



# **THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN**

**BRANCHBURG TOWNSHIP | SOMERSET COUNTY, NEW JERSEY**

July 2020



# THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

ADOPTED BY THE PLANNING BOARD \_\_\_\_\_

ENDORSED BY THE MAYOR & COMMITTEE \_\_\_\_\_

PREPARED BY:

A handwritten signature in black ink, appearing to be 'KL', is written above a horizontal line.

KENDRA LELIE, PP, AICP, LLA  
NEW JERSEY PROFESSIONAL PLANNER LICENSE #5537  
**KYLE + McMANUS ASSOCIATES**

A SIGNED AND SEALED ORIGINAL IS ON FILE WITH THE TOWNSHIP CLERK



## **BRANCHBURG TOWNSHIP PLANNING BOARD**

Robert Bouwman, Chairman  
Laurel Truppi, Vice Chairman  
Douglas Chabrak, Secretary  
David Owens  
Anna Columbus  
Frank Devlin  
Maria Donegan  
Sherwin Ulep

Jo-ann Ricks, Planning Board Clerk  
Steven Warner, Esq., Planning Board Attorney  
Douglas Ball, P.E., Planning Board Engineer

## **BRANCHBURG TOWNSHIP MAYOR & COMMITTEE**

Honorable Thomas Young, Mayor  
Brendon Beatrice, Deputy Mayor  
James Schworn  
Anna Columbus  
David Owens

Maggie Schmitt, Township Clerk  
Gregory J. Bonin, Township Administrator  
Douglas Ball, PE, Township Engineer  
William Willard, Esq., Township Attorney



## TABLE OF CONTENTS

Introduction & Executive Summary	1
Affordable Housing in New Jersey	3
Affordability Requirements	7
Affordable Housing in Branchburg Township	10
Consideration of Land Most Appropriate for Affordable Housing	11
Branchburg Township's Affordable Housing Obligation	12
Satisfaction of the Affordable Housing Obligation	13
Affordable Housing Administration & Affirmative Marketing	37
Affordable Housing Trust Fund	37
Monitoring	38
Cost Generation	39

## APPENDICES

1. FSHC Settlement Agreement and Fairness Order
2. Planning Board Resolution
3. Governing Body Resolution
4. Housing, Demographic & Employment Analysis
5. Rehabilitation Documentation
6. Prior Round Documentation
7. Third Round Documentation
8. Administration Documentation
9. Trust Fund Documentation



## **INTRODUCTION & EXECUTIVE SUMMARY**

Since the 1975 New Jersey Supreme Court decision known as “Mount Laurel I”, New Jersey municipalities have had a constitutional obligation to provide opportunities for creation of low and moderate housing units. This 1975 decision led to a body of case law, legislative changes and rulemaking by a state agency that, collectively, is now referred to as the “Mount Laurel doctrine”. Through these actions, New Jersey municipalities have been assigned a specific number of affordable housing units that must be created or planned for creation in order to have “satisfied” their constitutional obligation, commonly referred to as their affordable housing obligation. The purpose of this Housing Element and Fair Share Plan (hereinafter the “Plan”) is to present how Branchburg Township will satisfy its constitutional obligation.

Affordable housing in New Jersey is defined as housing units which are reserved for households with incomes not more than 80% of the regional median income. Each affordable unit, with limited exceptions, must remain reserved for low- and moderate-income households for not less than 30 years and it is typically enforced by a deed restriction. Each affordable unit is eligible for one “credit” against the obligation and certain units are eligible for “bonus credits”, which provide more than one credit per unit. In addition to providing the minimum number of credits, municipalities must ensure diversity in the level of affordability – meaning very low, low- and moderate-income units – and diversity in the size of affordable units – meaning one, two- and three-bedroom units.

Participation in this process, and therefore satisfaction of the affordable housing obligation, can be achieved voluntarily or involuntarily. However, voluntary compliance is heavily incentivized. Municipalities that do not successfully participate may be vulnerable to “builder’s remedy” litigation. A builder’s remedy is a litigation tool that grants a developer the right to develop what is typically a multi-family project on land that was not zoned to permit the use or the residential density desired by the developer, provided a “substantial” percentage of the units are reserved for low and moderate income households. Branchburg Township seeks to avoid this possibility and has already taken substantial steps to do so.

This Plan supersedes all previously adopted housing plans. It has been prepared pursuant to a 2019 Settlement Agreement between the Branchburg Township and Fair Share Housing Center (hereinafter “FSHC”) that set forth the Township’s affordable housing obligation and a preliminary plan for how it would be satisfied. FSHC is an interested party in the Township’s Declaratory Judgment filed in Superior Court on July 1, 2015 as permitted by the March 10, 2015 NJ Supreme Court decision known as “Mount Laurel IV.” This Supreme Court decision rendered COAH “moribund” and created a transitional process for municipalities to determine their affordable housing obligation and seek compliance in the State’s trial courts, as opposed to the Committee on Affordable Housing (“COAH”) performing that function. This Plan will serve as the foundation for the Township’s application to Superior Court for that approval, referred to as a Judgment of Compliance and Order of Repose.



This Plan reflects a Settlement Agreement between the Branchburg Township and Fair Share Housing Center. The Branchburg Township filed a complaint for Declaratory Judgement in Superior Court on July 1, 2015, seeking a declaration of compliance with the Mount Laurel Doctrine and the Fair Share Housing Act of 1985. The Township agreed to settle the litigation with FSHC and negotiate for revised zoning with the intervenors in an effort to avoid delays and move forward with the construction of housing units for low and moderate-income households. After much negotiation, the Township entered into an Agreement that set forth the affordable housing obligations pursuant to Mount Laurel IV and determined The Third Round Obligation.

As detailed in this Housing Plan, Branchburg Township – like all New Jersey municipalities – has three components of its affordable housing obligation. Each component of the obligation is identified below.

- Rehabilitation Obligation: 12 units  
The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Branchburg Township occupied by low- and moderate-income households.
- Prior Round Obligation: 302 units  
The Prior Round obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation.
- Third Round Obligation: 1,000 units  
The Third Round obligation can be defined as the cumulative 1999 through 2025 new construction affordable housing obligation. This includes the “gap present need” from 1999 through 2015 and the “prospective need” from 2015 through 2025.

The Township fully satisfies the rehabilitation obligation through an existing owner-occupied housing program that is managed by the Township. In addition, the Township will participate in the Somerset County Housing Rehabilitation Program to address the rehabilitation obligation.

The Township has addressed its 302-unit Prior Round obligation with RCA credits, completed family and senior rental units, completed family for-sale units, completed alternate living arrangement units and future supportive and special needs bedrooms.

As detailed in this Plan and summarized below, the Township will utilize a variety of sites and housing types to meet the Third Round obligation:

- Prior Round credit surplus: 14 credits from Cedar Brook
- Supportive and Special Needs Bedrooms: 50 credits
- Extension of Controls: 40 credits
- 100%/Municipally Sponsored projects: 299 credits
- Inclusionary projects: 347 credits
- Rental Bonuses: 250 credits



Adoption of this Housing Element and Fair Share Plan and complete implementation of the mechanisms described above to meet the affordable housing obligation will yield a Judgment of Compliance and Order of Repose from Superior Court and protect the Township from builder's remedy litigation through July 2025, the maximum time available.

## **AFFORDABLE HOUSING IN NEW JERSEY**

In its landmark 1975 decision, now referred to as "Mount Laurel I", the NJ Supreme Court ruled that developing municipalities have a constitutional obligation to provide a variety and choice of housing types affordable to low- and moderate-income households. In its 1983 "Mount Laurel II" decision, the NJ Supreme Court extended the regional fair share obligation to all municipalities with any "growth area" as designated in the State Development Guide Plan (NJDCG 1978) and determined that each municipality would have to establish its fair share obligation and provide zoning mechanisms to create a realistic opportunity for fulfillment of the fair share obligation. Mount Laurel II also gave developers, under appropriate circumstances, the opportunity to secure a builder's remedy. A builder's remedy is a litigation tool that grants a developer the right to develop what is typically a multi-family project on land that was not zoned to permit the use or the residential density desired by the developer, provided a "substantial" percentage of the units are reserved for low and moderate income households.

In 1985, the Legislature enacted the Fair Housing Act in response to Mount Laurel II. The Fair Housing Act created the Committee on Affordable Housing (hereinafter "COAH") and an administrative alternative to compliance in a court proceeding. The Legislature conferred "primary jurisdiction" on COAH and charged COAH with promulgating regulations to establish housing regions, to estimate the state's low- and moderate-income housing needs, set criteria and guidelines for municipalities to determine and satisfy their affordable housing obligation, and to create a process for the review and approval of appropriate housing elements and fair share plans. Approval of a municipal housing element and fair share plan by COAH is referred to as "substantive certification" and it provides protection from exclusionary zoning litigation during the time period which the housing element and fair share plan addresses (i.e. the round).

### **Activity From 1987 - 1993**

COAH created the criteria and guidelines for municipalities to determine and address their respective affordable housing obligation. COAH originally established a formula for determining municipal affordable housing obligation for the six-year period between 1987 and 1993 (N.J.A.C. 5:92-1 et seq.), which became known as the "First Round." These rules established the First Round rehabilitation obligation (also referred to as the "present need") and the first round new construction obligation.

The First Round formula was superseded by COAH regulations in 1994 (N.J.A.C. 5:93-1.1 et seq.). The 1994 regulations recalculated a portion of the first round 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 U.S. Census data. The regulations COAH adopted in 1994 to identify a municipality's "cumulative"



obligations for the First and Second Rounds are known as “the Second Round” regulations. Under regulations adopted for the Third Round, the obligation of municipalities to create new affordable housing for the First and Second Rounds is referred to as the “Prior Round” obligation. This Plan refers to the new construction obligation for the First and Second housing cycles as the “Prior Round” obligation.

### **Activity From 1999 - 2011**

On December 20, 2004, COAH’s first version of the Third Round rules became effective some five years after the end of the Second Round in 1999. At that time, the Third Round was defined as the time period from 1999 to 2014 but condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The Third Round rules marked a significant departure from the methods utilized in COAH’s Prior Round. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These Third Round rules implemented a “growth share” approach that linked the production of affordable housing to residential and non-residential development within a municipality.

However, on January 25, 2007, the New Jersey Appellate Court decision, *In re Adoption of N.J.A.C. 5:94 and 5:95*, 390 N.J. Super. 1, invalidated key elements of the first version of the Third Round rules, including the growth share approach. The Court ordered COAH to propose and adopt amendments to its rules within six months to address the deficiencies identified by the Court. COAH missed this deadline but did issue revised rules effective on June 2, 2008 (as well as a further rule revision effective on October 20, 2008). COAH largely retained the growth share approach, but implemented several changes intended to create compliance with the 2007 Appellate Court decision. Additionally, the Third Round was expanded from 2014 to 2018.

Just as various parties challenged COAH’s initial Third Round regulations, parties challenged COAH’s 2008 revised Third Round rules. On October 8, 2010, the Appellate Division issued its decision, *In re Adoption of N.J.A.C. 5:96 and 5:97*, 416 N.J. Super. 462, with respect to the challenge to the second iteration of COAH’s third round regulations. The Appellate Division upheld the COAH Prior Round regulations that assigned rehabilitation and Prior Round numbers to each municipality but invalidated the regulations by which the agency assigned housing obligations in the Third Round. Specifically, the Appellate Division ruled that COAH could not allocate obligations through a “growth share” formula. Instead, COAH was directed to use similar methods that had been previously used in the First and Second rounds. The Court gave COAH five months to address its ruling and provide guidance on some aspects of municipal compliance.

In addition to the State agency activity and judicial decisions, the New Jersey Legislature has amended the Fair Housing Act in recent years. On July 17, 2008, Governor Corzine signed P.L. 2008, c. 46 (referred to as the “Roberts Bill”, or “A500”), which amended the Fair Housing Act. Key provisions of the legislation included the following:

- It established a statewide 2.5% nonresidential development fee instead of requiring nonresidential developers to provide affordable housing;





- It eliminated new regional contribution agreements (hereinafter “RCAs”) as a compliance technique available to municipalities whereby a municipality could transfer up to 50% of its fair share to a so called “receiving” municipality;
- It added a requirement that 13% of all affordable housing units and 13% of all similar units funded by the state’s Balanced Housing Program and its Affordable Housing Trust Fund be restricted to very low-income households (30% or less of median income); and
- It added a requirement that municipalities had to commit to spend development fees within four (4) years of the date of collection after its enactment, which commenced on the four-year anniversary of the law (July 17, 2012).

These amendments to the Fair Housing Act are not promulgated in any valid COAH regulations. However, the requirement to expend development fees within four-years of their collection was determined in a Middlesex County Superior Court case to instead have the first four-year period to begin upon a Judgment of Repose, or upon a finding by the Court that the municipality is determined to be non-compliant (IMO of the Adoption of the Monroe Township Housing Element and Fair Share Plan and Implementing Ordinances). Superior Courts around the State have been guided by this decision.

### **Activity from 2011 to the Present**

COAH sought a stay from the NJ Supreme Court of the March 8, 2011 deadline that the Appellate Division imposed in its October 2010 decision for the agency to issue new Third Round housing rules. The NJ Supreme Court granted COAH’s application for a stay and granted petitions and cross-petitions to all of the various challenges to the Appellate Division’s 2010 decision. The NJ Supreme Court heard oral argument on the various petitions and cross-petitions on November 14, 2012.

On September 26, 2013, the NJ Supreme Court upheld the Appellate Court decision in *In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Committee On Affordable Housing*, 215 N.J. 578 (2013), and ordered COAH to prepare the necessary rules. Subsequent delays in COAH’s rule preparation and ensuing litigation led to the NJ Supreme Court, on March 14, 2014, setting forth a schedule for adoption.

Although ordered by the NJ Supreme Court to adopt revised new rules on or before October 22, 2014, COAH deadlocked 3-3 at its October 20th meeting and failed to adopt the draft rules it had issued on April 30, 2014. In response, FSHC filed a motion in aid of litigant’s rights with the NJ Supreme Court, and oral argument on that motion was heard on January 6, 2015.

On March 10, 2015, the NJ Supreme Court issued a ruling on the Motion In Aid of Litigant’s Rights (*In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1, aka “Mount Laurel IV”*). This long-awaited decision provides a new direction for how New Jersey municipalities are to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges. The implication of this is that municipalities may no longer wait for COAH to adopt Third Round rules before preparing new Third Round housing elements and fair share plans and municipalities must now apply to the Courts,



instead of COAH, if they wish to be protected from exclusionary zoning lawsuits. These trial judges, with the assistance of an appointed Special Master to the Court, review municipal plans much in the same manner as COAH previously did.

While the NJ Supreme Court's decision set a process in motion for towns to address their Third Round obligations, it did not assign those obligations. Instead, that must be done by the trial courts. However, the NJ Supreme Court did direct that the method of determining municipal affordable housing obligations were to be "similar to" the methodologies used in the First and Second Round rules. Additionally, the Court stated that municipalities should rely on COAH's Second Round rules (N.J.A.C. 5:93) and certain components of COAH's 2008 regulations that were specifically upheld (including but not limited to Redevelopment Bonuses), as well as the Fair Housing Act (N.J.S.A. 52:27D – 301 et seq.), in their preparation of Third Round housing elements and fair share plans. This plan is prepared in response to and in compliance with the March 10, 2015 NJ Supreme Court decision.

FSHC, the only public interest advocacy organization in New Jersey devoted exclusively to promoting the production of housing affordable to low- and moderate-income households, was permitted to serve as an interested party in every municipal Declaratory Judgment Action. In this role the organization calculated municipal affordable housing obligations and offered to settle with municipalities. Such settlements addressed the municipal affordable housing obligation, compliance mechanisms and other terms intended to promote affordable housing production. Most municipalities that filed a Declaratory Judgment Action have found settlement with FSHC to be in their interest. The alternative to settlement with FSHC is conducting a trial in Superior Court to determine the municipal affordable housing obligation.

On January 17, 2017, the NJ Supreme Court rendered a decision, In Re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), that found that the "gap period," defined as 1999-2015, generates an affordable housing obligation. This obligation requires an expanded definition of the municipal Present Need obligation to include low- and moderate-income households formed during the gap period; however, this component of the obligation is a new-construction obligation rather than a rehabilitation obligation.

Accordingly, the municipal affordable housing obligation is now composed of the following 4 parts:

- Present Need (rehabilitation),
- Prior Round (1987-1999, new construction),
- Gap Present Need (Third Round, 1999-2015, new construction), and
- Prospective Need (Third Round, 2015 to 2025, new construction).

While the structure of the obligation established through the Township's Settlement Agreement with FSHC is different from the findings of this recent Supreme Court decision (i.e. no redefined Present Need (1999-2015) and a Prospective Need specific to 2015-2025), the Township's obligation therein reflects that which was calculated for the entire third round period (1999-2025).



## **The Compliance Process**

With the Supreme Court’s direction that such responsibility must transfer from COAH to Superior Court Trial Judges, municipalities may no longer seek substantive certification. Instead, municipalities now seek a Judgment of Compliance and an Order of Repose from Superior Court or the judicial equivalent of substantive certification. Doing so first requires that a complaint for Declaratory Judgment be filed in Superior Court.

The majority of municipalities who filed for Declaratory Judgment, including Branchburg Township, settled with FSHC. This means a Settlement Agreement, agreed to by both parties, sets forth the affordable housing obligation, preliminary compliance mechanisms and other terms intended to promote affordable housing production. This Settlement Agreement must be approved by Superior Court at a “Fairness Hearing” where the Settlement Agreement is evaluated to determine if it is fair to the interests of low- and moderate-income households<sup>1</sup>.

Once determined to be “fair” via the issuance of a Court Order, a municipality must adopt and endorse a housing element and fair share plan that reflects the terms of the Settlement Agreement. This housing plan must be subsequently submitted to Superior Court for its review and approval. Should the Court find the plan acceptable, the municipality will receive a Judgment of Compliance and an Order of Repose and immunity from builder’s remedy litigation for the remaining portion of the third round, which ends on July 1, 2025. This is similar to COAH’s substantive certification. To maintain the validity of the Order, the municipality is required to conduct the necessary continued implementation and monitoring.

Aiding in the Judge’s evaluation of the Settlement Agreement is a Special Master appointed by the Judge. This person serves at the direction of the Judge, including preparation of reports at each step in the process, and may serve as a mediator between the municipality, FSHC and/or other intervenors.

## **AFFORDABILITY REQUIREMENTS**

Affordable housing is defined under New Jersey’s Fair Housing Act as a dwelling, either for sale or rent, that is within the financial means of households of low- or moderate-income, as is measured within each housing region. Branchburg Township is in COAH’s Region 3, which includes Hunterdon, Somerset and Middlesex counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of the regional median income. Low-income households are those with annual incomes that are 50% or less than the regional median income. Very low-income households are a subset of “low-income” households and are defined as those with incomes 30% or less than the regional median income.

---

<sup>1</sup> These settlement agreements are evaluated according to guidelines established by the Court in two principal cases: Morris County Fair Housing Committee v. Boonton Twp. 197 N.J. Super. 359, 369-71 (Law Div. 1984) and East/West Venture v. Township of Fort Lee 286 N.J. Super. 311 (App. Div. 1996). T



The Uniform Housing Affordability Controls (hereinafter “UHAC”) at N.J.A.C. 5:80-26.3(d) and (e) requires that the maximum rent for a qualified unit be affordable to households with incomes 60% or less than the median income for the region. The average rent must be affordable to households with incomes no greater than 52% of the median income. The maximum sale prices for affordable units must be affordable to households with incomes 70% or less than the median income. The average sale price must be affordable to a household with an income of 55% or less than the median income.

The regional median income is defined by COAH using the federal income limits established by Department of Housing and Urban Development (hereinafter “HUD”) on an annual basis. In the spring of each year, HUD releases updated regional income limits, which COAH reallocates to its regions. It is from these income limits that the rents and sale prices for affordable units are derived. However, COAH has not published updated income limits or rent increases since 2014.

To update income limits, the Township will rely on the methodology set forth and approved by the Superior Court that establishes the criteria to follow to annually update income limits. The criteria adhere to COAH’s Prior Round methodologies, the key aspects of which are outlined below and are to be utilized by Branchburg pursuant to the Settlement Agreement.

Income limits for all units that are part of the Township’s Housing Element and Fair Share Plan, excluding those which income limits are already established through a federal program, shall be updated by the Township as HUD publishes median incomes and income limits as follows:

- Regional income limits shall be established for the region that the Township is located within (i.e. Region 3) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four (4) is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township’s housing region. This quotient represents the regional weighted average of median income for a household of four (4).
- The income limit for a moderate-income unit for a household of four (4) shall be 80% of the regional weighted average median income for a family of four (4). The income limit for a low-income unit for a household of four (4) shall be 50% of the HUD determination of the regional weighted average median income for a family of four (4). The income limit for a very low-income unit for a household of four (4) shall be 30% of the regional weighted average median income for a family of four (4). These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
- The Regional Asset Limit used in determining an applicant’s eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the



percentage increase of the income limits calculated pursuant to the methodology outlined above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

For 2020, the Affordable Housing Professionals of New Jersey (“AHPNJ”) and FSHC have jointly developed updated income limits for all housing regions in New Jersey, which were calculated using the methodology outlined above. As approved by the Court, these income limits for Region 3 will be utilized for Branchburg. See Table 1 for 2020 income limits for Region 3.

2020 Income Limits for Region 3					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Moderate	\$66,920	\$76,480	\$86,040	\$95,600	\$103,248
Low	\$41,825	\$47,800	\$53,775	\$59,750	\$64,530
Very Low	\$25,095	\$28,680	\$32,265	\$35,850	\$38,718

*Source: 2020 Income Limits prepared by Affordable Housing Professionals of New Jersey.*

The following tables provide illustrative sale prices and gross rents for 2020. The sample rents and sale prices are illustrative and are gross figures, which do not account for the specified utility allowances for rental units or for specific mortgage rates, taxes, etc. for sales units. As a note, rents have increased by a collective 5.1% in 2015, 2016 and 2017, by 2.2% in 2018, 2.6% in 2019 and 1.9% in 2020.

Illustrative 2020 Affordable Gross Rents for Region 3			
Household Income Levels (% of Median Income)	1-Bedroom Unit Rent	2-Bedroom Unit Rent	3-Bedroom Unit Rent
Moderate	\$1,242	\$1,454	\$1,704
Low	\$1,015	\$1,183	\$1,391
Very Low	\$563	\$640	\$765

*Source: 2020 Affordable Housing Pricing Calculator: Council on Affordable Housing Affordable Housing Calculator prepared by Affordable Housing Professionals of New Jersey.*



Illustrative 2020 Affordable Sales Prices for Region 3			
Household Income Levels (% of Median Income)	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
Moderate	\$152,983	\$186,259	\$217,316
Low	\$125,254	\$152,983	\$178,865
Very Low	\$69,794	\$86,736	\$101,961

*Source: 2020 Affordable Housing Pricing Calculator: New Jersey Council on Affordable Housing Affordable Housing Pricing Calculator prepared by Affordable Housing Professionals of New Jersey.*

## **AFFORDABLE HOUSING IN BRANCBURG TOWNSHIP**

The Township was sued under Mount Laurel II in 1983, shortly after the Supreme Court’s decision was handed down. Following the Legislature’s adoption of the Fair Housing Act in 1985, which created the Council on Affordable Housing, and COAH’s adoption of its first set of Rules and initial fair share housing allocations, Branchburg sought and received a transfer to COAH’s jurisdiction. Branchburg Township was initially certified by COAH as to its first round Housing Element and Fair Share Plan on June 13, 1990.

The 1990 certification expired in 1996. The Township then filed a second round Housing Element and Fair Share Plan with COAH on May 15, 1998, but did not, at that time, petition for substantive certification. In October of 1998, the Township was sued by Branchburg Builders, Inc. The Court transferred the matter to COAH, converting the previously filed plan into a petition for substantive certification. Mediation ensued but was not concluded. However, Branchburg did amend the Housing Element and Fair Share Plan in 1999 to reflect a change to the Midland Adult Services project and submitted a new petition for substantive certification. Branchburg Builders, Inc. objected to the revised plan and mediation was again initiated. The second mediation was ultimately successful and the Township amended its Second Round Plan in March 2001 and submitted it to COAH along with a final petition for substantive certification. COAH granted substantive certification of the Township’s Second Round plan on August 11, 2004.

In May of 2007, although still covered by the second round certification through the year 2010, Branchburg sought and was granted an extension of COAH’s deadline to submit a third round plan until after COAH had adopted its revised third round rules. After the Appellate Division invalidated, in part, the first iteration of round three regulations, COAH adopted a second iteration of third round rules. COAH proposed these regulations and then had the proposed regulations published in the New Jersey Register on January 22, 2008. COAH adopted these regulations later that year as well as amendments to the new regulations.



The Township met the deadline of December 31, 2008 through the submission of a third round plan to COAH.

Several entities filed objections to the 2008 Third Round Plan and the Township attempted, both with and without COAH's assistance, to mediate the issues raised by the objectors. However, mediation was not successful. COAH requested additional information in December 2009 to be submitted by January 30, 2010. However, in May 2010, mediation was terminated by COAH at the request of the objectors and a revised Third Round Plan was to be adopted and submitted to COAH by July 19, 2010. The submission was deemed complete by COAH on September 9, 2010 and objections were once again filed and mediation ensued.

However, due to the Court activity beginning in late 2010 to 2015, mediation was not proceeding with any success.

To comply with the March 10, 2015 Mt. Laurel IV decision, Branchburg Township petitioned the Superior Court on July 1, 2015, for a Declaratory Judgment and temporary immunity from builder's remedy suits. This action entered the Township into the process of determining its affordable housing obligation and how it would be satisfied. Additionally, the Township later received immunity from builder's remedy litigation while doing so.

To avoid a lengthy trial on the Township's affordable housing obligation and, potentially, a second trial on how that obligation would be satisfied, the Township (August 26, 2019) and FSHC (September 24, 2019) came to terms in a 2019 Settlement Agreement that set forth the Township's affordable housing obligation and preliminary compliance plan. This Settlement Agreement was approved by the Honorable Thomas Miller, P.J. Cv. on February 5, 2020.

This Housing Plan implements the Township's settlement agreement with FSHC.

## **CONSIDERATION OF LAND MOST APPROPRIATE FOR AFFORDABLE HOUSING**

As part of this Plan, the Township has considered land that is appropriate for the construction of low- and moderate-income housing.

In 2016 and 2017, Branchburg issued a Request for Proposals to prospective developers for affordable housing development proposals. Branchburg met with each developer that responded, and with other developers that expressed an interest in developing affordable housing in Branchburg and ranked the projects in terms suitability and decided to work with the developers that provided the most realistic



opportunity for the production of affordable housing. In addition to suitability, the Township considered the proposed percentage of set-aside for affordable housing, and traffic and other impacts.

The Township believes that the mechanisms proposed in this document represent the best options for affordable housing in Branchburg Township. The mechanisms satisfy the Township's affordable housing obligation as established through the Settlement Agreement. While the Township recognizes that developers may, in the future, present sites that possess characteristics that could lend themselves to affordable housing development, additional sites are not needed to satisfy the obligation at this time. Additionally, the Township may consider appropriate sites or projects in the future for an inclusionary or 100% affordable housing project.

## **BRANCBURG TOWNSHIP'S AFFORDABLE HOUSING OBLIGATION**

Since the January 2017 New Jersey Supreme Court ruling on the "gap period", housing plans must address four main components of a municipality's affordable housing obligation. These include the Rehabilitation Obligation to improve substandard housing occupied by low and moderate income households, the Prior Round for new construction from 1987 to 1999, the Gap Period Present Need for new construction from 1999 to 2015, and the Prospective Need, or the Third Round's future new construction demand from 2015 to -2025. In this housing plan, the Gap Period Present Need and Prospective Need are collectively referred to as the Third Round Obligation.

### **Rehabilitation Obligation**

The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Branchburg Township that are occupied by low- and moderate-income households. The Settlement Agreement with FSHC establishes the Township's rehabilitation obligation as 12 units. The basis for this obligation is FSHC's May 2015 calculations, which used the most recent decennial census year, 2010, as the point in time in determining the number of deteriorated housing units.

### **Prior Round Obligation**

The Prior Round obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. This time period corresponds to the First and Second Rounds of affordable housing. The Settlement Agreement with FSHC establishes the Township's Prior Round obligation as 302 units. The Settlement Agreement adheres to the Prior Round obligations, as calculated in 1993-1994, and published by COAH in 2008.

### **Third Round Obligation**

The future demand for affordable housing includes the portion of the Third Round (1999- 2015) that has already passed – referred to as Gap Period Present Need, as well as a 10-year projection into the future





(2015-2025) – referred to as the Prospective Need. As established by the Township’s 2019 Settlement Agreement with FSHC, Branchburg Township’s total Third Round obligation (1999-2025) is 1,000 units.

## **SATISFACTION OF THE AFFORDABLE HOUSING OBLIGATION**

The Township is addressing its affordable housing obligation through a variety of mechanisms that include existing affordable units, inclusionary housing and overlay zones.

### **Satisfaction of the Rehabilitation Obligation**

Branchburg Township’s rehabilitation obligation is twelve (12) units. The Township has rehabilitated three (3) dwellings since April 2010 which will be applied to the required twelve (12) units leaving a balance of nine (9) units for rehabilitation. (Crediting information is provided in Appendix 5). The Township will address this obligation through the continuation of a Township run homeowner rehabilitation program and participation in the Somerset County Homeowner Housing Rehabilitation Program, which provides a no-interest loan to income-eligible homeowners to repair major systems in their home. This County program is funded by the federal Community Development Block Grant (CDBG) program.

All rehabilitated units will comply with the definition of a substandard unit in N.J.A.C. 5:93-5.2(b), which states, “a unit with health and safety code violations that require the repair or replacement of a major system.” Major systems include weatherization, roofing, plumbing, heating, electricity, sanitary plumbing, lead paint abatement and/or load bearing structural systems. All rehabilitated units shall meet the applicable construction code. Additionally, all rehabilitated units shall be occupied by low- or moderate-income households and subject to 10-year affordability controls, which shall be placed on the property in the form of a lien or deed restriction. The average hard cost will be at least \$10,000.

### **Satisfaction of the Prior Round (1987-1999) Obligation**

Branchburg Township’s Prior Round obligation is 302. As summarized in Table 4, Summary of Credits from Prior Round, 1987-1999, the Township has addressed its 302-unit obligation with RCA credits, completed family and senior rental units, completed family for-sale units, completed alternative living arrangement units and proposed supportive and special needs units.



**Table 4: Summary of Credits from Prior Round (1987-1999)**

Program	Unit Type	Status	Units	Bonus Credits	Total Credits
Regional Contribution Agreement	Transfer to City of New Brunswick	Completed	100	0	100
Cedar Brook	Inclusionary Family For Sale	Completed	40	0	40
Whiton Hills	Inclusionary Senior Rental	Completed	30	4	34
Whiton Hills	Inclusionary Family Rental	Completed	43	43	86
Terrace Edgewood	Inclusionary Family Rental	Completed	4	4	8
Midland	Supportive and Special Needs Housing	Completed	17	17	34
Midland	Supportive and Special Needs Housing	Proposed	7	7	14
<b>Total</b>			<b>241</b>	<b>75</b>	<b>316</b>

**REGIONAL CONTRIBUTION AGREEMENT (RCA) UNITS – COMPLETED**

**City of New Brunswick**

The Township previously transferred funds for a total of 100 units for a first round RCA to the City of New Brunswick. The RCA transfer was approved on November 7, 1990 by COAH. (See Appendix 6 for the approving Resolution)

**INCLUSIONARY FAMILY SALES – COMPLETED**

**Cedar Brook**

The Cedar Brook development (Block 17, Lot 14) consisted of 250 townhouse units, of which 40 were deed restricted for low- and moderate-income households. The original approval provided in September 1987



was for the provision of 140 affordable dwellings. However, the project was amended to 40 affordable dwellings as the developer agreed to and entered into a regional contribution for 100 affordable housing credits with the City of New Brunswick. Certificates of occupancy were issued between 1990 and 1993. The crediting documentation can be found in Appendix 6.

#### INCLUSIONARY FAMILY RENTALS – COMPLETED

##### Whiton Hills

The Whiton Hills development (Block 74, Lot 1) consists of 288 multi-family apartment units of which 73 are deed restricted for low- and moderate-income households. Thirty of the affordable units are age-restricted rental units and the remaining units are family rental units. Certificates of occupancy were provided between 1992 and 1996. The Township is eligible for 43 rental bonuses for the family rental units. The crediting documentation can be found in Appendix 6.

##### Terrace Edgewood Park

Terrace Edgewood Park received approval to expand this mobile home park, located on the eastern side of Route 202 at the intersection of Robbins Road and Kenbury Road (Block 56, Lot 31) . The existing 92-unit mobile home park was expanded by 20 family rental units, of which four (4) family rental units are deed restricted to low income households. Because they are family rental units, the Township is eligible for 4 rental bonus credits. The crediting documentation can be found in Appendix 6.

#### INCLUSIONARY SENIOR RENTALS – COMPLETED

##### Whiton Hills

The Whiton Hills development (Block 74, Lot 1) consisted of 288 multi-family apartment units of which 73 are deed restricted for low- and moderate-income households. Thirty of the affordable units are age-restricted rental units and the remaining units are family rental units. Certificates of occupancy were provided between 1992 and 1996. The Township is eligible for four (4) rental bonuses for a portion of the age-restricted rental units. The crediting documentation can be found in Appendix 6.

#### SUPPORTIVE AND SPECIAL NEEDS HOUSING – COMPLETED

##### Midland Adult Services – Group Homes

Midland Adult Services, Inc. (Midland) and the Township entered into an agreement on December 4, 2000 to provide group homes for developmentally disabled adults addressing a portion of the Township prior round affordable housing obligation. The Township agreed to provide a subsidy of \$20,000 per bedroom to Midland to cover the cost of purchasing, constructing and converting existing and future special needs



and supportive housing for low income individuals in exchange for deed restricting the units for 30 years. The agreement was applicable to the following properties:

- 423 Readington Road (Block 59, Lot 16): 4 bedrooms
- 363 Pleasant Run Road (Block 81.01, Lot 1.03): 4 bedrooms
- 890 Old York Road (Block 71, Lot 2): 4 bedrooms
- Robbins Road (Block 48, Lot 11): 5 bedrooms

The four group homes provide a total of 17 bedrooms for low income individuals. and were completed with four very low-income bedrooms for developmentally disabled residents. The Township is claiming 17 rental credits plus 17 rental bonuses for the bedrooms in this home. (Refer to Appendix 6.)

#### SUPPORTIVE AND SPECIAL NEEDS HOUSING – PROPOSED

##### Midland Supportive and Special Needs Housing – Scattered Sites

Midland School, an experienced provider and manager of supportive and special needs housing, will partner with the Township to provide group homes on Township-owned parcels. Midland Corporation provided a letter dated May 20, 2019 (Appendix 6) confirming interest in partnering with the Township as they desire to expand their Community Residential Services which support eligible adults who have intellectual and developmental disabilities. As required by the FSHC Settlement Agreement, the Township will enter into an agreement with Midland confirming Midland’s commitment to provide a minimum of 18 bedrooms for low and moderate income persons in the form of group homes with deed restrictions on scattered sites throughout the Township. Midland has indicated that the following homes are currently being used for supportive and special needs housing that are not included in the prior round crediting:

- Windy Willow Way (Block 6002, Lot 11): 4 bedrooms
- Parsonage Road (Block 71.02, Lot 15): 5 bedrooms
- Case Road (Block 79, Lot 2.02): 4 bedrooms
- 363 Pleasant Run Road (Block 81.01, Lot 1.03): 2 additional bedrooms

The Township provided financial assistance for the Case Road (4 bedrooms) and Parsonage Road (5 bedrooms) supportive and special needs bedrooms. The additional 15 supportive and special needs bedrooms in existence currently managed and owned by Midland will be credited toward the remaining seven (7) prior round obligation and eight (8) toward the third round supportive and special needs crediting leaving a balance of three (3) units for the third round proposed supportive and special needs program with Midland.



### Satisfaction of the Third Round (1999-2025) Obligation

As calculated by FSHC with a reduction accepted by the Township and approved by the Superior Court, the Township’s Third Round Obligation is 1,000. The Township’s Court-approved compliance mechanisms are summarized in Table 5, Summary of Credits for the Third Round, 1999-2025, with a combination of credits from the Prior Round, extension of controls, 100% affordable senior and family units, municipally sponsored senior units, inclusionary family and senior rental units, inclusionary family for-sale units, alternate living arrangements, and third round rental bonuses.

Table 5: Summary of Credits for the Third Round (1999-2025)					
Program	Unit Type	Status	Units	Bonus Credits	Total Credits
Cedar Brook	Prior Round Credit surplus allocated to the gap allocation	Completed	14	0	14
Summit Green	Supportive and Special Needs	Proposed	39	0	39
Midland	Supportive and Special Needs	Proposed	11	0	11
Cedar Brook	Extension of Controls	Completed	40	0	40
Conifer/Triangle Site	Family Rental - Municipally Sponsored/100%	Approved	100	100	200
Cornerstone	Senior Rental – Municipally Sponsored/100%	Approved	75	0	75
Cornerstone	Senior Rental – Municipally Sponsored/100%	Proposed	75	0	75
Henderson/Genesis	Family Rental – Municipally Sponsored/100%	Approved	9	9	18
TJC/Premier	Senior Rental – Municipally Sponsored	Proposed	40	0	40
Advance/Fox Hollow	Family Rental – Inclusionary	Under Construction	28	28	56



River Trace	Family For-Sale – Inclusionary	Under Construction	11	0	11
North Branch Walk	Family Rental – Inclusionary	Approved	91	91	182
Summit Green	Family Rental – Inclusionary	Proposed	92	22	114
Judelson/Glen Willow	Inclusionary Family Rental (31 units) Family For-Sale (40 units) Senior Rental (28 units) Senior For-Sale (26 units)	Proposed	125	0	125
<b>Total</b>			<b>750</b>	<b>250</b>	<b>1000</b>

**EXTENSIONS OF CONTROLS PROGRAM – PARTIALLY COMPLETED**

**Cedar Brook**

Cedar Brook is a completed inclusionary development with family for-sale units. Affordability controls were placed on forty (40) for-sale units between August 1992 and February 1993 with certificates of occupancy issued during that same period. Cedar Brook provides eighteen (18) low and twenty-two (22) moderate income units.

Branchburg Township initiated a program to extend the affordability controls on all the units within Cedar Brook, which involves extending controls on the units as the units come up for sale accounting for 22 units. The Township will also extend controls for all units a minimum of 30 years via resolution. The affordability controls are extended for at 30 years beyond the original expiration date of the affordability controls providing extensions from 2026- 2048 in accordance with the requirements of N.J.A.C. 5:97-6.14.

**SUPPORTIVE AND SPECIAL NEEDS HOUSING – PROPOSED**

**Midland Supportive and Special Needs Housing – Scattered Sites**

Midland School, an experienced provider and manager of supportive and special needs housing, will partner with the Township to provide group homes on Township-owned parcels. Midland Corporation provided a letter dated May 20, 2019 (Appendix 6) confirming interest in partnering with the Township as



they desire to expand their Community Residential Services which support eligible adults who have intellectual and developmental disabilities. As required by the FSHC Settlement Agreement, the Township entered into an agreement with Midland confirming Midland’s commitment to provide a minimum of 18 bedrooms for low and moderate income persons in the form of group homes with deed restrictions on scattered sites throughout the Township. Midland has indicated that the following homes are currently being used for supportive and special needs housing that are not included in the prior round crediting:

- Windy Willow Way (Block 6002, Lot 11): 4 bedrooms
- Parsonage Road (Block 71.02, Lot 15): 5 bedrooms
- Case Road (Block 79, Lot 2.02): 4 bedrooms
- 363 Pleasant Run Road (Block 81.01, Lot 1.03): 2 additional bedrooms

The Township provided financial assistance for the Case Road (4 bedrooms) and Parsonage Road (5 bedrooms) supportive and special needs bedrooms. The additional 15 supportive and special needs bedrooms in existence currently managed and owned by Midland will be credited toward the remaining seven (7) prior round obligation and eight (8) toward the third round supportive and special needs crediting leaving a balance of three (3) units for the third round proposed supportive and special needs program with Midland. (Refer to Appendix 6 for crediting information)

### *Summit Green*

The Summit Green site is 44 acres in area and is comprised of several lots (Block 9, Lots 8 & 15 and portions of Lots 9-13). The proposal to develop the site includes 523 family rental units of which 92 family affordable units and 39 supportive and special needs bedrooms will be deed restricted for low- and moderate-income households including six (6) very-low income supportive and special needs affordable units. It is anticipated that the 39 special needs bedrooms will be located within thirteen (13) 3-bedroom apartment units located within the multi-family apartment buildings. The developer will enter into a developer’s agreement with Midland to provide the supportive and special needs bedrooms.

## **MUNICIPALLY SPONSORED AND 100% AFFORDABLE DEVELOPMENT – APPROVED/PROPOSED**

### **Henderson/Genesis – Approved**

Branchburg Township will address a portion of its third round obligation through a 100% affordable development of nine (9) affordable family rental units on a 0.085-acre parcel located in the North Branch Hamlet zoning district. This site (Block 7/ Lot 3.02) is the subject of a Zoning Board use variance approval as memorialized in Resolution 2010-07 on April 18, 2012 (Appendix 7) permitting a three (3) lot subdivision of a 1.2-acre lot for two existing single family detached dwellings and a multi-family apartment with nine (9) affordable family rental units. The site is located on the south side of Route 28 and is located within the sewer service area. The developer is currently seeking preliminary site plan approval from the Zoning Board.



COAH's Second Round rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93:5.5 for municipally sponsored and 100% affordable programs are addressed as follows:

- ✓ Site Control – The developer owns the property.
- ✓ Suitable Site – The site is suitable as defined in COAH's regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in N.J.A.C. 5:93-4.
  - *The site has a clear title and is free of encumbrances that preclude development of affordable housing.* To our knowledge, the site has a clear title and no legal encumbrances that would preclude its development for age-restricted affordable rental housing.
  - *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has single-family dwelling units to the north and east, a mobile home park to the west and south and it fronts onto Route 28 along its northern property boundary.
  - *Adequate sewer and water capacity is available.* The site is within the Somerset Raritan Valley Sewerage Authority's sewer service area. The Township Engineer verified both water and sewer infrastructure and capacity is available.
  - *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
  - *The site is located in a "Smart Growth Planning Area."* The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in the Environmentally Sensitive Planning Area (PA 5) as it is located within ½ mile of the North Branch of the Raritan River. Although the site is designated as PA 5, the parcel contains two existing single-family dwellings and is a disturbed site (not vacant), does not contain any environmental constraints (wetlands), is not within a flood hazard area and is located in a sewer service area. Planning in PA5 should be balanced between conservation and limited growth to avoid environmental constraints and preserve large tracts of open space. As indicated this is a very small 100% affordable housing project yielding nine (9) units on a small parcel that is previously developed and does not contain any environmental constraints and therefore is considered limited growth and in line with the goals and objections of Planning Area 5.
  - *The development is not within the jurisdiction of a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, Highlands and Meadowlands planning areas. Because of its proximity to the Manasquan River, it is within CAFRA's boundary.





- *The site will comply with all applicable environmental regulations.* There are wetlands, floodplains, Category One streams or known contaminated sites located on the property.
- *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.
- ✓ **Developable Site** – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. According to the Township Engineer, the site in the Somerset Raritan Valley Sewerage Authority’s sewer service area and water and sewer mains exist on Route 28. The Township Engineer confirmed that the Township’s sewer and water system has sufficient capacity. (Refer to Appendix 7)
- ✓ **Approvable Site** – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The project received use variance approval from the Zoning Board of Adjustment on April 18, 2012 (Resolution 2010-07 – Appendix 7) and the owner/developer is in the process of applying for subdivision and site plan approval.
- ✓ **Administrative Entity** – The Township will continue to administer the Township’s affordable housing units pursuant to COAH’s regulations. For the proposed Third Round affordable units, the Township will affirmatively market the units, income qualify applicants, place 30-year affordability control deed restrictions on the units and provide long-term administration of the units in accordance with COAH’s rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1, or any successor regulation, with the exception that in lieu of 10% affordable units in rental projects being required to be at 35% of median income, 13% of affordable units in such projects shall be required to be at 30% of median income.
- ✓ **Low/Moderate Income Split** – At least half of all the affordable units developed at the site will be affordable to low-income households and an odd number of affordable units will always be split in favor of the low-income unit per UHAC at N.J.A.C. 5:80-26.1.
- ✓ **Affirmative Marketing** – The Township’s administrative agent will affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Township’s Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center,.
- ✓ **Controls on Affordability** – The Township’s agreement will require a minimum 30-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.
- ✓ **Bedroom Distribution** – The units will be required to be developed in accordance with UHAC requirements regarding bedroom distribution in accordance with N.J.A.C. 5:80-26.3.



- ✓ Funding – A pro forma statement for the affordable family rental complex will be provided (Appendix 7). The Township and the developer have executed an agreement that in exchange for a 30-year deed restriction, the Township will provide a subsidy on a per unit basis which will be applied toward the construction of the affordable housing development project. The Township will adopt a resolution of intent to bond for any shortfall in funding the Municipally Sponsored Affordable Housing Construction Program.
- ✓ Construction Schedule – The developer has developed a schedule for developing the affordable family rental complex and anticipates that construction will begin as soon site plan approval is granted and financing is obtained. The schedule notes each step in the development process including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, and beginning construction. The owner/developer will be responsible for monitoring the construction and overall development activity.

#### *Conifer/Triangle Site – Approved*

Conifer, LLC, an experienced affordable housing developer, received approval from the Township Planning Board on May 1, 2017 as memorialized via Resolution on June 27, 2017, Case 2017-002P PSP (Appendix 7) for a municipally sponsored and 100% affordable development of 100 affordable family rental units on a 9.5-acre parcel located in the Affordable Housing 2 zoning district.

This site (Block 74/ Lots 3, 3.01, 3.02) is positioned immediately south of the Whiton Hills apartments, which is an inclusionary family rental development addressing the Prior Round obligation and is located on the east side of Old York Road and on the northwest side of Route 202 with access from Old York Road and is located within the sewer service area. Conifer, LLC has been successful in securing 9% tax credit financing from HMFA and will provide at least 13 units for very low-income households as part of at least 50 units for low and very low-income households. For financing purposes, the project is split in half allocating 50 units to the west phase and 50 units to the west phase. However, as indicated in the schedule the project will be constructed simultaneously.

COAH's Second Round rules at [N.J.A.C. 5:93-1.3](#) and [N.J.A.C. 5:93:5.5](#) for municipally sponsored and 100% affordable programs are addressed as follows:

- ✓ Site Control – The developer owns the property.
- ✓ Suitable Site – The site is suitable as defined in COAH's regulations at [N.J.A.C. 5:93-1.3](#), which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in [N.J.A.C. 5:93-4](#).
  - *The site has a clear title and is free of encumbrances that preclude development of affordable housing.* To our knowledge, the site has a clear title and no legal encumbrances that would preclude its development for age-restricted affordable rental housing.



- *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has multi-family inclusionary project dwelling units to its north and single-family residences to the west. A heavily buffered PSE&G electrical switching sub-station is located across Route 202 to the east.
  - *Adequate sewer and water capacity is available.* The site is within the Somerset Raritan Valley Sewerage Authority's sewer service area. Per the attached letter (Appendix 7), the Township Engineer verified both water and sewer infrastructure and capacity is available.
  - *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
  - *The site is located in a "Smart Growth Planning Area."* The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in Suburban Planning Area (PA 2). Among the intentions of the Suburban Planning Area are to provide for much of the state's future redevelopment; promote growth in compact forms; and redesign areas of sprawl. It is a preferred location for affordable housing development.
  - *The development is not within the jurisdiction of a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, Highlands, CAFRA and Meadowlands planning areas.
  - *The site will comply with all applicable environmental regulations.* There are no Category One streams, wetlands or known contaminated sites located on the property.
  - *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.
- ✓ **Developable Site** – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. According to the Township Engineer, the site in the Somerset Raritan Valley Sewerage Authority's sewer service area and water and sewer mains exist in the vicinity of the site. The Township Engineer confirmed that the Township's sewer and water system has sufficient capacity. (Refer to Appendix 7)
- ✓ **Approvable Site** – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The site received Planning Board approval for the proposed project on June 27, 2017.



- ✓ Administrative Entity – The Township has entered into an agreement with Conifer to own and operate the affordable units pursuant to COAH’s regulations. For the proposed Third Round affordable units, Conifer will affirmatively market the units, income qualify applicants, place 45-year affordability control deed restrictions on the units and provide long-term administration of the units in accordance with COAH’s rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1, or any successor regulation, with the exception that in lieu of 10% affordable units in rental projects being required to be at 35% of median income, 13% of affordable units in such projects shall be required to be at 30% of median income. In addition, per the Township Agreement with FSHC, “Projects receiving (LIHTC) financing shall comply with the income and bedroom distribution requirements of UHAC subject to the (13% very-low at 30% median income) modification, and the length of the affordability controls applicable to such projects shall not be less than a thirty (30) year compliance period plus a 15-year extended use period”.
- ✓ Low/Moderate Income Split – At least half of all the affordable units developed at the site will be affordable to low-income households (13% of all affordable units will be very low-income) and an odd number of affordable units will always be split in favor of the low-income unit per UHAC at N.J.A.C. 5:80-26.1.
- ✓ Affirmative Marketing – The developer of the property will affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Township’s Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.
- ✓ Controls on Affordability – The Township’s agreement will require a minimum 45-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.
- ✓ Bedroom Distribution – The units will be required to be developed in accordance with UHAC requirements regarding bedroom distribution in accordance with N.J.A.C. 5:80-26.3.
- ✓ Funding – A pro forma statement for the affordable family rental complex is provided in Appendix 7. Conifer anticipate applying for potential funding from sources including but not limited to LIHTC, DCA Balanced Housing funds, Somerset County HOME funds, Federal Home Loan Bank funds, and/or HMFA bond financing. The Township will adopt a resolution of intent to bond for any shortfall in funding the Municipally Sponsored Affordable Housing Construction Program.
- ✓ Construction Schedule – Conifer has developed a schedule (Refer to Appendix 7) for developing the affordable family rental complex and anticipates that construction will begin April 2020. The schedule notes each step in the construction process. Conifer will be responsible for monitoring the construction and overall development activity.

*Cornerstone at Branchburg – Proposed*



The Township selected The Walters Group, an experienced affordable housing provider, to construct a 100% affordable housing rental complex containing 150 age-restricted rental units. The property is located on the south side of Old York Road, across from the Branchburg Township municipal building. The project will be situated on a lot that is subdivided from Block 68.05, Lot 1 with an approximate area of 9.4 acres. The development will be divided into two phases with each phase including 75 age-restricted affordable rental units (including at least 10 very low-income units in each phase as part of at least 38 units for low and very low-income households in each phase). The Walters Group was successful in obtaining 9% tax credit financing from HMFA for the first phase of the development and will pursue tax credit financing from HMFA for the second phase of the development.

COAH's Second Round rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93:5.5 for municipally sponsored and 100% affordable programs are addressed as follows:

- ✓ Site Control – The Township will own the property and will donate the subdivided parcel to the developer as indicated in the developer's agreement (Appendix 7).
- ✓ Suitable Site – The site is suitable as defined in COAH's regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in N.J.A.C. 5:93-4.
  - *The site has a clear title and is free of encumbrances that preclude development of affordable housing.* To our knowledge, the site has a clear title and no legal encumbrances that would preclude its development for age-restricted affordable rental housing.
  - *The site is adjacent to compatible land uses and has access to appropriate streets.* The Township municipal building is located to the north of the property, single-family residences to the east, vacant land to the west and south.
  - *Adequate sewer and water capacity is available.* The site is within the Somerset Raritan Valley Sewerage Authority's sewer service area. The Township Engineer verified both water and sewer infrastructure and capacity is available.
  - *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
  - *The site is located in a "Smart Growth Planning Area."* The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in Suburban Planning Area (PA 2). Among the intentions of the Suburban Planning Area are to provide for much of the state's future redevelopment; promote growth in compact forms; and redesign areas of sprawl. It is a preferred location for affordable housing development.



- *The development is not within the jurisdiction of a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, Highlands, CAFRA and Meadowlands planning areas.
  - *The site will comply with all applicable environmental regulations.* There are no Category One streams or known contaminated sites located on the property. There is a small area of wetlands to the southwestern corner of the property that will not impede on the development of affordable housing.
  - *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.
- ✓ **Developable Site** – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. According to the Township Engineer, the site in the Somerset Raritan Valley Sewerage Authority’s sewer service area and water and sewer mains exist in the vicinity of the site. The Township Engineer confirmed that the Township’s sewer and water system has sufficient capacity. (Refer to Appendix 7)
  - ✓ **Approvable Site** – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The site received Planning Board approval for the proposed project on August 13, 2019.
  - ✓ **Administrative Entity** – The Township has entered into an agreement with the Walters Group to own and operate the affordable units pursuant to COAH’s regulations. For the proposed Third Round affordable units, Walters Group will affirmatively market the units, income qualify applicants, place 45-year affordability control deed restrictions on the units and provide long-term administration of the units in accordance with COAH’s rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1, or any successor regulation, with the exception that in lieu of 10% affordable units in rental projects being required to be at 35% of median income, 13% of affordable units in such projects shall be required to be at 30% of median income. In addition, per the Township Agreement with FSHC, “Projects receiving (LIHTC) financing shall comply with the income and bedroom distribution requirements of UHAC subject to the (13% very-low at 30% median income) modification, and the length of the affordability controls applicable to such projects shall not be less than a thirty (30) year compliance period plus a 15-year extended use period”.
  - ✓ **Low/Moderate Income Split** – At least half of all the affordable units developed at the site will be affordable to low-income households (13% of all affordable units will be very low-income) and an odd number of affordable units will always be split in favor of the low-income unit per UHAC at N.J.A.C. 5:80-26.1.



- ✓ Affirmative Marketing – The developer of the property will affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Township’s Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.
- ✓ Controls on Affordability – The Township’s agreement will require a minimum 45-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.
- ✓ Bedroom Distribution – The units will be required to be developed in accordance with UHAC requirements regarding bedroom distribution in accordance with N.J.A.C. 5:80-26.3.
- ✓ Funding – A pro forma statement for the affordable family rental complex is provided in Appendix 7. Conifer anticipate applying for potential funding from sources including but not limited to LIHTC, DCA Balanced Housing funds, Somerset County HOME funds, Federal Home Loan Bank funds, and/or HMFA bond financing. The Township will adopt a resolution of intent to bond for any shortfall in funding the Municipally Sponsored Affordable Housing Construction Program.
- ✓ Construction Schedule – Walters Group has developed a schedule (Refer to Appendix 7) for developing the affordable family rental complex and anticipates that construction will begin August 2020. The schedule notes each step in the construction process. Walters Group will be responsible for monitoring the construction and overall development activity.

#### *TJC/Premier Site – Proposed*

Branchburg Township will address a portion of its third round obligation through the municipally sponsored development of 40 affordable age-restricted rental units on Block 3, Lot 19, which is approximately 4.5 acres and has access to Lamington Road. The site is currently owned by the Township of Branchburg and will be donated to the developer. In accordance with the Settlement Agreement, the site was deemed as an Area In Need of Redevelopment by the Township Committee on July 13, 2020 via Resolution. In addition, the Township will adopt the Redevelopment Plan for the subject site. (Refer to Appendix 7 for the draft Redevelopment Plan).

The Township intends to select Premier Properties, an experienced affordable housing provider, to construct 100 units of which 40 will be deed restricted for low- and moderate-income age-restricted households. Premier has developed a schedule (Appendix 7) for developing the affordable age-restricted rental complex and anticipates that construction will begin not later than Fall 2021. The schedule notes each step in the development process including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, and beginning construction. The Township during the compliance phase of this litigation will adopt an appropriate Redevelopment Plan for the site providing a realistic opportunity for this development and provide the information required by N.J.A.C. 5:93-5.5 as part of its Housing Element and Fair Share Plan.



COAH's Second Round rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93:5.5 for municipally sponsored and 100% affordable programs are addressed as follows:

- ✓ Site Control – The Township owns the property and will donate it to the developer of the project once an agreement is executed.
- ✓ Suitable Site – The site is suitable as defined in COAH's regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets and is consistent with environmental policies in N.J.A.C. 5:93-4.
  - *The site has a clear title and is free of encumbrances that preclude development of affordable housing.* To our knowledge, the site has a clear title and no legal encumbrances that would preclude its development for age-restricted affordable rental housing.
  - *The site is adjacent to compatible land uses and has access to appropriate streets.* The site is located to the west of the Raritan Valley Community College, a non-profit office to the south, a hospice to the southwest and a church to the northwest.
  - *Adequate sewer and water capacity is available.* The site is within the Somerset Raritan Valley Sewerage Authority's sewer service area. The Township Engineer verified both water and sewer infrastructure and capacity is available.
  - *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
  - *The site is located in a "Smart Growth Planning Area."* The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designates the property as being in Suburban Planning Area (PA 2). Among the intentions of the Suburban Planning Area are to provide for much of the state's future redevelopment; promote growth in compact forms; and redesign areas of sprawl. It is a preferred location for affordable housing development.
  - *The development is not within the jurisdiction of a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, Highlands and Meadowlands planning areas.
  - *The site will comply with all applicable environmental regulations.* There are no Category One streams or known contaminated sites located on the property. There is an isolated wetlands area along the southern property line but will not impede the development of affordable housing.





- *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.
- ✓ **Developable Site** – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the areawide water quality management plan. According to the Township Engineer, the site in the Somerset Raritan Valley Sewerage Authority’s sewer service area and water and sewer mains exist within the vicinity of the site. The Township Engineer confirmed that the Township’s sewer and water system has sufficient capacity. (Refer to Appendix 7)
- ✓ **Approvable Site** – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The Township adopted a Redevelopment Plan for the site providing the zoning necessary for the proposed affordable housing development.
- ✓ **Administrative Entity** – The Township will administer the Township’s affordable housing units pursuant to COAH’s regulations. For the proposed Third Round affordable units, the Township will affirmatively market the units, income qualify applicants, place 30-year affordability control deed restrictions on the units and provide long-term administration of the units in accordance with COAH’s rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1, or any successor regulation, with the exception that in lieu of 10% affordable units in rental projects being required to be at 35% of median income, 13% of affordable units in such projects shall be required to be at 30% of median income.
- ✓ **Low/Moderate Income Split** – At least half of all the affordable units developed at the site will be affordable to low-income households (13% of all affordable units will be very low-income) and an odd number of affordable units will always be split in favor of the low-income unit per UHAC at N.J.A.C. 5:80-26.1.
- ✓ **Affirmative Marketing** – The Township’s Administrative Agent will affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Township’s Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.
- ✓ **Controls on Affordability** – The Township’s agreement will require a minimum 30-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.
- ✓ **Bedroom Distribution** – The units will be required to be developed in accordance with UHAC requirements regarding bedroom distribution in accordance with N.J.A.C. 5:80-26.3.
- ✓ **Funding** – A pro forma statement for the affordable family rental complex is provided in Appendix Q. The Township will adopt a resolution of intent to bond for any shortfall in funding the Municipally Sponsored Affordable Housing Construction Program.



- ✓ Construction Schedule – Premier has developed a schedule (Refer to Appendix 7) for developing the affordable family rental complex and anticipates that construction will begin no later than fall of 2021. The schedule notes each step in the construction process. Premier will be responsible for monitoring the construction and overall development activity.

## INCLUSIONARY DEVELOPMENTS – APPROVED

### *Advance-Fox Hollow*

The Advance-Fox Hollow site is 14 acres in area and is comprised of one lot (Block 5.11, Lot 22) and located at 3460 U.S. Highway Route 22. Preliminary and final site plan approval, with bulk variances and exceptions, was granted for a total of 109 residential dwellings including 81 market rate units and 28 affordable units (14 moderate income units, 10 low income units and 4 very low income units) pursuant to Resolution Case #2015-007A PFSP, adopted November 1, 2016. The project is eligible for 28 rental bonus credits. The site is currently under construction.

The applicant received an amended approval from the Zoning Board of Adjustment on October 29, 2019 and revised on March 3, 2020 to provide for an additional 2 affordable family rental units. The bedroom distribution includes 5 one-bedroom units, 19 two-bedroom units and 6 three-bedroom units. The Township will apply the additional two (2) units to the fourth round obligation. Crediting information for this inclusionary housing development including the deed restriction, resolutions of approval and developer’s agreement are included in Appendix 7.

### *River Trace*

The River Trace site is 4.8 acres in area and is comprised of two lots (Block 55, Lots 9 & 10) and located at 101 North Branch River Road. In 2004, the Board of Adjustment granted a “d(1)” use variance to American Classics, LLC, as part of a bifurcated application, to permit the construction of 48 units of age-restricted housing (Resolution Case #04-046A UV, adopted March 1, 2005.) Preliminary and final site plan approval was subsequently granted by the Board pursuant to Resolution Case #05-015A PFSP adopted January 18, 2006, In 2009, the Board approved an amendment of its previously granted use and site plan approvals, and a “d(5)” density variance, to permit a 50-unit “converted development”, deleting the requirement that the housing be age-restricted, pursuant to Case #09-007A Amend UV, adopted December 1, 2009.

The Board of Adjustment's approval was challenged by the Township (due to a small density increase that had been approved at the same time) but that challenge has been settled. As a result of the settlement, River Trace will now be providing a total of 11 affordable units instead of the 8 originally anticipated, one of which will be off-site. The developer has paid the Township \$160,000 as a contribution toward that unit, and the Township has purchased a previously unrestricted unit in the Cedar Brook development for \$225,000, which is currently offered for sale as a restricted moderate-income unit.



Of the 11 affordable units, 6 will be low income and 5 will be moderate income. To date, approximately half of the units within the development have been completed and occupied including two (2) of the ten (10) on-site low- and moderate-income units. The current developer, Denninger Associates, LLC, is engaged in the completion of construction and site build-out of the project. Crediting information for this inclusionary housing development including the deed restriction, resolutions of approval and developers agreement are included in Appendix 7.

## INCLUSIONARY DEVELOPMENTS – PROPOSED

### *North Branch Walk*

The North Branch site is 36 acres in area and is comprised of several lots (Block 9, Lots 17-21 & 24). The site will be zoned to permit 364 family rental units of which 91 units (25%) shall be family rental units deed restricted for moderate (45 units), low (34 units) and very-low (12 units) income households. The site is located within the sewer service area.

**The site is suitable.** The property is currently vacant and fronts on Route 22. The property is in the Township’s the AH-3 zone, which permits a maximum of 365 residential units (149 townhomes and 216 apartments) of which a minimum of 91 family rental units shall be affordable to very-low, low- and moderate-income households. The surrounding land uses include commercial and light industrial uses immediately contiguous to the site, and multi-family residential units less than a quarter mile away.

**The site is approvable.** The development received approval from the Planning Board on December 10, 2019. The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designate the property as being in Suburban Planning Area (PA 2), a preferred location for affordable housing development. It is not under the jurisdiction of any regional planning agency or within CAFRA boundaries. The site received approval from the Planning Board on December 19, 2020 which is memorialized in a resolution of approval dated January 6, 2020. (Refer to Appendix 7 for approving resolution).

**The site is available.** The site has no known legal encumbrances or deed restrictions that would preclude the development of affordable housing, and there are no known historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.

**The site is developable.** There are no Category One streams or known contaminated sites on the property. A small isolated wetland is located along the eastern boundary of the parcel but will not impede the development of affordable housing. The site is within the Somerset Raritan Valley Regional Sewerage Authority’s sewer service area and has adequate sewer and water capacity and infrastructure connection.

A letter from the developer evidencing a firm commitment to build this project is provided in Appendix 7, including 91 affordable family rental units (a 24.9% set-aside), thus making the project eligible for 91 rental bonus credit. Of the affordable rental units, in accordance with the statutory requirement and the



Township's Settlement Agreement with FSHC that 13% of the affordable units must be affordable to very low-income households at 30% of the regional median income, twelve (12) of the units in this project must be affordable to very low-income households. The units will be required to be developed in accordance with UHAC requirements at N.J.A.C. 5:80-26.1 regarding income and bedroom distribution.

A developer's agreement consistent with the terms of the Settlement Agreement will be entered into between the developer and the Township. The site will be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq. The Township's agreement will require a minimum 30-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.

The developer of the property will utilize the Township's administrative agent, who will administer and affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Township's Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

#### *Summit Green*

The Summit Green site is 44 acres in area and is comprised of several lots (Block 9, Lots 8 & 15 and portions of Lots 9-13). The site will be zoned to permit 523 family rental units of which 131 units (24.95%) shall be deed restricted for low- and moderate-income households. The development will include 92 family rental units deed restricted for low (34 units), very low (12 units) and moderate (46 units) income households. In addition, it is anticipated that the 39 special needs bedrooms will be located within thirteen (13) 3-bedroom apartment units located within the multi-family apartment buildings. The project is eligible for 22 rental bonus credits.

**The site is suitable.** The property is currently vacant and fronts on Route 22. The property is in the Township's the AH-4 zone, which permits a maximum of 523 multi-family residential units (113 townhouses and 430 apartments) of which 13 units (39 bedrooms) shall be supportive and special needs housing and 92 family rental units shall be affordable to very-low, low- and moderate-income households. The surrounding land uses include commercial and light industrial uses immediately contiguous to the site, and multi-family residential units less than a quarter mile away.

**The site is approvable.** The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designate the property as being in Suburban Planning Area (PA 2), a preferred location for affordable housing development. It is not under the jurisdiction of any regional planning agency or within CAFRA boundaries.

**The site is available.** The site has no known legal encumbrances or deed restrictions that would preclude the development of affordable housing, and there are no known historic or architecturally important sites



or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.

**The site is developable.** There are no Category One streams or known contaminated sites on the property. Wetlands associated with the Chambers Brook tributary are located in the center of Block 9, Lot 15 but will not impede the development of affordable housing. The site is within the Somerset Raritan Valley Regional Sewerage Authority's sewer service area and has adequate sewer and water capacity and infrastructure connection.

A letter from the developer evidencing a firm commitment to build this project is provided in Appendix 7, including 130 affordable family rental units (a 24.9% set-aside), thus making the project eligible for 22 rental bonus credit. Of the affordable rental units, in accordance with the statutory requirement and the Township's Settlement Agreement with FSHC that 13% of the affordable units must be affordable to very low-income households at 30% of the regional median income, twelve (12) of the units in this project must be affordable to very low-income households. The units will be required to be developed in accordance with UHAC requirements at N.J.A.C. 5:80-26.1 regarding income and bedroom distribution.

A developer's agreement consistent with the terms of the Settlement Agreement will be entered into between the developer and the Township. The site will be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq. The Township's agreement will require a minimum 30-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.

The developer of the property will utilize the Township's administrative agent, who will administer and affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Township's Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

### *Judelson/Glen Willow*

The Judelson/Glen Willow site is 71.6 acres in area and is comprised of several lots (Block 70, Lots 18, 24 & 24.01). The site is zoned to permit 475 units of which 125 units (26.3%) shall be affordable units (26 senior for-sale units, 28 senior rental units, 40 family for-sale units and 31 family rental units) deed restricted for low (47 units), very low (16 units) and moderate (62 units) income households.

**The site is suitable.** The property is currently vacant and fronts on Route 202 with frontage on Holland Brook Road as well. The property is in the Township's the AH-6 zone, which permits a maximum of 475 multi-family residential units of which 125 units (26 senior for-sale units, 28 senior rental units, 40 family for-sale units and 31 family rental units) shall be affordable to very-low, low- and moderate-income households. The site is surrounded by single-family residences.



**The site is approvable.** The 2001 Adopted State Plan Map and the 2004 Preliminary State Plan Map designate the property as being in Suburban Planning Area (PA 2), a preferred location for affordable housing development. It is not under the jurisdiction of any regional planning agency or within CAFRA boundaries.

**The site is available.** The site has no known legal encumbrances or deed restrictions that would preclude the development of affordable housing, and there are no known historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.

**The site is developable.** There are no Category One streams or known contaminated sites on the property. Wetlands are located to the southeast corner of the site but will not impede the development of affordable housing. The site is within the Somerset Raritan Valley Regional Sewerage Authority's sewer service area and has adequate sewer and water capacity and infrastructure connection.

Of the affordable rental units, in accordance with the statutory requirement and the Township's Settlement Agreement with FSHC that 13% of the affordable units must be affordable to very low-income households at 30% of the regional median income, sixteen (16) of the units in this project must be affordable to very low-income households. The units will be required to be developed in accordance with UHAC requirements at N.J.A.C. 5:80-26.1 regarding income and bedroom distribution.

A developer's agreement consistent with the terms of the Settlement Agreement will be entered into between the developer and the Township. The site will be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq. The Township's agreement will require a minimum 30-year affordability control deed restrictions on the units in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.1.

The developer of the property will utilize the Township's administrative agent, who will administer and affirmatively market the units in accordance with UHAC per N.J.A.C. 5:80-26.1. and per the Township's Agreement with FSHC, which requires direct notice to the following organizations of all available affordable housing units: FSHC; the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

#### ADDITIONAL SETTLEMENT AGREEMENT TERMS: OBLIGATION REQUIREMENTS

Per COAH's regulations, as modified by terms set forth in the Township's Court-approved agreement with FSHC, the Township must address a variety of minimum or maximum credits in satisfying its Third Round fair share as set forth in the calculations and as part of the Third Round table of credits below.

The Township must meet a rental obligation, total family unit obligation, the very low-income obligation and not exceed the maximum senior unit cap.



Minimum Rental = 9 units

.25 (Obligation) = 250 units | .25 (1000) = 250

This obligation is satisfied with 619 credits associated with Summit Green Supportive and Special Needs project (39), Midland proposed Supportive and Special Needs project (11), Conifer/Triangle Site 100% Affordable project (100), Cornerstone 100% Affordable project (150), Henderson/Genesis 100% Affordable project (9), TJC/Premier Municipally Sponsored project (40), Advance/Fox Hollow Inclusionary project (28), North Branch Walk Inclusionary project (91), Summit Green Inclusionary project (92), Judelson/Glen Willow Inclusionary project (59).

Maximum Senior = 250 units

.25 (Obligation) = 250 units | .25 (1000) = 250

This maximum senior units is not exceeded as there are 244 senior credits associated with Cornerstone 100% Affordable project (150), TJC/Premier Municipally Sponsored project (40), Judelson/Glen Willow Inclusionary project (54).

Minimum Family = 375 units

.50 (Obligation-bonus) = 375 units | .50 (1000-250) = 375

This obligation is satisfied with 456 credits associated with Cedar Brook Prior Round credits (14), Cedar Brook Extension of Controls (40), Conifer/Triangle Site 100% Affordable project (100), Henderson/Genesis 100% Affordable project (9), River Trace Inclusionary project (11), Advance/Fox Hollow Inclusionary project (28), North Branch Walk Inclusionary project (91), Summit Green Inclusionary project (92), Judelson/Glen Willow Inclusionary project (71).

Minimum Family Rental: 125 units

.50 (rental obligation) = 125 units | .50 (250) = 125

This obligation is satisfied with 405 credits associated with Cedar Brook Prior Round credits (14), Cedar Brook Extension of Controls (40), Conifer/Triangle Site 100% Affordable project (100), Henderson/Genesis 100% Affordable project (9), Advance/Fox Hollow Inclusionary project (28), North Branch Walk Inclusionary project (91), Summit Green Inclusionary project (92), Judelson/Glen Willow Inclusionary project (31).

Minimum Very Low Income = 91 units

.13 (units created or approved on or after July 1, 2008 including 39 units from Summit Green Supportive and Special Needs project, 11 units from Midland proposed Supportive and Special Needs project, 100 units from Conifer 100% Affordable project, 150 units from Cornerstone 100% Affordable project, 9 units from Henderson/Genesis 100% Affordable project, 40 units from TJC/Premier Municipally Sponsored



project, 11 units from River Trace Inclusionary project, 28 units from Advance/Fox Hollow Inclusionary project, 91 units from North Branch Walk Inclusionary project, 92 units from Summit Green Inclusionary project, 125 units from Judelson/Glen Willow Inclusionary project ) = 91 units | .13 (696) = 90.48, rounded up to 91

This obligation is satisfied with 91 credits associated with including 6 units from Summit Green Supportive and Special Needs project, 3 units from Midland proposed Supportive and Special Needs project, 13 units from Conifer 100% Affordable project, 20 units from Cornerstone 100% Affordable project, 5 units from TJC/Premier Municipally Sponsored project, 4 units from Advance/Fox Hollow Inclusionary project, 12 units from North Branch Walk Inclusionary project, 12 units from Summit Green Inclusionary project, 16 units from Judelson/Glen Willow Inclusionary project.





## **AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING**

Branchburg Township will adopt an Affordable Housing Ordinance in accordance with COAH's substantive rules and UHAC. The Affordable Housing Ordinance will govern the establishment of affordable units in the Township as well as regulating the occupancy of such units. The Township's Affordable Housing Ordinance covers the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc.

The Township has established the position of the Municipal Housing Liaison and has appointed a staff member to the position. The Township relies on an in-house affordable housing administrator to conduct the administration and affirmative marketing of its affordable housing sites. However, the Township will permit developers who demonstrate the appropriate experience and expertise to administer their own units as both are experienced affordable housing administrators. The affirmative marketing plans are designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Township. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Township's housing region, Region 3, consisting of Somerset, Hunterdon and Middlesex counties.

The affirmative marketing plans include regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance to N.J.A.C. 5:80-26.1 et seq. All newly created affordable units will comply with the 30-year affordability control required by UHAC, N.J.A.C. 5:80-26.5 and 5:80-26.11. This plan must be adhered to by all private, non-profit, and municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

## **AFFORDABLE HOUSING TRUST FUND**

A development fee ordinance creating a dedicated revenue source for affordable housing was originally adopted by Branchburg Township in 2003.

The Spending Plan included in the Appendices to this Housing Plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, was prepared in accordance with COAH's applicable substantive rules. All collected revenues will be placed in the Township's Affordable Housing Trust fund and may be dispensed for the use of eligible affordable housing activities including, but not limited to:

- Rehabilitation program;
- New construction of affordable housing units and related development costs;



- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites;
- Acquisition and/or improvement of land to be used for affordable housing;
- Purchase of affordable housing units for the purpose of maintaining or implementing affordability controls,
- Maintenance and repair of affordable housing units;
- Repayment of municipal bonds issued to finance low- and moderate-income housing activity; and
- Any other activity as specified in the approved spending plan.

However, the Township is required to fund eligible programs in a Court-approved Housing Element and Fair Share Plan, as well as provide affordability assistance.

At least 30% of collected development fees, excluding expenditures made since July 17, 2008, when affordability assistance became a statutory requirement in the Fair Housing Act, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. At least one-third (1/3) of the affordability assistance must be expended on very-low income units. Additionally, no more than 20% of the revenues collected from development fees each year, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program.

## **MONITORING**

The Township's settlement agreement with FSHC put in place monitoring provisions consistent with those required by the Fair Housing Act and similar to those required by COAH. The monitoring requires regular tracking of progress toward meeting the affordable housing obligation and ensuring the affordable units and affordable housing trust fund are administered properly. The agreement requires the following:

- On the first anniversary of the entry of final judgment, and every anniversary thereafter through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by the Committee on Affordable Housing or any other forms endorsed by the Special Master and FSHC. In addition to the foregoing, the Township may also post such activity on the CTM system and/ or file a copy of its report with the COAH or its successor agency at the State level.
- For the midpoint realistic opportunity review date, the parties agree that the midpoint for purposes of this agreement will be July 1, 2020 pursuant to N.J. S. A. 52: 27D- 313, and a second



review shall occur by July 1, 2022. The Township will post the review on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled RDP mechanisms continue to present a realistic opportunity and whether the 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 FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the 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.

- For the review of very low-income housing requirements required by N.J.S.A. 52: 27D- 329. 1, within 30 days of the third anniversary of the entry of final judgment, and every third year thereafter, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low-income housing obligation under the terms of this settlement.

## **COST GENERATION**

The Branchburg Township's Land Development Ordinance has been reviewed to eliminate unnecessary cost generating standards; it provides for expediting the review of development applications containing affordable housing. Such expedition may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. Furthermore, development applications containing affordable housing shall be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the mandate of the FHA regarding unnecessary cost generating features. Branchburg Township shall comply with COAH's requirements for unnecessary cost generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing.