

TOWNSHIP OF TOMS RIVER
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF PLANNING & ZONING



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MID-POINT REVIEW OF AFFORDABLE HOUSING
Per Settlement Agreement between the Township of Toms River and the Fair Share
Housing Center

June 30, 2020

This is Mid-Point Review report following the third anniversary of the execution of the Settlement Agreement (Agreement) entered in the Township's declaratory judgment action, In the Matter of the Township of Toms River, County of Ocean, Docket No. OCN-L- 001867-15 ("Action") on November 3, 2016 and approved by the Judge Troncone on December 31, 2016. The Agreement provides that the Township is to provide a realistic opportunity review at the midpoint certification period. Specifically the Agreement provides that by July 1, 2020 the "Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues."

The Court entered a Conditional Declaratory Judgment of Compliance and Repose ("CJOR") on June 7, 2017. The Township continued to work with the Special Master regarding the conditions set forth in the CJOR.

Any interested party are requested to submit comments within 10 days of the date of this posting regarding whether any sites in the Agreement and HEFSP no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented, to the following:

Township Clerk:
Alison L. Carlisle, RMC, CMR
Toms River Township Municipal Complex
33 Washington Street
P.O. Box 728
Toms River, NJ 08753

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"HOMO COGITAT, DEUS INDICAT"

Affordable Housing Special Counsel:
Steven A. Kunzman, Esq.
361 Route 31, Suite 1301
Flemington, NJ 08822

Fair Share Housing Center:
Adam Gordon, Esq.
Associate Director and Staff Attorney
510 Park Boulevard
Cherry Hill, New Jersey, 08002

Based on the Housing Element and Fair Share Plan (HEFSP) adopted in February of 2017 in response to the Agreement, the Township has the following obligations:

Prior Round: 1,345 affordable units
390 bonus credits
1,735 total credits

Third Round: 964 affordable units
321 bonus credits
1,285 total credits

COMPLIANCE

Pursuant to the HEFSP and additional activity not anticipated in the HEFSP, a summary of projects follows below.

Affordable Housing Production Activity since Execution of Settlement Agreement:

1. Habitat for Humanity – The single family dwelling was issued a C.O. on August 23, 2017. It has three bedrooms. The unit is administered by Piazza Associates (Township Administrative Agent).
2. Toms River Crescent (Site No. 29) – This 120 unit, 100% affordable project is administered by Community Investment Strategies, Inc. (CIS). It includes LIHTC funding and has a Financial Agreement for a Payment In Lieu of Taxes with the Township. The Spending Plan amendment in 2017 includes an affordable housing assistance provision which is being employed to assist the project with the cost of fire inspection fees by the Township’s Bureau of Fire Prevention.
3. Freedom Village (Site No. 25A)

This project is built and occupied and contains 72 units, of which 71 are deed restricted affordable units and one is a super’s unit. Of the 71 units, 18 units are restricted to Very Low (Special Needs ALA), 21 units to Low, and 32 units to

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Moderate income households. This project was completed and occupied in 2015 and has a Financial Agreement for a Payment In Lieu of Taxes with the Township.

4. Autumn Ridge (Site No. 38)

Autumn Ridge is a project operated by Homes For All, Inc. consisting of 25 family rental units and 49 for sale townhomes. There are five affordable rental units and ten affordable for sale townhomes. This project is built and received Certificates of Occupancy in 2015. It includes five Low income townhomes and five Moderate income townhomes, as well as two one-bedroom family rental units and three two-bedroom family rental units. The Special Master has requested an income and bedroom breakdown of the affordable units and a copy of the Deed Restriction. Related documentation has been requested and received from Homes For All, Inc., but an actual Deed Restriction has not yet been found by either HFA or the Township. The Township is working with the Special Master to address the necessary and appropriate restrictions.

5. Highland Plaza

Highland Plaza is a constructed project of 110 senior rental units where there has been an extension of controls. Per the current certified Spending Plan approved with the Township's Housing Element and Fair Share Plan, the Spending Plan allocates an expenditure of \$51,047 for the extension of controls. However, the project has been transferred to a new owner, who has assumed the twenty year renewal of the Section 9 subsidy contract with HUD commencing with the expiration of the original mortgage term on December 1, 2014. As such, the controls have been extended and continue to be supported by a Tax Abatement Agreement, through December 1, 2034. According to the HAP Contract, 30% of units are to be rented to very low income households, 100%, on average, occupied by households at 40% of the AMI or lower and all tenants must meet basic HUD eligibility requirements including income at or less than 80% of AMI.

6. North Pointe Hollow

This project, constructed around 1997, has been refinancing and extending affordability controls. Three of the units were rehabilitated through the Township's rehabilitation program. To date the Township has 17 of the 18 units with extended affordability controls, inclusive of the three units that were rehabilitated under the Township's program. The project is administered by Piazza Associates. Since the Second Annual Report in March of 2019, two consent judgements on attempted bank foreclosures of affordable units with expired controls were successfully litigated by the Township's Special Counsel on Affordable Housing and controls will be extended in lieu of enforcement of the repayment mortgage.

7. Lotano (Legion Square Village/Riverwatch Plaza) – Site No. 35

This project was approved as a 55 unit apartment building with a set-aside of 11 affordable units. The 11 affordable units are deed-restricted for 9 two-bedroom units and 2 one-bedroom units, in the following configuration:

- a. One (1) of the one-bedroom affordable units and two (2) of the two-bedroom affordable units shall be for low-income households;
- b. One (1) of the one-bedroom affordable units and two (2) of the two-bedroom affordable units shall be for very low-income households;
- c. Five (5) of the two-bedroom affordable units shall be for moderate-income households.

A Consent Order was signed by the developer and the FSHC to allow the substitution of additional Very Low units for three-bedroom units, as there are no three-bedroom units in the project. The project was affirmatively marketed with a lottery in 2019 and C.O.s were issued in 2019. The building is fully rented.

8. Nobility Crest (Riverwood Chase Apartments) – Site No. 36

This project was originally the 50 unit affordable housing set-aside required as part of the 200 unit townhouse development known as Riverwood Chase. The 50 unit affordable component was approved on a subdivided lot and received financing from NJHMFA, which closed in January of 2017. The project was acquired by The Ingerman Group with a closing in August of 2017 and Ingerman has completed Resolution Compliance with the Zoning Board and received a Zoning Permit on September 22, 2017 based on a signed affordable housing agreement which involves the following:

	1br	2br	3br	TOTAL
VLI (30% or Less)	3	3	2	8
Low Income (50%)	2	12	4	18
Mod Income (60%)	4	15	5	24
Total	9	30	11	50

The resolution authorizing the Mayor to execute the agreement on behalf of the Township was adopted by Township Council on September 26, 2017. The project was completed as “The Willows At Toms River.” C.O.s were issued by the end of 2018. It is administered by the Ingerman Group.

9. JSM Route 166 – Site No. 37

This inclusionary project was facilitated by a re-zoning to an MF-8 Zone by the Township based on a Zone Change application by JSM in 2013. A site plan application was submitted and reviewed in 2014, but was withdrawn on March 30, 2015 after access through an adjacent apartment complex was rejected by the owner. A new application for site plan approval was reviewed by Planning Board staff in 2018. The proposed plan continued to propose 132 rental units, inclusive of 27 affordable units, as well as a 10,000sf day care facility, 7,000sf retail building and a bank of 3,542sf. The plan showed portions of drive-thru lanes for the retail building and bank encroaching into the MF-8 Zone and require revision. The developer has recently indicated an interest in possibly modifying the residential component of the project for the site involving housing for special needs and an inovative strategy for Very Low income households but a formal proposal has not yet been made to the Township.

10. Meadow Green Apartments – Site No. 40

Meadow Green Apartments construction was completed and Certificates of Occupancy were issued in 2017. The Township is now in the second year of a Payment In Lieu of Taxes pursuant to the executed Financial Agreement that began in 2018. The project has 79 age-restricted rental units that are 100% affordable, plus a superintendent’s unit.. This Project is being administered by Richman Property Services, Inc. Based on a review by the Special Master we found documentation on the County Land Records that 5 of the 79 units are Special Needs pursuant to the Deed/Mortgage documents. The unit counts and compliance tables in the HEFSP will be amended accordingly.

11. Gabrielle Run – (JSM at Hickory Street, LLC) – Site No. 32

This 340 unit family rental development is under construction and an affordable housing agreement was authorized for execution on December 12, 2017 for 68 affordable units. The agreement outlines the affordability controls, income and bedroom breakdowns. The first four multifamily buildings, including several townhouse buildings have been completed and occupied (C.O.s or TCOs for 51 units). A minimum of 7 affordable units will need to be identified and deed restricted before the 69th market unit will receive a C.O. A multifamily building with 8 affordable units is under construction. An Affirmative Marketing Plan has been prepared and approved by the Township’s Administrative Agent. The project will be administered by Edgewood Properties. The developer received Planning Board Approval on May 6, 2020 for amended site plan that will create 20 one-bedroom market units from 10 two-bedroom market units, resulting in a total of 350 units, of which 70 will be deed-restricted affordable. The Third Round compliance table in the HEFSP will be amended accordingly.

12. Colifax Street – Site No. 41

The HEFSP claims two credits for this 9 unit multifamily development based on a Use Variance, Preliminary and Final Site Plan approval from the Zoning Board of Adjustment granted on February 28, 2008. An application for amended site plan approval with bulk variance relief was approved by the Zoning Board on February 23, 2017. Construction began in May of 2020.

13. Toms River Senior Apartments (Cornerstone) – Site No. 30

The subject project involves 101, 100% affordable age restricted apartment units. The construction of the project has been completed and the project was affirmatively marketed with open houses held in Town Hall in 2017. The project received a Certificate of Occupancy on July 19, 2017 and is leasing with 6 units under Section 811 subsidy at 34.5% median and 5 units at 30% median, for a total of 11 very low income units and 40 low income units , and 50 moderate income units (101 units total) and a superintendent unit, totalling 102 units. The Township is implemented a Payment In Lieu of Taxes that began in 2018 and is in its second year. The project is administered by the Walters Development Group.

14. Dover Summit – Site No. 47

This project entails 175 multifamily units, consisting of thirteen 2-story townhouse buildings and two 3-story 55 unit apartment buildings of which 35 units are to be income restricted to low and moderate income households. The project has posted bonds and had their pre-construction conference. An affordable housing agreement was authorized for execution on November 14, 2017, which allowed for the issuance of a Zoning Permit and application for Building Permits. The project is under construction. The project is anticipated to be administered by Garden Homes, Inc.

15. 1606 Lakewood Road (Gefner) – Site No. 49

This is a Planned Unit Development involving the expansion of two existing shopping centers with another building of over 30,000 square feet. The development will also include an inclusionary development of 141 units in the rear, of which 28 rental units will be affordable. The project has had three hearings with the Planning Board with the primary issue being the potential to add traffic congestion to Route 9, primarily from the proposed additional retail building. Revised plans were submitted to address traffic concerns. The application was approved in December of 2018. An affordable housing agreement will be required to be approved by Township Council prior to the issuance of zoning and building permits. Sample agreements were provided to the applicant in April of 2020 at their request. An executed agreement is the last requirement of Resolution Compliance prior to construction.

16. Arya – Site No. 44

This project involves a 35 unit townhouse development consisting of six townhouse buildings on a site of 5.09 acres on Massachusetts Avenue approved in August of 2016. Seven of the units will be required to be set aside as affordable. Bonds have been posted, but to date zoning and building permits applications have yet to be submitted.

17. Michael’s Development (Gateway 70/Eagle Crest) – Site No. 45

This project of 49 units was constructed as the residential component of a Planned Unit Development and is 100% affordable through the LIHTC financing through the NJHMFA. The project was completed in 2017 and a Payment In Lieu of Taxes was implemented for 2018 by the Township pursuant to a Financial Agreement which is now in the second year. The project is being administered by the Michaels Company (developer).

18. Kaplan (Camelot at Toms River) – Site No. 46

This development involves a multifamily residential development of 128 units on a tract of 15.16 acres, of which 12.65 acres is developable. 26 of the units will be set aside for affordable households. The application was approved in 2018 by the Planning Board and is currently undergoing Resolution Compliance prior to application for zoning and building permits. Limited grading is currently being done with bonds posted.

19. Dover Shopping Center Associates – Site No. 47

This project was proposed by an Intervenor in the Action and was addressed in the Agreement. The site which is on Route 9 was rezoned to RHB-AH9 in 2017 to enable a Planned Unit Development to proceed with more than 50% of the site devoted to the residential component for a 150 unit project with 30 affordable units to be constructed. The site is located at the terminus of Clayton Road at Route 9. The bedroom breakdown of affordable units in the site plan is: 6 one-bedroom units; 18 two-bedroom units, and 6 three-bedroom units. The preliminary and final major site plan approval was granted by the Planning Board on December 6, 2017. The project has passed through the Resolution Compliance phase and has received a Zoning Permit. An affordable housing agreement was submitted in 2019 and approved by Township Council. The project is undergoing building permit review.

20. Hovnanian (Bimini Drive) – Site No. 43

Although the owner/developer of this project was not an intervenor in the Action, this project was addressed in the Agreement. The site was rezoned to RHB-AH37 in 2017 as part of the Township’s compliance efforts. The developer would be H. Hovnanian (Hovsons). The site also is to be a PUD with more than 50% dedicated

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to the residential component, which is expected to include 140 units, 28 of which will be affordable. The project was expected to be submitted for Major Site Plan Approval in 2019, but submission is still pending.

21. Cox Cro Crossing – (New Project)

This is a 42 unit residential component of a Planned Unit Development approved on January 16, 2019, 9 units of which were set aside to be deed-restricted affordable units pursuant to an affordable housing agreement approved by Township Council on November, 26, 2019. The unit breakdown is as follows:

- a. Two (2) very-low income units of which shall be a one (1) one-bedroom and one (1) two-bedroom units.
- b. Three (3) low income units of which shall be two (2) two-bedroom and one (1) three-bedroom units.
- c. Four (4) moderate income units of which there shall be at least three (3) two-bedroom and one (1) three-bedroom units.

The Zoning Permit for the residential phase of the PUD was issued in December of 2019. The commercial component of the PUD on Lot 15.03 was sold and is under construction by the new owner. The residential component of the PUD on Lots 5-7 was retained by Nobility Crest at Dover, LLC and is under construction. A foundation location survey for the first of two buildings was approved in June 2020. The compliance table in the HEFSP will need to be updated to include this project.

22. Downtown Waterfront Redevelopment

The HEFSP and Agreement referenced the Waterfront Redevelopment as anticipated to generate 100 affordable units out of 500 total projected, but claimed no units or credits from the redevelopment for the Third Round because it was not anticipated to produce the units prior to the end of the Third Round in 2025. However, the Township advanced the process with an adopted Downtown Waterfront Phase 1 Redevelopment Plan, adopted on December 26, 2017. The Township is in discussions with FSHC and the Special Master regarding revisions to the Agreement to take into consideration the anticipated development and affordable housing components.

Very Low Income Requirement

The Township has contacted the operators and managers of the existing projects named in the Court Master’s Compliance Report and used recently negotiated affordable housing agreements for inclusionary projects in order to document Very Low Income units. The table below provides a preliminary accounting of very low income units that are either already constructed or projected to be constructed, and for which documentation was provided to the Court Master. The total in the table of 271 very low units exceeds the 167 units estimated in the Township’s adopted HEFSP. However, there currently is a gap of 13 units (family very low income is 48% of current projected total very low income units). It is anticipated that all future inclusionary projects will be family affordable units which will more than satisfy the 2% gap by the end of the compliance period, June 30, 2025.

Excluding the 312 existing units for which crediting is claimed for extension of affordability controls, the Township’s third round compliance plan includes 652 new affordable units and, thus, an 85 unit very-low income affordable housing requirement, half of which (43 units) are to be available to families. An analysis of projects built, or currently approved is summarized in the table below.

THIRD ROUND VERY LOW INCOME UNITS BY PROJECT			Type	
Project	Total Affordable Units	Total Very Low Units	Family	Age-restrict/spec needs
Project Freedom/Freedom Village**	71	18	18	0
Toms River Apts./Cornerstone	101	11	0	11
Legion Square/Riverwatch*	11	3	3	0
Michaels (Gateway 70)	49	5	5	0
Nobility Crest/Riverwood Chase*	50	8	8	0
Dover Summit*	35	5	5	0
Meadow Green	79	8	0	8
Kaplan (Seacourt Pavilion)*	26	4	4	0
Dover Shopping Center, LLC*	30	4	4	0
1606 Lakewood (Gefner)*	28	4	4	0
Hovnanian (Bimini Road)*	28	4	4	0
Arya Properties*	7	1	1	0
Gabrielle Run*	70	9	9	0
JSM – Rt 166*	27	4	4	0
Cox Cro Crossing *	9	2	2	0
Preliminary Total	621	90	71	19

*Inclusionary Project with Affordable Housing Agreement executed or pending execution, or completed (other projects are constructed 100% affordable sites)

**Based on one person household units with incomes below \$19,807 on rent roll.

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The table indicates that a total of 90 of the affordable units to be produced in the Third Round Compliance Plan would be very low income units, of which 71 units (79 percent of the very low income units) would be available to families. Additional affordable units that satisfy the income requirements for very low income households have been provided in other 100% affordable projects in the Township that have been constructed as part of prior rounds; however, the majority of those units are age-restricted (i.e., Toms River Crescent and Presbyterian Homes (Oaks)). In addition, the table above does not account for the 5 Special Needs units in Meadow Green, which would also not be counted as age-restricted. The Township considers its third round compliance strategy as in compliance with the very low income requirements of the Fair Housing Act and the Court-approved Settlement Agreement.

Spending Plan

The Township has amended its Spending Plan to incorporate the potential funding for the Housing Rehabilitation Plan in the event that the HUD Community Development Block Grant Program becomes de-funded, and extended the table of projected expenditures and revenues from 2017 to 2025 per the tables in the COAH template. A draft amendment of the Spending Plan was submitted to the Special Master in December of 2018 to add affordable housing assistance for a five unit Group Home owned by the NJID with deed restrictions and is expected was revised again in 2019 to allow for affordable housing assistance for at least one Group Home per year in exchange for 30 year deed restrictions. The 2019 Draft Spending Plan is under review by the Special Master.