

Fair Share Housing Update

Protecting Our Community: Borough Finalizes Fair Share Housing Settlement

In 2024, under Governor Phil Murphy, the State significantly changed the process governing the Fair Share Housing (FSH) mandate for Round 4. These new legislative requirements are complex and burdensome, but municipalities must comply in order to avoid “builder’s remedy” lawsuits, which could override local land-use laws and force high-density development.

The State directed the Department of Community Affairs (DCA) to calculate each municipality’s affordable housing obligation. The DCA initially assigned the Borough of Allendale an obligation of **260 affordable housing units**, which we **successfully negotiated down to 200**. Even at that reduced number, the obligation is widely unrealistic. Based on the standard development ratio of approximately 80% market-rate and 20% affordable housing, this could have resulted in up to 800 total housing units being constructed in the Borough.

Our Strategy

From the beginning, the Borough took a proactive and strategic approach. We assembled a highly experienced team of planners, attorneys, and housing experts early in the process to develop a strategy focused on securing the best possible outcome while preserving the character and charm that defines Allendale.

Our analysis determined that Allendale’s **Realistic Development Potential (RDP)** the number of affordable units that could realistically be built based on available land—is **4 units**. Under standard development ratios, this could have meant a project of approximately **20 total units**.

Proposals offered by Fair Share Housing Center (FSHC), an advocacy group that our state government has assigned to handle negotiations, suggested rezoning larger parcels of land within residential neighborhoods to accommodate this.

Instead, we discovered that several existing affordable housing units in Allendale have deed restrictions that were expiring. By **extending these deed restrictions**, the Borough can preserve those homes as affordable housing and satisfy our **Fourth-Round obligation without constructing new housing** in this cycle. This represents a significant win and positive outcome for our community!

Understanding “Unmet Need”

Municipalities must also address what is known as “unmet need.” **Unmet Need is the gap between the number of affordable housing units assigned by the state (200) and the number that can realistically be built based on available land (4).**

To demonstrate a good-faith effort to address this gap, municipalities must establish **overlay zones**.

What Are Overlay Zones?

Overlay Zones are zoning layers placed on top of existing zoning that allow higher-density housing development if a project includes affordable housing.

During negotiations, the Fair Share Housing Center* strongly encouraged the Borough to place an overlay zone in our downtown area, including the yellow Victorian house. This could have resulted in 3–4 story buildings above existing structures, significantly altering the scale and character of our downtown and creating additional congestion.

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Challenges with Saddle River

Complicating this process were developments proposed in neighboring Saddle River along our municipal border. These projects lacked sufficient sewer infrastructure and sought access to Allendale's sewer system. One developer, AvalonBay Communities, demanded access to our sewer system before the Borough could complete a feasibility study.

During negotiations, the developer challenged our housing plan, and a judge ordered the Borough to issue a permit granting sewer access before the feasibility study was complete. We **complied under protest** and immediately **filed an appeal**.

Leadership from the Fair Share Housing Center became directly involved, as the AvalonBay project was considered a high priority on their list for development. Once a full sewer capacity analysis was completed and confirmed that adequate capacity existed, the Borough used both the results of that study and the pending appeal as leverage in negotiations.

The Outcome

As a result of these negotiations:

- The proposed overlay zone was **moved out of our downtown area**
- Density was instead placed on an **existing overlay property on Boroline Road**
- The Borough **satisfied its RDP requirement through deed restriction extensions**, avoiding new construction this round
- We negotiated a **separate agreement with AvalonBay Communities for \$500,000 to be put towards off-site improvement funding**

This settlement is one of the strongest outcomes achieved by municipalities in our region. The Borough is now certified and in good standing for the next 10 years.

Looking Ahead

Allendale has always supported affordable housing and has consistently worked to comply with state mandates. That commitment helped position us well throughout this process. Many municipalities are still struggling to complete their **Third Round obligations**, while we are now fully settled until the next cycle.

However, concerns remain with the current system. High-density development models often allow developers to override local zoning, increase housing density dramatically, and drive up market-rate housing costs while only a small portion of units are designated as affordable.

The current framework does not adequately account for the real challenges communities face, including infrastructure capacity, school enrollment, traffic impacts, and public safety.

It is time for state leadership to work collaboratively with municipalities to modernize this flawed system so it truly serves the residents who need affordable housing most.