

Mid-Point Review of Affordable Housing Activities

**Washington Township,
Warren County**



November 12, 2020

Prepared by:

Kevin M Smith, PE, PP, CME

Township of Washington

Engineer & Planner

**Midpoint Review
Realistic Opportunity & Affordable Housing Compliance**

Settlement Agreement

Superior Court, Warren County - Docket No. WRN-L-244-15

- | | |
|---|---------------|
| 1. Declaratory Judgment Complaint Filed: | July 7, 2015 |
| 2. Settlement Agreement with Fair Share Housing Center: | May 7, 2019 |
| 3. Approval of Settlement Agreement and Fairness Order: | June 28, 2019 |

As provided in a letter from the Fair Share Housing Center, to Katrina Campbell, Esq, attorney for Washington Township, Warren County, New Jersey, said letter memorialized:

“The terms of an Agreement reached between the Township of Washington (“Washington” or the “Township”), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 AND 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in the proceeding.”

This report responds to paragraph 17.a. of the Agreement and constitutes a “Midpoint Realistic Opportunity Review” report, which shall be posted on the Township website on November 13, 2020 with a copy provided to FSHC. This Midpoint Realistic Opportunity Review report identifies the status as to the implementation of the Township’s Housing Plan Element and Fair Share Plan (“HPE/FSP”) and includes an assessment of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity for providing housing to persons of low and moderate incomes.

Interested parties are invited to submit comments to the municipality regarding whether the compliance mechanisms continue to satisfy the municipality’s affordable housing obligations or should be supplemented or revised and/or whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may also by motion request a hearing before the Superior Court, Warren County regarding these issues. Any comments must be received within 30 days of the November 13, 2020 posting date and any motions must be filed within 30 days of the November 13, 2020 posting date. Copies of any comments and/or any filed motions must be provided to FSHC and Township Special Affordable Housing Council at the following addresses:

Adam Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
adamgordon@fairsharehousing.org

Katrina Campbell, Esq.
Lavery, Selvaggi, Abromitis & Cohen, PC
1001 Rt 517
Hackettstown, NJ 07840
kcampbell@lsaclaw.com

In addition and in accordance with social distancing policies, members of the public may arrange to physically inspect/obtain a paper copy of the Midpoint Realistic Opportunity Review report by calling the municipal clerk at (908) 689-7200 or by email at clerk@washington-twp-warren.com

A copy of the Settlement Agreement is also available upon request by calling the law firm of Lavery, Selvaggi, Abromitis & Cohen, PC at (908) 852-2600.

Realistic Opportunity Review

The agreed upon fair share obligations are listed in Settlement Agreement, Term #3 as follows:

Rehabilitation Share (per Kinsey Report)	8
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	40
Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through the Settlement Agreement)	134

The Settlement Agreement, Term #6, identified affordable housing projects and mechanisms to address Washington Township's Mount Laurel obligations as follows:

<u>Mechanism</u>	<u>Description</u> (See notes below)	<u>Ordinance / Reso. Adopted (Yes/No)</u>	<u>Status</u>	<u>Notes/Additi onal Information</u>
Fairway Mews (constructed family rental) Block 28, Lot 1-32)	30-low and moderate income units. 10 rental unit bonuses		Complete and occupied	Prior Round need.
Fairway Mews (constructed family rental) Block 28, Lot 1-32)	2-low and moderate income units		Complete and occupied	Additional existing units in complex
ARC Group Home Block 4, Lot 14.01	4-very low income bedroom units		Complete and occupied	
Center for Humanistic Change (group home) Block 48, Lot 38	6-low income units		Complete and occupied	
HPVRA-Area 4 (single & family rental) Block 65, Lot 4	15 affordable units (bedroom mix and income criteria to comply w/AHS)		Potential Development	Realistic opportunity.

HPVRA-Area 5 (single & family rental) Block 65.01, Lot 1, C00001	14 affordable units (bedroom mix and income criteria to comply w/AHS)		Potential Development	Realistic opportunity.
HPVRA-Area 8 Block 65, Lot 4.34	6 assisted living units (income criteria to comply w/AHS)		Potential Development	Realistic opportunity.
Habitat for Humanity Block 90, Lot 3	1-low income for sale dwelling		Complete	Realistic opportunity.
Roaring Rock 1-rental unit Block 4, Lot 19.01	1-low income unit		Complete and occupied	
Inclusionary Zone Block 71, Lot 5	22 family rental or for-sale (bedroom mix and income criteria to comply w/AHS)		Relocation of inclusionary zone being considered.	See note below
Rental Bonuses – Fairway Mews and HPVRA	34 Credits			

Note 1: HPVRA – Hawk Pointe Village Redevelopment Area. Construction of the HPVRA is proceeding. Redevelopment Areas 6 & 7 are currently under construction and consist of age restricted townhouses with no affordable component. Areas 1 & 9 have final Land Use Board approval and final plats are expected to be filed shortly. Area 1 consists of age restricted single family dwelling with no affordable component. Area 9 is similar to Areas 6 & 7. The total buildable units for Areas 1, 6, 7 & 9 will be limited until a portion of the affordable housing units are constructed in accordance with a schedule provided in the Redevelopment Plan. An application for land development approval for Area 2 is currently filed with the Land Use Board. If approved, Area 2 will ultimately result in the construction of 8 group home units with 4 bedrooms in each for a total of 32 units / credits.

Note 2: Inclusionary Zoning, Block 71, Lot 5. It was anticipated that at least 20 acres of land on Block 71, Lot 5 would be rezoned to provide a realistic opportunity for at least 22 affordable units. As described in the agreement, Block 71, Lot 5 is not within the a future sewer service area as delineated in the current Township Wastewater Management Plan (WMP) and cannot be added unless an environmental Threatened and Endangered (T&E) bird species designation is first removed. It was anticipated that the property owner would pursue a modification of the T&E designation (through the NJDEP) as part of the development of the this property. The owner has requested that the Township designate the property as an Area In Need Of Redevelopment (AINOR) in accordance with requirements and criteria of the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A) (LRHL). While the Township continues to evaluate the owner’s request, it is understood that:

- The Township may or may not agree to seek to designate the property as an AINOR.
- The property may or may not qualify as an AINOR under the criteria of the LRHL.
- A Redevelopment Plan development process would follow a successful AINOR determination.
- The process of modifying the T&E designation requires time and is not guaranteed.
- The process of modifying the Township's WMP may take more than a year after the T&E modification (if approved). The Township, in cooperation with the Borough of Washington, have had numerous discussions with the NJDEP with regards to recertifying the Borough Sewage Treatment Plant for a higher capacity and the steps needed to extend public sewer along the Route 31 South (to the highway Township's development corridor to the south of the Borough). It continues to be the intent of the Township and Borough to extend sewer along the corridor.

Based on the uncertainty and time duration described above, the Township concludes that an Inclusionary Zone on Block 71, Lot 5 will not provide a reasonable opportunity within a reasonable time frame. Therefore, an alternate location of an Inclusionary Zone should be considered.

We have been in contact with the Beth McManus, Professional Planner, Court Special Master regarding the possibility of relocating the Inclusionary Zoning to a parcel identified on the Township Tax Map as Block 76, Lot 4. The parcel is located at the northwesterly corner of the intersection of Route 31 and West Asbury Anderson Road and contains 22.15 acre of land, current located in the Township's Highway Commercial Zone. The new zone will permit commercial and residential uses. The lot is located within a public sewer service area identified on in the Township WMP and in located within the New Jersey America Water Company (NJAW) public water franchise area. Therefore, this alternate location for Inclusionary Zoning provides a realistic opportunity for development and would not be dependent upon the lengthy regulatory process described above for Block 71, Lot 5.

In accordance with the Agreement, this matter will need to be revisited before the court.

Rehabilitation

The Township's effort to meet its present need include the following: Participation in the Warren County rehabilitation program. The Township reserves the right during the compliance phase to seek a waiver from the rental rehabilitation requirement due to the small rehabilitation obligation, which information will be presented to and revised by FSHC and the Special Master. This is deemed sufficient to satisfy the Township's present need obligation of 8 units.

Implementation of the Township's Housing Plan Element and Fair Share Plan Opportunity

As detailed in the Terms in the Settlement Agreement the following tasks are to be taken:

Task 1: Endorsement of Settlement Agreement by the Township and the Fair Share Housing Center. **As authorized by Township Committee Resolution #2019-XX, Settlement Agreement endorsed and signed on May 8, 2019.**

Task 2: Prepare and adopt an Inclusionary Zone Ordinance consistent with the mix of income levels and family units as detailed in the Settlement Agreement – Highway Commercial Affordable Housing. **An Inclusionary Zone Ordinance has not yet been created. Washington Township has further evaluated the proposed Inclusionary Zone on Block 71, Lot 5. Although the Township continues to believe that the subject property could eventually represent a realistic affordable housing opportunity. However, there is a concern with respect timing and the owner's vision for developing the site as follows:**

- **The environmental regulatory requirements to extend the Future Sewer Service Area to the parcel would inhibit development for a period of years and the necessary NJDEP approvals cannot be guaranteed.**
- **The Township has not decided if they will authorize a study, as requested by the owner, to determine if the property should be designated as an Area In Need Of Redevelopment, with the subsequent creation of a Redevelopment Area Plan and Payment In Lieu Of Taxes (PILOT). It is also unknown if the property would qualify under the applicable regulations.**

The Township seeks to have a dialog with the FSHC and the court's Special Master to relocate the Inclusionary Zone to a parcel that is currently in the Township's Wastewater Management Plan - Future Sewer Service.

Task 3: Adoption of a Housing Element and Fair Share Plan (“the Plan) conforming with the terms of the Agreement. **With the exception of the Inclusionary Zone, all other housing projects designated to meet the Third Round Prospective Need are either completed or affordable housing standards have been incorporated into an approved Redevelopment Plan (i.e. Hawk Pointe Village Redevelopment). The Housing Element and Fair Share Plan will be prepared and adopted in conjunction with the necessary ordinances for the Inclusionary Zone or as part of a Redevelopment Plan, which ever would first occur.**

Summary

Washington Township continues to make good progress in addressing the Third Round Prospective Need primarily through projects completed to date and the ongoing construction of the Hawk Pointe Village Redevelopment Area.

The relocation of the Inclusionary Zone, and associated Master Plan and ordinance development, is a necessary discussion (Township, FSHC, Court Special Master). and action item.