

**AFFORDABLE HOUSING
THIRD ROUND MIDPOINT REVIEW
TOWNSHIP OF DELANCO
BURLINGTON COUNTY, NEW JERSEY**

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1.0 PURPOSE

The requirement for a midpoint realistic opportunity review derives from the Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-313, which provides: “[t]he Council (Council on Affordable Housing or COAH) shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public.” Although COAH failed to adopt regulations or procedures for a midpoint realistic opportunity review, the purpose and process is set forth in Delanco Township’s Court-approved Settlement Agreement with Fair Share Housing Center (“FSHC”).

The purpose of the midpoint realistic opportunity review is for Delanco Township to provide a status report as to the Township’s implementation of its Court-approved Housing Element and Fair Share Plan (“Plan”) and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Pursuant to the Delanco Township/FSHC Agreement, there’s a requirement for the Township to post this report on its municipal website and to submit a copy of this report to FSHC and other interested parties identified in the Agreement including all entities on the affirmative marketing list (“housing advocacy groups”). In the event the Court determines that a previously approved site or mechanism no longer presents a realistic opportunity and should be replaced, then Delanco Township shall have the opportunity to supplement or revise its plan to correct any deficiency.

To facilitate the review process, in addition to posting this Mid-Point Review Report on the Township website and submitting a copy to FSHC and the housing advocacy groups, Delanco Township will place on file a copy of this report for public inspection at the office of the Township Clerk or, if the municipal building is closed due to the pandemic, interested parties may request a copy be mailed. Lastly, the Township will provide notice of the availability of this report. The Township’s notice to the public of this Mid-Point Review Report will include a 30-day deadline for any interested party comments/requests for a court hearing to be submitted.

2.0 BACKGROUND

The Township of Delanco filed its Declaratory Judgment action on July 7, 2015. Pursuant to a November 19, 2015 Court Order, Delanco submitted a preliminary plan summary to the Courts by the December 7, 2015 deadline and on December 11, 2015, an order was entered granting the Township continued immunity while continuing the appointment of Frank Banisch, PP, AICP, as the Court's special master. By letter dated January 26, 2016, in response to the Township's motion, Special Master Banisch recommended continued immunity.

Beginning with a February 1, 2016 phone case management conference and through numerous subsequent communications, the parties reached a framework for a settlement of this matter. The Settlement Agreement between FSHC and the Township, executed by the Township on August 15, 2016, established the Township's Third Round rehabilitation share, Prior Round obligation and Third Round prospective need (including the Third Round "gap" obligation from 1999 to 2015) as well as establishing Township-specific Third Round Compliance standards. The Township prepared an Amended Third Round Housing Element and Fair Share Plan, adopted August 2, 2016/endorsed August 15, 2016 and thereafter submitted to the Special Master and the Court. A November 7, 2016 Court Order granting a Judgment of Repose determined that the Township's 2016 Third Round Amended Housing Element and Fair Share Plan created a realistic opportunity to achieve the Township's affordable housing obligations under the Mount Laurel doctrine, subject to the Township adopting certain ordinances and resolutions. The Township adopted the relevant ordinances and resolutions on December 5, 2016. A compliance hearing was conducted on July 11, 2017, during which the Court found the Township had satisfied all conditions set forth in the December 7, 2016 Order, and a final Judgment of Repose granted by Court Order of July 17, 2017.

The Settlement Agreement established the Township's Third Round Fair Share obligation as follows:

- Rehabilitation share: 23 units
- Prior Round 1987-1999 obligation: 61 units

- Third Round 1999 – 2025 Gap and Prospective obligation: 131 units

3.0 REHABILITATION PROGRAM UPDATE

To satisfy its 23-unit Rehabilitation obligation, the Township is continuing its participation in the Burlington County Home Improvement Loan Program. The County has provided a completed COAH rehabilitation monitoring form that indicates it has rehabilitated one unit in the Township since April 2010 with a unit completed in 2018.

4.0 REALISTIC OPPORTUNITY REVIEW

The Fair Housing Act at N.J.S.A. 52:27D-313b. requires a realistic opportunity review at the midpoint of the round. The Township’s Settlement Agreement with FSHC specifies that this review must be done by July 1, 2021.

The Township has satisfied its entire 61-unit Prior Round obligation, and provided 12 surplus credits to be carried forward to the Third Round, with the following compliance mechanisms:

Delanco Township’s 61- Unit Prior Round Compliance Mechanisms	Credits	Bonus	Total
<i>Regional Contribution Agreement – Completed</i>			
Russ Farm – RCA with Palmyra	14	0	14
<i>Inclusionary Developments – Completed</i>			
Russ Farm – family for-sale off-site – 404 Illinois Avenue	1	0	1
Russ Farm – family rentals off-site – multiple sites	15	15	30
River’s Edge – family affordable for-sale units	15	0	15
River’s Edge/Zurbrugg – senior affordable rentals (11 of 27)	11	0	11
Creekside – family affordable rentals (1 of 3)	1	1	2
Total	57	16	73
Surplus	-	-	12

The Township has more than satisfied its entire 131-unit Third Round obligation with the following compliance mechanisms:

Delanco Township's 131-unit Third Round Compliance Mechanisms	Credits	Bonuses	Total
Prior Round Surplus	12	-	12
100% Affordable – Completed			
Abundant Life/Living Springs – affordable senior rentals (16 of 94; cap)	16	0	16
Abundant Life/Living Manor – affordable special-needs	20	0	20
Rhawn/Cornerstone at Delanco – affordable family rentals	63	31; cap	94
Inclusionary Developments – Completed			
Creekside – affordable family rentals (2 of 3)	2	2	4
River's Edge/Zurbrugg – senior affordable rentals (16 of 27)	16	0	16
Payment in Lieu – Approved			
High Point/Gravelly Hollow	-	-	-
Total	129	33	162
Surplus Toward Fourth Round	-	-	31

100% Affordable: Rhawn/Cornerstone at Delanco

The land for this project was donated to the Township, which in turn transferred title to the Walters Group for the development of 63 affordable family rental units. The project received preliminary site plan approval and a tax credit award in 2015 and final site plan approval in May 2016. The project received its final certificate of occupancy in June 2019, and has a 45-year deed restriction. It is now fully occupied, and is administered by the Walters Group, a qualified and experienced affordable housing administrative agent. The income and bedroom breakdown of the units is as follows:

	1 BR	2 BR	3 BR	Total
Very low-income	1	6	1	8
Low-income	5	12	7	24
Moderate-income	6	17	8	31
Total	12	35	16	63

Payment in Lieu: High Point/Gravelly Hollow

A subdivision approval in August 2015 created 14 age-restricted lots and two open-space lots on this 3.1-acre site (Block 2100.01, Lot 50). The property is surrounded by the Newton's Landing development, and future homeowners of the 14 planned age-restricted cottages would become part of that development's homeowners' association. The developer's agreement for the project specified that the developer must either create three off-site affordable family rental units via infill development or a market-to-affordable program, or make payments in lieu of constructing affordable units into a separate escrow account, timed with the construction of the 14 market-rate units, up to a total of \$150,000. Should the developer not be able to create three affordable family rental units within the timeframe set out in the developer's agreement, the Township had the right to require the developer to release the entire \$150,000 which would be deposited into the Township's affordable housing trust fund.

The developer subsequently reconfigured the subdivision, and applied for amended site plan approval for 13 lots, not 14. The amended approval, memorialized in a resolution adopted August 1, 2017, requires the developer to make the full \$150,000 payment in lieu of constructing the three affordable units, according to an amended schedule that accounts for the reduction in the total unit count. The Township reports that 12 of the 13 cottages have their certificates of occupancy and have been sold, and the developer has been making the required payments into a separate escrow account held by the developer's attorney. Upon the issuance of a certificate of occupancy for the final cottage, the developer has 120 days either to close on property on which he will generate three affordable units, or to transfer the funds to the Township for deposit into its affordable housing trust fund.

The developer's agreement specifies that if the developer creates the off-site units, two must be low-income units and one may be a moderate-income unit; and that there will be one one-bedroom unit, one two-bedroom unit, and one three-bedroom unit.

The Township is not claiming any Third Round credits for the three potential off-site units. If these off-site units come to fruition, they will be credited towards a future fair share obligation.

Even without these potential off-site affordable units, the Township currently has a 31-credit surplus towards a future obligation.

5.0 CONCLUSION

The Township continues to participate in the Burlington County rehabilitation program to address its Rehabilitation Share. The Township has satisfied its entire 61-unit Prior Round obligation with existing units and associated rental bonuses. At the time of adoption of its Housing Element and Fair Share Plan in 2016, the Township had satisfied 66 units of its 161-unit Third Round obligation with surplus credits from the Prior Round, existing affordable family rental and age-restricted units in inclusionary developments, existing age-restricted and special-needs units in 100% affordable developments, and associated rental bonuses.

Since the Township's Housing Element and Fair Share Plan was adopted, the Rhawn/Cornerstone at Delanco project (Walters) has been completed, providing 63 affordable family rental units in a 100% affordable development, along with 31 rental bonuses (the Township may claim a maximum of 33 rental bonuses, and has also claimed two from the Creekside inclusionary affordable family rental units). The payments in lieu from the High Point development are being deposited into a separate escrow account in accordance with the required schedule. The Township has more than satisfied its entire 131-unit Third Round obligation with existing affordable housing units and associated rental bonuses. The Township will enter a future round with 31 surplus credits, in addition to any credits that may be available from development of the High Point off-site units.

In the event the Court determines that a compliance mechanism no longer presents a realistic opportunity and should be replaced, then Delanco Township shall have the opportunity to supplement or revise its plan to correct any compliance deficiency.