

**RESOLUTION GRANTING SPARTA TOWNSHIP, SUSSEX COUNTY, A WAIVER FROM**

**N.J.A.C. 5:97-8.1(d)**

**COAH Docket #09-2149**

**WHEREAS**, on March 19, 1990, Sparta Township, Sussex County, received first round substantive certification from the Council on Affordable Housing (COAH); and

**WHEREAS**, on September 6, 2000, Sparta received second round substantive certification; and

**WHEREAS**, the Township received COAH approval for a development fee ordinance and a spending plan on March 10, 1998; and

**WHEREAS**, on December 29, 2008, Sparta petitioned COAH with its third round Housing Element and Fair Share Plan; and

**WHEREAS**, Sparta Township submitted a third round spending plan with its petition; and

**WHEREAS**, as part of its December 29, 2008 petition, Sparta has proposed an 11-unit affordable development at 18 Main Street to address a portion of its projected growth share obligation; and

**WHEREAS**, at the conclusion of its 45-day objection period Sparta Township had received one objection from Adam Gordon, Esq., on behalf of Fair Share Housing Center (FSHC), to its Housing Element and Fair Share Plan; and

**WHEREAS**, FSHC did not object or reply to the Township's waiver request from the requirements of N.J.A.C. 5:97-8.1(d); and

**WHEREAS**, on July 30, 2009 Sparta Township submitted a motion seeking a waiver from the requirements of N.J.A.C. 5:97-8.1(d) in order to spend affordable housing trust funds in the amount of \$135,000 on the 11-unit development, known as The Juliet; and

**WHEREAS**, N.J.S.A. 52:27D-329.2 and N.J.A.C. 5:97-8.1(d) mandate that a municipality may not spend development fees until such time as the municipality obtains approval of its spending plan from COAH; and

**WHEREAS**, N.J.A.C. 5:97-8.7(a) provides that funds generated by the collection of development fees may only be applied toward housing activity identified in a COAH approved spending plan; and

**WHEREAS**, the project for which Sparta seeks this waiver is in the Township's third round fair share plan and is identified in its proposed third round spending plan; and

**WHEREAS**, the Township is requesting to expend \$135,000.00 of its affordable housing trust fund for the proposed 11-unit affordable housing development; and

**WHEREAS**, the Township had a balance of \$539,558.84 in its affordable housing trust fund as of June 30, 2009; and

**WHEREAS**, the waiver is necessary because the affordable housing development on which the Township wishes to spend affordable housing trust funds is identified in its third round Housing Element and Fair Share Plan and the Township's spending plan, however the spending plan has yet to be approved; and

**WHEREAS**, pursuant to N.J.A.C. 5:96-15.2, COAH's review of a waiver request shall consider whether the strict application of the rule would create an unnecessary hardship; or that such a waiver fosters the production of affordable housing, fosters the intent, if not the letter, of COAH's rules, and that the Housing Element and Fair Share Plan provide a mix of housing options; and

**WHEREAS**, granting the waiver requested would foster the production of affordable housing and would serve the intent of COAH's rules by ensuring that Sparta addresses its fair share obligation through a variety of affordable housing options including the creation of supportive and special needs housing; and

**WHEREAS**, the project presents a realistic opportunity to create 11 affordable rental units in Sparta; and

**WHEREAS**, COAH staff has prepared a report dated October 2, 2009, recommending that the waiver from N.J.A.C. 5:97-8.1(d) be granted; and

**WHEREAS**, COAH received no opposition papers to the Township's waiver request; and

**WHEREAS**, a COAH task force met on September 30, 2009 to review Sparta's waiver request;  
and

**WHEREAS**, the task force recommends releasing \$135,000 from Sparta Township's affordable housing trust fund for the reconstruction of the proposed 11-unit affordable housing development.

**NOW THEREFORE BE IT RESOLVED** that COAH finds that the waiver is necessary for Sparta to create 11 affordable rental units, thus fostering the production of affordable housing in the Township and fostering the intent of COAH's rules; and

**BE IT FURTHER RESOLVED** that the waiver fosters the intent if not the letter of COAH's rules, because the intent of "controlling housing trust fund expenditures is to ensure that affordable housing is constructed in a planned and balanced approach," which this development provides, since it is consistent with the State Development and Redevelopment Plan (SDRP); and

**BE IT FURTHER RESOLVED** that the disbursement of funds from Sparta's affordable housing trust fund to the proposed 11-unit affordable rental development is consistent with the goal of promoting affordable housing in the Township; and

**BE IT FURTHER RESOLVED** that COAH grants the waiver from the requirements of N.J.A.C. 5:97-8.1(d), permitting the expenditure of \$135,000 by Sparta Township from its affordable housing trust fund for the 11-unit affordable housing project located at 18 Main Street, Sparta Township.

I hereby certify that this Resolution was  
duly adopted by the Council on Affordable  
Housing at its meeting on October 14, 2009



Renee Reiss  
Council Secretary