

**MAY 2025**

**PRIOR ROUND, THIRD ROUND & FOURTH ROUND**

**HOUSING ELEMENT AND FAIR SHARE PLAN**

**BOROUGH OF SEASIDE PARK | OCEAN COUNTY, NEW JERSEY**



**MAY 2025**

**PRIOR ROUND, THIRD ROUND & FOURTH ROUND  
HOUSING ELEMENT AND FAIR SHARE PLAN**

ADOPTED BY THE PLANNING BOARD:

ENDORSED BY THE MAYOR & COUNCIL:

PREPARED BY:



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NEW JERSEY PROFESSIONAL PLANNER LICENSE #5537

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A SIGNED AND SEALED ORIGINAL IS ON FILE WITH THE BOROUGH CLERK

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## **INTRODUCTION & EXECUTIVE SUMMARY**

Since the 1975 New Jersey Supreme Court decision known as “Mount Laurel I”, New Jersey municipalities have had a constitutional obligation to provide opportunities for the creation of low and moderate income housing units. This 1975 decision led to a body of case law, legislative changes, and rulemaking by a state agency that, collectively, is now referred to as the “Mount Laurel doctrine”. Through these actions, New Jersey municipalities have been assigned a specific number of affordable housing units that must be created or planned for creation to have “satisfied” their constitutional obligation, commonly referred to as their affordable housing obligation. The purpose of this Prior Round, Third Round and Fourth Round Housing Element and Fair Share Plan is to present how Seaside Park Borough will address its affordable housing obligation.

Affordable housing in New Jersey is defined as housing units which are reserved for households with incomes not more than 80% of the regional median income. Each affordable unit, with limited exceptions, must remain reserved for very-low-, low-, and moderate-income households for a minimum of 30 years and for Fourth Round rental units, 40 years, and it is typically enforced by a deed restriction. Each affordable unit is eligible for one “credit” against the obligation and certain units are eligible for “bonus credits”, which provide more than one credit per unit. In addition to providing the minimum number of credits, municipalities must ensure diversity in the level of affordability – meaning very-low-, low- and moderate-income units – and diversity in the size of affordable units – meaning one-, two- and three-bedroom units.

Participation in this process is voluntary, and therefore satisfaction of the affordable housing obligation, can be achieved voluntarily or involuntarily. However, our laws heavily incentivize voluntary compliance. Municipalities that do not voluntarily comply may be vulnerable to “builder’s remedy” litigation. A builder’s remedy is a litigation tool to compel the municipality to include a builder’s site in the Fair Share plan. However, to secure such a remedy, the developer must “succeed in litigation”, provide a “substantial” affordable housing set-aside and the developer’s “proposed project” must not clearly violate “sound land use planning”. The Supreme Court’s desire to ensure that developers who provide affordable housing do so in accordance with sound planning, which is a pillar of the Mount Laurel doctrine.

### **The Housing Element and Fair Share Plan**

In accordance with the Fair Housing Act (as amended) this Housing Element and Fair Share Plan includes the following:

- a. 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;
- b. A projection of the municipality’s housing stock, including the probable future

construction of low and moderate income housing for the next ten (10) years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development of lands;

- c. An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age; and
- d. An analysis of the existing and probable future employment characteristics of the municipality.
- e. A determination of the municipality's present and prospective fair share of low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low- and moderate-income housing; and
- f. A consideration of the lands most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to providing low and moderate income housing.
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c. 273 (C.52:27D-329.20)
- h. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

Items a through d are included as an appendix item and items e through h are included in the body of this Fair Share Plan.

## **AFFORDABILITY REQUIREMENTS**

Affordable housing is defined under New Jersey's FHA as a dwelling, either for sale or rent, which is within the financial means of households of very-low-, low-, or moderate-income, as is measured within each housing region. Seaside Park Borough is in Region 4, which includes Mercer, Monmouth, and Ocean counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of the regional median income. Low-income households are those with annual incomes that are 50% or less than the regional median income. Very-low-income households are a subset of "low-income" households and are defined as those with incomes 30% or less than the regional median income.

Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.3, et seq., requires that the maximum rent for a qualified unit be affordable to households with incomes 60% or less than the median income for the region. The average rent must be affordable to households with incomes no greater than 52% of

the median income. The maximum sale prices for affordable units must be affordable to households with incomes 70% or less than the median income. The average sale price must be affordable to a household with an income of 55% or less than the median income.

The regional median income uses the federal income limits established by Department of Housing and Urban Development (hereinafter "HUD") on an annual basis. In the spring of each year, HUD releases updated regional income limits. It is from these income limits that the rents and sale prices for affordable units are derived. Said income limits post Mount Laurel IV are now set by Court Order.

To update income limits, the Borough will rely on the Order entered for all of Monmouth County on April 18, 2019, by the Monmouth County Superior Court, which establishes the criteria to follow annually update income limits.

Income limits for all units that are part of the Borough's Housing Element and Fair Share Plan, excluding those which income limits are already established through a federal program, shall be updated by the Borough as HUD publishes median incomes and income limits as follows:

- Regional income limits shall be established for the region that the Borough is located within (i.e., Region 4) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four (4) 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 (4).
- The income limit for a moderate-income unit for a household of four (4) shall be 80% of the regional weighted average median income for a family of four (4). The income limit for a low-income unit for a household of four (4) shall be 50% of the HUD determination of the regional weighted average median income for a family of four (4). The income limit for a very low-income unit for a household of four (4) shall be 30% of the regional weighted average median income for a family of four (4). 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 methodology outlined above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.



For 2024, the Affordable Housing Professionals of New Jersey (“AHPNJ”) and Fair Share Housing Center (FSHC) have jointly developed updated income limits for all housing regions in New Jersey, which were calculated using the methodology outlined above. As approved by the Court, these income limits for Region 4 will be utilized for Seaside Park. See Table 1 for 2024 income limits for Region 4.

<b>Table 1: 2024 Income Limits for Region 4</b>					
<b>Household Income Levels</b>	<b>1-Person Household</b>	<b>2-Person Household</b>	<b>3-Person Household</b>	<b>4-Person Household</b>	<b>5-Person Household</b>
Moderate	<b>\$72,830</b>	<b>\$83,234</b>	<b>\$93,639</b>	<b>\$104,043</b>	<b>\$112,367</b>
Low	<b>\$45,519</b>	<b>\$52,022</b>	<b>\$58,524</b>	<b>\$65,027</b>	<b>\$70,229</b>
Very Low	<b>\$27,311</b>	<b>\$31,213</b>	<b>\$35,115</b>	<b>\$39,016</b>	<b>\$42,137</b>
<i>Source: 2024 Income Limits prepared by Affordable Housing Professionals of New Jersey.</i>					

The following tables provide illustrative sale prices and gross rents for 2024. The sample rents and sale prices are illustrative and are gross figures, which do not account for the specified utility allowances for rental units or for specific mortgage rates, taxes, etc. for sales units.

<b>Table 2: Illustrative 2024 Affordable Gross Rents for Region 4</b>			
<b>Household Income Levels (% of Median Income)</b>	<b>1-Bedroom Unit Rent</b>	<b>2-Bedroom Unit Rent</b>	<b>3-Bedroom Unit Rent</b>
Moderate	<b>\$2,060</b>	<b>\$2,475</b>	<b>\$2,850</b>
Low	<b>\$1,280</b>	<b>\$1,545</b>	<b>\$1,785</b>
Very Low	<b>\$770</b>	<b>\$925</b>	<b>\$1,071</b>
<i>Source: 2024 Affordable Housing Pricing Calculator: Affordable Housing Calculator prepared by Affordable Housing Professionals of New Jersey.</i>			

Table 3: Illustrative 2024 Affordable Sales Prices for Region 4			
Household Income Levels (% of Median Income)	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
Moderate	\$190,029	\$229,913	\$267,137
Low	\$133,053	\$161,541	\$188,130
Very Low	\$118,909	\$144,448	\$168,378
<i>Source: 2024 Affordable Housing Pricing Calculator: Affordable Housing Pricing Calculator prepared by Affordable Housing Professionals of New Jersey.</i>			

## **PRESENT AND PROSPECTIVE NEED OBLIGATIONS**

The fair share affordable housing obligation consists of a rehabilitation component (present need) and a new construction component (prospective need). The new construction component consists of the Prior Round obligation (calculated by the Council on Affordable Housing – “COAH”), the Third Round obligation (calculated in response to a Mercer County Superior Court decision) and the Fourth Round obligation (calculated by the DCA). Pursuant to the Amended Fair Housing Act (FHA), the NJ State Department of Community Affairs (DCA) was required to calculate the Fourth Round rehabilitation (present need) and prospective need obligations for municipalities within the State. The amended FHA entitled municipalities to adjust the obligation if the information used in the DCA calculation was outdated or in error. After the review of the DCA methodology for the Fourth Round present and prospective need obligations, the Borough determined that the DCA calculation was correct and adopted the DCA calculations for present and prospective need for the Fourth Round.

With this overview , the Borough’s obligations can be summarized as follows:

### **Rehabilitation Obligation: 0 units**

The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units occupied by low- and moderate-income households.

### **Prior Round Obligation (Rounds 1 and 2): 52 units**

The Prior Round obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation.

### **Third Round Obligation: 87 units**

The Third Round obligation can be defined as the cumulative 1999 through 2025 new construction affordable housing obligation. This includes the “gap present need” from 1999 through 2015 and the “prospective need” from 2015 through June 30, 2025, according to a trial court opinion

authored by Judge Jacobson and referenced in the Amended FHA . See In the *Matter of the Application of Princeton et al Docket No L-1550-15*.

Fourth Round Obligation: 18 units

The Fourth Round obligation can be defined as the cumulative July 1, 2025, through June 30, 2035, new construction affordable housing obligation. The October 18, 2024 DCA Report identified the Borough's Fourth Round prospective need obligation as 18.

## **Vacant Land and Realistic Development Potential Analysis**

If there is a lack of sufficient land to meet the new construction obligation, a municipality is entitled to rely on COAH regulations to adjust the new construction obligation downward pursuant to N.J.S.A 52:27D-311 (m). The adjusted number is known as the realistic development potential (RDP). The RDP represents the portion of the new construction affordable housing obligation that can theoretically be addressed with inclusionary development (defined as a mix of market and affordable units) on lots identified as being suitable in the Vacant Land Analysis ("VLA"). The portion of the new construction obligation for which there is insufficient land is known as the "unmet need". The unmet need is calculated as the difference between the total obligation and the RDP.

The Borough undertook a current vacant land analysis which supports an RDP of zero (0) units. Much of the Borough is located with the 100-year floodplain and there are no vacant parcels large enough to support five (5) or more units in accordance with the vacant land rules in the Borough that are not constrained by the flood hazard area.

## **Unmet Need Determination**

The Borough's vacant land adjustment resulted in a combined Prior Round, Third Round and Fourth Round RDP and unmet need as follows:

- RDP:0
- Unmet Need: 157

Since different standards apply to the Fourth Round Unmet Need obligation than to obligations for prior rounds, this plan will discuss those standards when discussing how to satisfy them below.

## **HOUSING ELEMENT AND FAIR SHARE PLAN**

This Prior Round, Third Round and Fourth Round Housing Element and Fair Share Plan has been prepared to address the Borough's obligation and comply with the amended Fair Housing Act.

### **Consideration of Affordable Housing Options**

As part of this HEFSP, the Borough has considered land that is appropriate for the construction of low- and moderate-income housing. Although the Borough has limited available and developable land, the Borough successfully satisfied its affordable housing obligation using the vacant land adjustment process and a variety of zoning mechanisms that will create low- and moderate-income housing.

While the Borough recognizes that developers may, in the future, present sites that possess characteristics that could lend themselves to affordable housing development, additional mechanisms or sites are not needed to satisfy the obligation at this time.

### **The Third Round Compliance Process**

On March 10, 2015, the New Jersey Supreme Court issued a ruling on the Motion In Aid of Litigant's Rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1, aka "Mount Laurel IV"). This long-awaited decision provided a new direction for how New Jersey municipalities are to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges. The implication of this is that municipalities could no longer wait for COAH to adopt Third Round rules before preparing new Third Round housing elements and fair share plans and municipalities had to apply to the Courts, instead of COAH, if they wished to be protected from exclusionary zoning lawsuits. These trial judges, with the assistance of an appointed Special Adjudicator to the Court, review municipal plans in accordance with the established COAH regulations.

While the New Jersey Supreme Court's decision set a process in motion for towns to address their Third Round obligations, it did not assign those obligations. Instead, it ordered the trial courts to determine the obligation. However, the New Jersey Supreme Court did direct that the method of determining municipal affordable housing obligations were to be "similar to" the methodologies used in the First and Second Round rules. Additionally, the Court stated that municipalities should rely on COAH's Second Round rules (N.J.A.C. 5:93) and certain components of COAH's 2008 regulations that were specifically upheld, as well as the Fair Housing Act (N.J.S.A. 52:27D – 301 et seq.), in their preparation of Third Round housing elements and fair share plans. This plan is prepared in response to and in compliance with the March 10, 2015, New Jersey Supreme Court decision.

## **The Fourth Round Compliance Process**

On March 20, 2024, Governor Murphy signed an amendment to the Fair Housing Act into law (“Amended FHA”) that created new procedures and laws. Pursuant to the Amended FHA, by January 31, 2025, municipalities adopted a “binding resolution”; and filed a declaratory relief lawsuit with the Court and “the Program”. In addition, the municipality must file a Housing Element and Fair Share Plan with the Court and Program by June 30, 2025, and comply with a series of other requirements.

The Borough took the first step required by the Amended FHA by adopting the binding resolution and filing the declaratory relief action to establish the Fourth Round obligation. The Borough and the Planning Board will continue to comply with applicable law.

## **Satisfaction of the Affordable Housing Obligation**

The Borough is addressing its affordable housing obligation through a variety of mechanisms to address the unmet need obligation.

## **Addressing Third Round Unmet Need**

The RDP of zero (0) is subtracted from the Prior and Third Round Obligation of 139 units, resulting in an Unmet Need of 139 units. The Borough is utilizing a proposed Mandatory Setaside Ordinance and an Affordable Housing Ordinance (including a development fee ordinance) to address the Prior and Third Round Unmet Need Obligation.

### ***Mandatory Set-aside Ordinance***

The Borough will adopt a mandatory set-aside ordinance that requires, where via use variance, rezoning, or redevelopment, the Borough permits multi-family residential housing with 5 units or greater at a density greater than otherwise permitted compared to the existing zoning permitted, than an affordable housing set-aside will be imposed on the development. All affordable units shall be restricted, regulated and administered consistent with the Borough’s affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to income distribution, bedroom distribution, and phasing. Addressing the Fourth Round Obligation.

## **Addressing Fourth Round Unmet Need**

### ***Unmet Need: 5 (25% of 18 units)***

Due to limited vacant and developable land that is within the Borough’s land use jurisdiction, the Borough qualifies for a vacant land adjustment. The Borough performed a vacant land analysis and because the Realistic Development Potential associated with the qualifying vacant parcels is addressed in the Third

Round Fair Share Plan, the Fourth Round RDP shall be zero (0). The remaining obligation is known as the Fourth Round Unmet Need.

The Amended FHA requires a municipality that receives an adjustment of the prospective need to identify sufficient parcels that are likely to redevelop during the Fourth Round to address 25 percent of the adjusted prospective need (unmet need) with realistic or meaningful zoning. In compliance with the FHA, the Borough will provide realistic or meaningful zoning to address a minimum of 5 units of unmet need ( $18 \times 0.25 = 5$ ).

***North Ocean Avenue Overlay District (proposed)***

The Borough proposes to adopt an overlay district for the parcels that are located in Block 91 along North Ocean Avenue between Farragut Avenue and Porter Avenue for multi-family housing with a density of 20 dwelling units per acre. The North Ocean Avenue Overlay District is approximately 1.3 acres in size. An overlay zone is a zoning option that allows an applicant to develop at higher densities for residential development provided they set aside at least 20% of the units as affordable housing available to low-and moderate-income households. This type of zoning is known as inclusionary zoning. The proposed ordinance amendment is included in the appendix and represents a meaningful zoning option for future affordable housing opportunities.

In addition, during the second half of the Fourth Round, if there are adequate funds in the Affordable Housing Trust Fund, the Borough will work with a non-profit developer to build 100% affordable housing for-sale or rental single-family home(s) within the residential districts as lots become available.

## **PRESERVATION OF MULTIGENERATIONAL FAMILY CONTINUITY**

The 2024 FHA requires an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c. 273 (C.52:27D-329.20). The Commission has the primary goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity. A review of the Borough's ordinance indicates that there are no ordinances that would specifically create a detraction from meeting the Commission's goal of enabling senior citizens to reside at the homes of their extended families. In fact, the Borough defines a single family dwelling in such a way that a senior citizen may live in that single family dwelling unit with their extended family which is a permitted use in the residential and business zoning districts. The Seaside Park ordinances advance the multigenerational family continuity goal.

## **STATE DEVELOPMENT AND REDEVELOPMENT PLAN CONSISTENCY**

This Housing Element and Fair Share Plan is consistent with the 2001 State Development and Redevelopment Plan (SDRP) as the proposed projects and zoning mechanisms will provide a meaningful opportunity for the construction of affordable housing. Seaside Park is designated as PA5B, Environmentally Sensitive Barrier Island area. The proposed overlay zoning district is situated over an existing disturbed site. The location of the overlay zoning district with higher residential density development permitted on lots that have been disturbed with existing impervious coverage is consistent with the overall goals and objectives of the State Development and Redevelopment Plan goal to direct redevelopment and growth into areas where infrastructure can support the development and support services such as open space, retail shopping, public transportation, schools are within walking distance.

## **AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING**

Seaside Park Borough will adopt an Affordable Housing Ordinance in accordance with COAH's substantive rules and UHAC. The Affordable Housing Ordinance governs the establishment of affordable units in the Borough as well as regulating the occupancy of such units. The Borough's Affordable Housing Ordinance will cover the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc.

The Borough will establish the position of the Municipal Housing Liaison and will appoint a staff member to the position. The Borough will rely on an Affordable Housing Administrator to conduct the administration and affirmative marketing of its affordable housing sites. However, the Borough will permit developers who demonstrate the appropriate experience and expertise to administer their own units as both are experienced affordable housing administrators. The affirmative marketing plans are 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 the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region, Region 4, consisting of Monmouth, Mercer and Ocean counties.

The affirmative marketing plans will include regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance with N.J.A.C. 5:80-26.1 et seq. All newly created affordable units will comply with the 30-year affordability control required by UHAC, N.J.A.C. 5:80-26.5 and 5:80-26.11. This plan must be adhered to by all private, non-profit, and municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

## **AFFORDABLE HOUSING TRUST FUND**

A development fee ordinance will be adopted to create a dedicated revenue source for affordable housing.

The future Spending Plan will cover anticipated revenues, collection of revenues, and the use of revenues, which will be prepared in accordance with COAH's applicable substantive rules. All collected revenues will be placed in the Borough's Affordable Housing Trust fund and may be dispensed for the use of eligible affordable housing activities including, but not limited to:

- New construction of affordable housing units and related development costs;
- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites;
- Acquisition and/or improvement of land to be used for affordable housing;
- Purchase of affordable housing units for the purpose of maintaining or implementing affordability controls,
- Maintenance and repair of affordable housing units;
- Repayment of municipal bonds issued to finance low- and moderate-income housing activity; and
- Any other activity as specified in the approved spending plan.

At least 30% of collected development fees, excluding expenditures made since July 17, 2008, when affordability assistance became a statutory requirement in the Fair Housing Act, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. At least one-third (1/3) of the affordability assistance must be expended on very-low income units. Additionally, no more than 20% of the revenues collected from development fees each year, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program.

## **COST GENERATION**

The Borough's Land Development Ordinance has been reviewed to eliminate unnecessary cost generating standards. The Borough will adopt, if needed, Planning Board rules for expediting the review of development applications containing affordable housing. Such expedition may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. Furthermore, development applications containing affordable housing shall be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the



mandate of the FHA regarding unnecessary cost generating features. Seaside Park Borough shall comply with COAH's requirements for unnecessary cost generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing.