

**RÉSOLUTION IMPOSING A TEMPORARY SCARCE RESOURCE RESTRAINT UPON
THE BOROUGH OF RED BANK
COAH 08-2017**

WHEREAS, the Council on Affordable Housing (COAH) granted the Borough of Red Bank (Red Bank or Borough), Monmouth County, a second round substantive certification of its Housing Element and Fair Share Plan on March 5, 1997; and

WHEREAS, the Borough's second round affordable housing obligation consisted of a 54-unit rehabilitation component and a 428-unit new construction component; and

WHEREAS, Red Bank's certified Plan consisted of a vacant land adjustment that reduced its new construction obligation of 428 units to zero due to lack of vacant available land; and

WHEREAS, to address its unmet affordable housing need of 428 units, Red Bank proposed 37 age-restricted units created through adaptive reuse of the River Street School and redevelopment programs and proposals in identified "Areas of Residential Redevelopment"; and

WHEREAS, the redevelopment programs and proposals consisted of garden apartments and townhouses along the river, mid-rise apartments near the train station and the river, rehabilitation and reoccupancy of units over stores and offices, and continued gut rehabilitation and infill development in existing residential units; and

WHEREAS, COAH granted Red Bank an extension of its second round substantive certification on April 15, 2005 pursuant to N.J.A.C. 5:91-14.3 and N.J.A.C. 5:95-15.2; and

WHEREAS, Red Bank's extended certification continued the terms of the second round substantive certification and reallocated six surplus units from affordable units created at the Locust Landing site toward its unmet affordable housing need; and

WHEREAS, Red Bank petitioned COAH for third round substantive certification on December 19, 2005; and

WHEREAS, Red Bank's third round Housing Element and Fair Share Plan continued the terms of its second round substantive certification and proposed to address its growth share obligation through a 36-unit municipally-sponsored and 100 percent affordable housing project, a development fee ordinance and spending plan, and a growth share ordinance that included a write-down/buy-down program, a rental acquisition/rent-down program, and an accessory apartment program as options to the on-site construction of affordable units; and

WHEREAS, the growth share ordinance, Ordinance No. 2005-46, was applicable municipal-wide and was meant to capture growth share opportunities based on the previous ratios of one affordable dwelling unit for every eight market rate unit and one affordable unit for every 25 jobs; and

WHEREAS, on September 28, 2008, the Fair Share Housing Center (FSHC) filed a motion asking COAH to: impose an emergent scarce resource restraint upon Red Bank to prevent it from granting any development approvals, recalculate Red Bank's realistic development potential (RDP) of zero, and void Red Bank's second round substantive certification; and

WHEREAS, FSHC has submitted to COAH a list of four redevelopment applications that Red Bank's Planning and/or Zoning Board approved recently without no affordable housing or with less than a 20 percent set-aside; and

WHEREAS, Red Bank approved the James Parker One and Two, LLC site (Block 96, Lots 3, 4, 5, and 5.01) with no affordable units but with a payment-in-lieu of construction; and

WHEREAS, Red Bank approved the MW Red Bank, LLC site (Block 37, Lot 6.01 Z7174), the West Front Street Partners, LLC (Block 30, Lot 10.01 Z7672), the RB Monmouth LLC and RB West LLC site (Block 42, Lots 1-4 and 19-21 P8370), and the RW @River's Edge, LLC site (Block 82, Lot 17 and Block 83, Lots 5-6.02 Z8589) with less than a 20 percent set-aside; and

WHEREAS, FSHC argues that the approval of these redevelopment applications do not adequately address the Borough's unmet need as required by N.J.A.C. 5:93-5.6(b)(1); and

WHEREAS, FSHC has submitted to COAH a list of three pending redevelopment applications: Siros at Monmouth, LLC (Block 33, Lot 9.01), RW @ River's Edge, LLC (Block 82, Lot 17 and Block 83, Lots 5-6.02 Z8589), and Grandview at Navesink (Block 4, Lot 11.01 Z8332) that FSHC contends may further exhaust scarce land resources for affordable units absent a scarce resource restraint; and

WHEREAS, COAH staff reviewed the Borough's second round substantive certification and determined that the following sites are located within the "Areas of Residential Redevelopment" identified in Borough's certified Housing Element and Fair Share Plan thereby requiring a 20 percent affordable housing set-aside: MW Red Bank, LLC site (Block 37, Lot 6.01 Z7174), the West Front Street Partners, LLC (Block 30, Lot 10.01 Z7672), the RB Monmouth LLC and RB West LLC site (Block 42, Lots 1-4 and 19-21 P8370); and

WHEREAS, the James Parker One and Two, LLC site (Block 96, Lots 3, 4, 5, and 5.01) is not located within the "Areas of Residential Redevelopment" and is thus not required to include a 20 percent set-aside; and

WHEREAS, on September 3, 2008, COAH Staff met with Borough representatives to discuss continued implementation of the terms of its second round substantive certification; and

WHEREAS, pursuant to N.J.A.C. 5:96-12.1, COAH may, upon its own determination or upon the application of any interested person, impose scarce resource restraints, requiring that a municipality take appropriate measures to reserve scarce resources that may be essential to fulfill the municipality's fair share obligation; and

WHEREAS, FSHC argues that Red Bank's approval of 145 residential units and 7,750 plus square feet of non-residential space with only an 11 percent set-aside captured in four redevelopment projects is evidence of the Borough's disregard of its second round substantive certification which requires at least a 20 percent set-aside pursuant to N.J.A.C. 5:93-5.6(b)1; and

WHEREAS, response briefs are due before the November 12, 2008 COAH Board meeting.

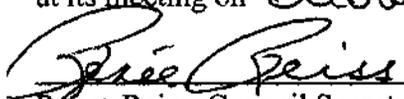
NOW, THEREFORE, BE IT RESOLVED that COAH hereby imposes a temporary scarce resource restraint upon Red Bank's approval of development applications pending COAH's November 12, 2008 Board meeting; and

BE IT FURTHER RESOLVED that single and two family homes are exempt from this temporary scarce resource restraint; and

BE IT FURTHER RESOLVED that as per the briefing schedule set by COAH on October 15, 2008, opposition to FSHC motion was due October 25, 2008 and replies are due on October 31, 2008; and

BE IT FURTHER RESOLVED that the parties will appear for oral argument before COAH at its November 12, 2008 meeting at which time COAH may make a final decision in the matter or extend these temporary restraints until such time as a final decision is rendered.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on *October 29, 2008*.


Renee Reiss, Council Secretary