections were converted into household projections and, since approximately 40 percent of all households are low and moderate income households, the 1987-1993 projection of need equaled approximately 40 percent of the household projection.

COAH's 1987-1993 projections overstated the number of households that actually formed during the projection period. The actual growth from 1987-1993 was approximately one-half the projection. Therefore, COAH scaled back each municipality's 1987-1993 housing responsibility based on the estimates of actual growth.

The final component of municipal housing need is a projection of housing need for the 1993-1999 period. This projection of low and moderate income household formation is performed in a similar manner to the 1987-1993 projection.

COAH's formula for determining housing need is very complex. One reason it is so complex is that it tries to recognize that sound housing is lost and becomes available to low and moderate income households as a result of market forces. Demolitions reduce the number of market rate units available to low and moderate income households. Sound housing units are sold to low and moderate income households (filtering). Owners

of structures convert them into housing units that are affordable to low and moderate income households (conversions). Landlords rehabilitate substandard units without any subsidy from the municipality (spontaneous rehabilitation).

COAH attempts to project the level of all this activity that will occur in each municipality from 1993-1999. COAH projects this activity based on data related to attached housing and the income of municipal residents. In the case of Harrison Township, the projections of secondary sources of demand and supply (demolitions, filtering, conversions and spontaneous rehabilitation), act to reduce the number of low and moderate income units the Township must address in its housing element.

COAH's formula results in a 1987-1999 Harrison Township housing obligation of 221 units. The 221 units<sup>1</sup> may be divided into a rehabilitation component (indigenous need-spontaneous rehabilitation) and a new construction component. The following is a summary of Harrison's 1987-1999 low and moderate income housing obligation pursuant to COAH's formula:

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<sup>1</sup> There is an apparent rounding error in COAH's calculations. Although COAH's October 11, 1993 Municipal Number Summary displays a housing obligation of 222 units, a step by step addition of the numbers used to calculate the housing obligation results in 221 units.

**Table HN-1**  
**Harrison Township's 1987-1999 Housing Obligation**

<b>Rehabilitation Component</b>	
Indigenous Need	25
Spontaneous Rehabilitation	<u>-2</u>
<b>Rehabilitation Component</b>	<b>23</b>
<b>New Construction Component</b>	
Reallocated Present Need	28
Prospective Need	144
Prior Cycle Prospective Need	<u>33</u>
<b>Subtotal</b>	<b>205</b>
Secondary Sources	
Demolition	+8
Filtering	-12
Conversions	-3
<b>Subtotal</b>	<b>-7</b>
<b>Total New Construction Component</b>	<b>198</b>
<b>Precredited Need</b>	<b>221</b>

### *Rehabilitation Credits*

Having established a cumulative housing obligation for 1987-1999, COAH's rules permit municipalities to receive credit for housing activity that has addressed the housing obligation. The estimates of substandard housing are based on the 1990 census. The census was performed on April 1, 1990. Therefore, any rehabilitation activity that was performed after April 1, 1990 may be eligible for a credit. To be eligible for a credit, the rehabilitation must repair or replace a major housing system and average at least \$8,000 in actual hard costs (the cost of the repairs).

The Township receives money each year for rehabilitation activity. It transfers this money to Gloucester County which administers the Township's rehabilitation program. Since April 1, 1990, the following housing units have been rehabilitated through this program:

<i>Block/Lot</i>	<i>Cost of Rehabilitation</i>	<i>Date Completed</i>
71/4	\$16,410	01/92
65/17	\$5,205	03/93
69/9	\$11,438	10/92
52/14	\$13,668	02/93
68/15	\$12,825	11/92
68/18	\$39,960	12/94
33.01/5.01	\$5,615	05/96
52/15	\$3,985	01/96
51/8.02	\$18,463	03/94
68/17	\$71,400	02/94
54/5	\$9,947	07/97
57.02/11	\$10,411	08/96
68/16	\$9,566	06/98
52/15	\$7,000	6/00
<b><i>Total of 14 properties</i></b>	<b><i>\$235,893 – Average Cost: \$16,850</i></b>	

Appendix A provides a more detailed description of the work performed on each unit. In each case, the work involved the repair or replacement of a major system and the unit was brought up to code standard. Harrison seeks 14 units of credit for this work.

***Senior Citizen Cap, Regional Contribution Agreements and Rental Housing Obligation***

COAH has adopted rules that provide a framework for preparing a response to the housing obligation. These rules allow a municipality to age restrict a portion of the housing units that are created in response to the housing obligation. They also permit a municipality to transfer part of its obligation to another municipality through a regional contribution agreement. These agreements require a municipality that is interested in such a transfer to pay a sum of money to a municipality that is interested in accepting the responsibility for actually building the low and moderate income housing units. COAH's rules also require that municipalities create the opportunity for rental housing.

Absent a regional contribution agreement, COAH's rules would permit the Township to age restrict 25 percent of its remaining housing obligation. Assuming the Township

receives credit for the 14 units it has rehabilitated, the Township may age restrict 25 percent of its remaining 207 unit housing obligation, or 52 units.

If the Township enters into a regional contribution agreement, it may age restrict 25 percent of the number of units that it plans to create within the Township. In other words, the number of units that may be age restricted in Harrison decreases as a municipality transfers its housing obligation to another community.

COAH also requires municipalities under its jurisdiction to provide for rental housing. COAH requires the Township provide a realistic opportunity for 25 percent of its 198 inclusionary or new construction component to be constructed as rental housing. Pursuant to COAH's formula, Harrison has a rental obligation of 50 units.

In order to provide an incentive for the production of rental housing, COAH offers a rental bonus for its construction. COAH's rules also provide for this rental bonus to be granted in advance when COAH is convinced that there are sufficient guarantees that rental housing will actually be produced.

A regional contribution agreement is a vehicle established by the Legislature that allows a municipality to enter into an agreement to transfer up to half of its housing obligation to a "receiving community" in the housing region (Gloucester, Camden and Burlington Counties). In most cases, the "receiving municipality" is an urban center or a developed community. Examples of potential receiving communities include, Camden, Gloucester City and Mount Holly Township. Harrison may transfer up to 103 units to one or more "receiving municipalities" via a regional contribution agreement.

### ***Rehabilitation***

The Township may address its remaining nine (9) unit rehabilitation component by building new low and moderate income units or by rehabilitating existing substandard

housing units occupied by a low or moderate income household. It is recommended that the Township address its rehabilitation component with a rehabilitation response. The focus of any rehabilitation effort must be to repair or replace existing housing systems (i.e. roof, plumbing, electricity, heat, and/or a load bearing system) and bring the housing unit up to code.

It is recommended that the Township continue its relationship with the Gloucester County Community Development Block Grant (CDBG) Program. It is recommended that the Township continue to provide the County with CDBG money to rehabilitate substandard housing units in Harrison.

In order to supplement the County's efforts, it is suggested that the Township appoint a staff person who will be responsible for marketing the County's program, answering basic questions regarding program eligibility (including but not limited to questions regarding income eligibility) and providing referrals to the County program.

The program will be marketed in several ways. The Township will place a box advertisement, with information about the rehabilitation program, in a local newspaper every six months until the rehabilitation obligation is satisfied. Information about the program will be included in municipal tax bills and municipal publications.

If the County notifies Harrison that additional money is necessary given the level of demand for the program, the Township will send at least \$8,000 per unit to the County to complete the rehabilitation. However, Harrison can and should provide a reasonable cap on the cost of rehabilitating any given unit. A cap of \$15,000 is proposed. It is anticipated that the Township will fund the rehabilitation of two (2) units per year until the rehabilitation work (9 units) is complete. The Township intends to reimburse itself for any such expenditure with money collected from development fees.

### ***Inclusionary Options***

Harrison has various options in addressing its 198 unit inclusionary component. The Township can zone land. The advantage to addressing the housing obligation with *inclusionary* zoning is that it is the one approach recognized by COAH that limits the municipality's fiscal responsibility to produce affordable housing. Once a property is zoned, the Township's only other responsibility is to fast track *inclusionary* developments and eliminate unnecessary cost generating standards. COAH sets forth this responsibility in N.J.A.C. 5:93-10.

However, many municipalities are concerned about the growth associated with inclusionary development. Municipal officials also express concern about the traffic and cost-revenue impacts that result when four (4) or more market units subsidize each low and moderate income housing unit. Thus, municipal officials often seek other options to address the housing obligation.

### ***Regional Contribution Agreements***

A regional contribution agreement is a vehicle established by the Legislature that allows a municipality to enter into an agreement to transfer up to half of its housing obligation to what is called a "receiving municipality." Usually, the "receiving municipality" is an urban center or a developed community. Examples of potential receiving municipalities in Harrison's housing region include: Camden, Gloucester City and Mount Holly. The Township should assume that a regional contribution agreement will cost at least \$25,000 per unit.

Harrison should view a regional contribution agreement as a binding contract. The Township has some latitude in negotiating the terms of the contract. However, the terms must recognize that the "receiving municipality" has an obligation to create the required number of housing units within a six year period.

Harrison, if it enters into a regional contribution agreement, is responsible for funding the agreement in a timely manner. The Township may enter into an agreement with a developer to help pay for the agreement. However, the Township must recognize that the obligation to fund a regional contribution agreement is Harrison's. Should a developer fail to pay fees targeted for the regional contribution agreement, the Township will be responsible for the money.

Thus, the Township may be forced to bond or budget to pay for the transfer of housing responsibility. However, once the Township transfers the money, its responsibilities for producing the housing associated with the regional contribution agreement end.

### ***Municipal Construction***

Some municipalities choose to limit the total development that occurs in the municipality as a result of the low and moderate income housing obligation by sponsoring the construction of low and moderate income housing. It is not unusual for a municipality to donate municipal land to a non-profit or for profit developer interested in constructing a development that will be devoted entirely for low and moderate income households.

It is not easy for municipalities to "get into the housing business." Most developers interested in building low and moderate income housing without any market units to help subsidize the affordable housing require other forms of subsidy. Such subsidies often include: land, some form of municipal subsidy and other subsidies from a variety of state and federal sources (i.e., tax credits, Balanced Housing Program, Federal Home Loan Bank).

COAH's rules regarding municipal construction require the following minimum documentation:

1. The municipality must demonstrate that it has control of the site. Control may be in the form of an option.
2. The municipality must submit a plan regarding the administration of the development indicating who will income qualify applicants and administer the units once they are occupied.
3. The municipality must estimate what the proposed development will cost and the revenues that it projects the development to generate. The municipality must demonstrate a *stable* source of funding. As outside funding sources become available, a municipality may reduce its reliance on municipal resources. and
4. The municipality must develop a construction timetable that provides for the construction of low and moderate income housing units within two (2) years.

### ***Alternative Living Arrangements***

COAH defines an alternative living arrangement as “a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

In reviewing a plan that includes an alternative living arrangement, COAH’s review criteria require an agreement with a provider of such a facility or the granting of development approval to the developer of such a facility. Alternative living arrangements may provide an opportunity for a municipality that is willing to convey land to an organization that is interested in providing an alternative living arrangement.

There are capital and operating subsidies available that could minimize the municipal subsidy required to construct a group home or other facility.

Alternative living arrangements also may qualify for COAH's rental bonus if they are encumbered by controls on affordability. Thus, an alternative living arrangement is another means of addressing the Township's housing obligation without accepting all the growth normally associated with addressing the need for low and moderate income housing.

### ***Accessory Apartments***

COAH's rules allow municipalities to address up to 10 low and moderate income units by creating a program for accessory apartments. A municipality interested in such a program must demonstrate that it has a housing stock that lends itself to accessory apartments. COAH believes that a large, older housing stock lends itself to accessory apartments.

If the Township is interested in accessory apartments, it must revise its zoning ordinance to permit accessory apartments. It must also commit to funding the program. COAH's minimum funding commitment is \$10,000 per accessory apartment. The Township must also create an administrative mechanism with procedures for dealing with cost estimates, accepting bids, awarding contracts, inspecting work, income qualification of applicants, establishing rents and ensuring rents remain affordable over time.

COAH will accept affordability controls of 10 years on accessory apartments. However, the Township may receive a rental bonus if any accessory apartments are created with 30 year controls.

### ***Purchase and Conveyance of Existing Housing***

COAH has adopted rules that allow a municipality to purchase housing units that are already part of the housing stock and make these units available at affordable rents or sales prices to low and moderate income households. COAH makes a distinction between housing units that are vacant or have never been occupied and housing units that may be occupied.

In the case of a vacant unit, the municipality must demonstrate that it has been vacant for 18 months. However, the comments and responses that accompanied the adoption of this rule indicated that the 18 month period may be waived if there is a fear of vandalism if the unit continues to be vacant.

With regard to existing *occupied* housing units, the rule would allow Harrison to purchase up to 10 units and make them available to low and moderate income households. COAH's rule requires a demonstration that there are sufficient for sale market units available for purchase through the multiple listing service. The rule envisions municipalities providing at least \$20,000 per unit in subsidy for each unit purchased. It also envisions that at least half of the units conveyed to low and moderate income households will be conveyed to low income households.

### ***Response to Inclusionary Component***

#### ***Walnut Glen – 143 units of credit***

Harrison Township zoned Block 57, Lot 22 (a 127 acre tract) for inclusionary development as part of its response to its 1987-1993 housing obligation. The property is in the Township's R-6 Zone and is located on New Jersey Route 77, opposite the municipal building. The development is served by public water and sewer. The site is relatively free of environmental constraints. The wetlands on the site consume a small portion of the site.

The original developer of the property constructed 100 market rate townhouses but abandoned the development prior to constructing any low and moderate income units.

Harrison Township has worked with the current developer of the tract to ensure the construction of low and moderate income housing. It has approved a site plan for these units which will consist of eight buildings on a 14 acre portion of the tract.

As a result of the cooperative efforts of the Township and the developer, the developer has received a tax credit allocation and will be able to construct 93 low and moderate income rental units available to the general public. It is anticipated that the developer will begin construction late in the year.

COAH grants a rental bonus for the construction of rental housing. COAH's rules provide the authority to grant the rental bonus in advance of construction when COAH or the court is satisfied that the rental housing will actually be constructed. Often the assurance is in the form of an agreement to construct rental housing. In this matter, the developer has expressed its commitment to construct rental housing and has actually been awarded tax credits. As a result of being awarded tax credits, the developer has a powerful financial incentive to construct the rental housing within the next year.

It is anticipated that the court will grant COAH's one for one rental bonus for the 50 rental units that satisfy the Township's rental obligation. Thus, it is anticipated that the Walnut Glen rental development will result in 143 units of credit.

***Leigh Court – 24 units of credit***

As a result of the settlement with Leigh Court, the Township is considering the rezoning of Block 45, Lots 17.01 and 20 for inclusionary development. The site has approximately 300 feet of frontage on Route 322.

The settlement agreement provides for up to 162 single family dwelling on the Leigh Court property. These 162 units are far less than the 400 units of housing proposed by the Plaintiff in this litigation. In addition, to the decreased density, the developer agreed to locate his largest lots along the perimeter of the property. Thus, the lot sizes on the

edges of the Leigh Court property will be more consistent with the existing and anticipated lots that are adjacent to Leigh Court.

Along with the ability to construct up to 162 single family homes on the property, the Leigh Court developer must either: provide 24 low and moderate income housing units on site; or provide a sufficient monetary contribution to pay for a 24 unit regional contribution agreement. The agreement provides financial protection to Harrison that minimizes the chance that Harrison will have to transfer money to a “receiving municipality” prior to receiving money from the developer of Leigh Court. If the low and moderate income units are constructed on site, they will be constructed within the interior portion of the subdivision.

### ***Richwood –49 units***

The Township has designated 104 acres for senior citizen housing (Block 3, Lot 2 and Block 22, Lot 13) on Aura Road, near the Route 55 interchange with Route 322. The Harrison Township Wastewater Management Plan has designated this property for sewers. The Township’s Wastewater Management Plan is presently being reviewed by DEP.

The property is a relatively flat farm field with a small wetland area. The wetlands will not have a significant impact on future development.

The Township’s plan is to zone this parcel for senior citizen housing at four (4) units per acre. The Township also proposes an overlay zone that will permit professional office uses to develop along the Aura Road frontage. The professional office overlay zone will extend 300 feet back from Aura Road. The overlay zone will impact 23 acres.

The remaining 81 acres will contain a 15 percent set-aside for low and moderate income senior citizens. This zoning will allow for the development of 324 senior units, of which 49 will be low and moderate income units.

Although there are no sewer facilities currently in this area, it is anticipated that the private sector will create sewer infrastructure in this area. The site has been designated for sewer in the Township's Wastewater Management Plan.<sup>2</sup> The State Development and Redevelopment Plan has designated the area as Planning Area 2, which means that the State blueprint for development recognizes that the site is programmed for sewer.

The Richwood area has excellent access with Routes 322 and 55, which intersect within the area designated for sewer. The access afforded by these major roads is a major factor in attracting developers interested in developments that require sewer.

The zoning in this area of the Township is also conducive to attracting developers interested in bringing sewer to the area. In addition to the senior citizen zone, the properties on either side of the Route 55 Corridor are zoned for a variety of commercial and industrial uses. The uses permitted include a variety of general commercial uses on half acre lots, planned community shopping centers and a variety of office, institutional and light manufacturing uses.

Various developers have expressed a great deal of interest in developing the property that is designated for sewer. A commercial developer has submitted conceptual plans to the Township for an 83 acre site located on the east side of Route 55 at the intersection of Route 322 and Aura Road. The proposal included a discount department store (135,000 square feet), a supermarket (60,000 square feet), various retail uses between the department store and supermarket, a movie theater (85,000 square feet), four (4) pads for unidentified uses, a two story hotel (45,000 square feet) and a restaurant (6,500 square feet).

The Township has also received phone calls regarding the property designated for senior citizen housing. The party(s) interested in the senior citizen sites have been in contact

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<sup>2</sup> Ms. Karen Doris, DEP Project Manager, has indicated that DEP is "fairly far along" in its review of the WMP. However, she declined to provide any time frame for the completion of DEP's review.

with the commercial developer referenced in the preceding paragraph regarding sewer issues.

Rowan University is also under agreement for land in this area. The University has not submitted any plans to the Township.

Harrison's Wastewater Management Plan anticipates a proposed sewer treatment plant that would discharge into the ground. Remington Vernick, which prepared the Wastewater Management Plan does not anticipate any problems in permitting a groundwater discharge system. Similarly, if an individual developer was interested in a package treatment plant to serve the Township's senior citizen development, Remington Vernick does not anticipate any problem associated with permitting a system that discharges into the ground. (Appendix C)

It is not unusual for COAH to approve sites that do not have immediate access to public sewer. N.J.A.C. 5:93-4.3 deals with the immediate lack of infrastructure. The rule provides for municipalities to zone sites for inclusionary developments and cooperate with private sector efforts to bring sewer to inclusionary developments.

In summary, it is realistic to believe that there will be market forces that lead to sewer construction along the Route 55 corridor. The area is designated in the Township's Wastewater Management Plan. The State Planning Commission has designated the area as Planning Area 2, an area that is programmed for sewer. The completion of Route 55 has made the area much more accessible. The land in question is zoned to permit higher density housing and non-residential development that require sewer. There is a great deal of interest in developing the property within the designated sewer area for a variety of high intensity commercial, institutional and residential uses. Finally, the engineering firm that prepared the Wastewater Management Plan does not anticipate environmental problems associated with constructing the proposed sewer treatment plant.

In light of the above, Harrison proposes that the Township be given a reasonable period of time so that market forces will have an opportunity to work. If it becomes apparent to the court that market forces will not bring public sewer service to the area, the Township shall, at that time, propose an alternative means for addressing any gap in its plan. In such event, the Township should have the right to remove these sites from its plan.

### ***Summary***

The Walnut Glen (143), Leigh Court (24) and Richwood (49) inclusionary developments should result in 216 units of credit. These 216 units exceed Harrison's 198 unit inclusionary obligation.

### ***Development Fees***

Development fees are an exaction paid during the development process. They are a valuable tool in supplementing municipal efforts in providing low and moderate income housing. The New Jersey Supreme Court, in Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550, issued December 13, 1990 determined that mandatory development fees are both statutorily and constitutionally permitted.

Development fees may be collected when existing structures are modified or when new structures are developed. They may be imposed, by ordinance, when COAH or a court approves the ordinance while conducting a comprehensive review of the municipal housing element. Unless a municipality provides a density bonus on a site, the maximum fees that may be collected are: one-half of one percent of equalized assessed value on residential development; and one percent of equalized assessed value on non-residential development.

Development fees may be used to support virtually any housing activity designed to implement a housing element. They can, for example, be used to supplement municipal efforts to construct low and moderate income housing. They can also be utilized to finance a regional contribution agreement or a rehabilitation program. When not

supplementing a municipal construction project, a regional contribution agreement or a rehabilitation program, 30 percent of the fees collected must be used to foster housing affordability.

It is recommended that the Township adopt a development fee ordinance and submit it for review. It is further recommended that development fees be placed on all new construction, with the exception of developments that propose low or moderate income housing<sup>3</sup> and residential additions. The court's approval of such an ordinance will create a funding mechanism that will decrease the financial burden associated with implementing the housing element.

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<sup>3</sup> COAH's rules do not permit the imposition of a development fee when a developer already has a responsibility to construct low and moderate income housing.

### *Spending Plan*

Before a municipality can spend money collected through development fees, it must receive COAH's approval of a plan that outlines the projected expenditure of the fees.

The plan must include:

1. A projection of anticipated revenues from imposing fees on development, based on historical development activity;
2. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
3. A description of the anticipated use of all development fees;
4. A schedule for the creation or rehabilitation of housing units;
5. If the municipality envisions being responsible for public sector or non-profit construction of housing, a proforma statement of the anticipated costs and revenues associated with the development; and
6. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan.

### *Projection of Revenues*

The Township's development fee ordinance provides for a 0.5 percent development fee on residential development and a 1.0 percent fee on non-residential development. Density bonuses or increases in floor area approved by a "d" variance result in a 6.0 percent fee.

Given the uncertainties of projecting non-residential development, no effort has been made to project the revenues that may be generated by non-residential development over the next six years. With regard to residential development, from 1990 through 2000, the

Township issued building permits for 1,331 housing units.<sup>4</sup> Thus, over this 11 year period, an average of 121 homes were constructed.

If this average level of development continued over the next six (6) years, the Township will issue permits for 726 housing units. Assuming an average value of \$200,000, this level of development would generate \$726,000 in development fees.

### ***Administrative Mechanism***

Development fees shall be paid at building permit and certificate of occupancy. Before the issuance of a building permit, the Township's tax assessor will estimate the equalized assessed value of the proposed construction activity. The applicant for the building permit will be required to pay 50 percent of the estimated fee before the issuance of the building permit. Before a certificate of occupancy is issued, the tax assessor will calculate the equalized assessed value of the construction activity. The remaining fee will be paid prior to the issuance of a certificate of occupancy.

Development fees shall be deposited in an interest bearing housing trust fund. The Governing Body will be empowered to review all requests for the use of development fees to ensure that such use is consistent with this plan.

### ***Use of Development Fees***

COAH's rules on development fees allow revenues to be used for any activity approved by COAH for addressing the municipal fair share. The rules allow 20 percent of the fees to be used for administrative purposes. Thirty percent of development fees must be used for affordability assistance which includes, but is not limited to, down payment assistance, low interest loans and rental assistance. However, COAH has indicated that the 30 percent affordability assistance requirement is not applicable if the municipality

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<sup>4</sup> Source 1990 Census

chooses to use the money to finance a rehabilitation program or a regional contribution agreement.

COAH has indicated that development fees may be used to reimburse a municipality for municipal expenditures on affordable housing. For example, if a municipality issues a bond or budgets public money to finance a regional contribution agreement, a municipal construction project or a rehabilitation program, it may use development fees to reimburse itself for the public expenditure.

At the present time, Harrison Township intends to use development fees to supplement its rehabilitation program with the County. If the Township must budget or bond in order to send rehabilitation money to the County, Harrison intends to use its development fee money to reimburse itself for this public expenditure. If the Township collects significantly more money than necessary to fund its rehabilitation program, the Township shall revise its spending plan for other uses permitted by COAH's rules. If there is unspent money at the end of the Judgment of Repose, the Township shall use the money to help address any future fair share responsibilities.

#### ***Schedule for the Creation or Rehabilitation of Housing Units***

The Township will market its rehabilitation program to foster interest in its rehabilitation program. It is anticipated that two (2) units a year will be rehabilitated.

#### ***Proforma Statement***

There is no construction taking place in Harrison that is dependent on the collection of development fees.

#### ***Shortfall Contingencies***

If there are insufficient development fees to pay for rehabilitation, the Township will budget or bond for the required amount.