

## RESOLUTION

NO. 2019-192

ADOPTED: AUGUST 26, 2019

**WHEREAS**, the Township of Branchburg filed a Declaratory Judgment Action on July 1, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985; and

**WHEREAS**, the Township received a grant of immunity from the court which has been extended and remains in place as of the date of the settlement; and

**WHEREAS**, through the declaratory judgment process, the Township and Fair Share Housing Center have agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review and approve following a fairness hearing; and

**WHEREAS**, the Township through the adoption of a Housing Element and Fair Share Plan conforming with the terms of the attached Agreement (hereafter "the Plan") and through the implementation of the Plan, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).

**NOW, THEREFORE, BE IT RESOLVED**, that the Township Committee of the Township of Branchburg, County of Somerset, State of New Jersey that the Township Committee hereby authorizes and approves of the attached Affordable Housing Compliance Plan and Settlement Agreement with Fair Share Housing Center and the execution thereof on behalf of the Township.

**ATTEST:**

  
Marguerite Schmitt, RMC  
Township Clerk

  
Anna Columbus  
Mayor

ROLL CALL VOTE				
COMMITTEE MEMBER	YES	NO	ABSTAIN	ABSENT
YOUNG	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHWORN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BEATRICE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PETRELLI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COLUMBUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**I HEREBY CERTIFY** that the foregoing Resolution was adopted by the Township Committee of the Township of Branchburg, County of Somerset at their meeting held in the Meeting Room of the Municipal Complex, 1077 US Highway 202 North, Branchburg, NJ 08876.

\_\_\_\_\_  
Marguerite Schmitt, RMC  
Township Clerk

# Woolson Anderson Peach

*A Professional Corporation • Attorneys at Law*

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RANDALL J. PEACH  
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*Of Counsel*  
WILLIAM R. SUTPHEN III  
*Retired*

August 21, 2019

Adam Gordon Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, New Jersey 08002

Re: In the Matter of the Township of Branchburg's  
Housing Element and Fair Share Plan  
Docket No. L-000898-15

Dear Mr. Gordon:

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

## Background

Branchburg filed the above-captioned matter on July 1, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, Branchburg and FSHC have agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement terms

Branchburg and FSHC hereby agree to the following terms:

1. FSHC agrees that Branchburg, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).

2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.

3. FSHC and Branchburg hereby agree that Branchburg's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report )	12
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	302 <sup>1</sup>
Third Round (1999-2025) Prospective Need, as adjusted through this Agreement	1,000.

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in *In re Declaratory Judgment Actions Filed By Various Municipalities*, 227 N.J. 508 (2017).

5. Branchburg's efforts to meet its present need and Third Round Prospective Need are outlined on the Branchburg Township

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<sup>1</sup> Fourteen Prior Round units in excess of Branchburg's Prior Round obligation were produced by Branchburg, as reflected in Exhibit A.



Affordable Housing Compliance Plan attached hereto as Exhibit A. The Plan is sufficient to satisfy the Township's present need obligation of 12 units and Third Round Prospective Need Obligation of 1000 units.

6. As noted above, Branchburg has a Prior Round prospective need of 302 units, which is addressed through existing and proposed credits as described in more detail in the Branchburg Township Prior Round Compliance Plan attached hereto as Exhibit A.

7. Branchburg will provide a realistic opportunity for the development of affordable housing through the municipally-sponsored projects and the adoption of inclusionary zoning as described in Exhibit A. Prior to the fairness hearing in this matter, Branchburg shall provide letters from the developers of the North Branch Walk, Summit Green, and Judelson/Glen Willow developments providing a firm commitment to construct the developments as shown in Exhibit A.

8. In accordance with N.J.A.C. 5:93-5.5, Branchburg recognizes that it must provide evidence that Branchburg has adequate and stable funding for any non-inclusionary affordable housing developments. Branchburg is required to provide a *pro forma* of both total development costs and sources of funds and documentation of the funding available to the Township and/or project sponsor, and any applications still pending. In the case where an application for outside funding is still pending, Branchburg shall provide a stable alternative source, such as municipal bonding, in the event that the funding request is not approved. Branchburg will meet this obligation for the proposed Midland group home bedrooms, extensions of expiring controls, and all projects referenced as municipally sponsored 100% affordable projects in Exhibit A, Table B, through documentation to be included in Branchburg's Housing Element and Fair Share Plan, and as described in more detail in the respective project descriptions in Exhibit A.

In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary developments, a construction or implementation schedule, or

timetable, shall be submitted for each step in the development process: including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contractor and construction. The schedule shall provide for construction to begin within two years of court approval of this settlement and specify the entity responsible for undertaking and monitoring the construction and overall development activity. Branchburg will meet this obligation for the proposed Midland group home bedrooms and all projects referenced as municipally sponsored 100% affordable projects in Exhibit A, Table B, through documentation to be included in Branchburg's Housing Element and Fair Share Plan.

9. Branchburg agrees to require 13% of all units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. Branchburg will comply with those requirements as indicated in Exhibit A.

10. Branchburg shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in in paragraph 6 above:

a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).

b. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.

c. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.

d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.



e. Branchburg agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may Branchburg claim credit toward its fair share obligation for age-restricted units that exceed 25% of the prior round and third round fair share obligation.

11. Branchburg shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. Branchburg also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

12. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. Branchburg as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD in accordance with the Order previously entered for all Vicinage 13

municipalities by the Court on October 11, 2018, attached as Exhibit B.

13. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.

14. As an essential term of this Agreement, within 90 days of court approval of this Agreement, Branchburg shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.

15. The parties agree that if a decision of a court of competent jurisdiction in Somerset County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for Branchburg for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, Branchburg may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, Branchburg shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Branchburg's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If Branchburg prevails in reducing its



prospective need for the Third Round, Branchburg may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

16. Branchburg shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the date of this Agreement, and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, Branchburg agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

17. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, Branchburg agrees to provide annual reporting of the status of all affordable housing activity within Branchburg through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.



18. The Fair Housing Act includes two provisions regarding action to be taken by Branchburg during the ten-year period of protection provided in this Agreement. Branchburg agrees to comply with those provisions as follows:

a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, Branchburg will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to Branchburg, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.

b. 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 this Agreement, and every third year thereafter, Branchburg will post on its municipal website, with a copy provided to Fair Share Housing Center, 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 Branchburg and Fair Share Housing Center on the issue of whether Branchburg has complied with its very low income housing obligation under the terms of this settlement.

19. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.

20. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). Branchburg shall present its Township Planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate Branchburg will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.

21. Branchburg shall pay the amount of \$30,000, an amount that FSHC represents is its reasonable attorneys' fees and costs, to FSHC within sixty days of the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing.

22. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.

23. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Somerset County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.



24. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

25. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

26. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.

27. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.

28. The parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

29. Each of the parties hereto acknowledges that this Agreement was not drafted by either of the parties, but was drafted, negotiated and reviewed by both parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the parties expressly represents to the other party that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

30. The Exhibit annexed to this Agreement are hereby made a part of this Agreement by this reference thereto.

31. This Agreement constitutes the entire Agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof except as otherwise provided herein.

32. No member, official or employee of Branchburg shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

33. The effective date of this Agreement shall be the date upon which all of the parties hereto have executed and delivered this Agreement.

34. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon 10 days notice as provided herein:

TO FSHC:

Adam M. Gordon, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
Phone: (856) 665-5444  
Telecopier: (856) 663-8182  
E-mail: adamgordon@fairsharehousing.org

TO BRANCHBURG:

Gregory Bonin, Township Administrator  
Branchburg Township  
1077 US Highway North  
Branchburg, New Jersey, 08876  
Telecopier: (908) 526-2452



Woolson Anderson Peach  
*A Professional Corporation*

Adam Gordon Esq.

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August 21, 2019

Email: gregory.bonin@branchburg.nj.us

WITH A COPY TO: Marguerite Schmitt, RMC, CMR, Township Clerk

Please sign below if these terms are acceptable.

Very truly yours,

Mark S. Anderson

MSA:no

Accepted on behalf of Fair Share Housing Center

\_\_\_\_\_  
Adam M. Gordon  
Attorney for Fair Share Housing Center

Date: \_\_\_\_\_

# Exhibit A

## BRANCBURG TOWNSHIP

### AFFORDABLE HOUSING COMPLIANCE PLAN

#### SATISFACTION OF THE REHABILITATION OBLIGATION: 12 UNITS

Branchburg Township's rehabilitation obligation is 12 units. The Township proposes to address this 12-unit Rehabilitation share through an existing owner occupied housing program that is managed by Township staff. The Township will also participate in the Somerset County Housing Rehabilitation Program for the rehabilitation of owner-occupied housing units.

#### SATISFACTION OF THE PRIOR ROUND (1987-1999) OBLIGATION

Branchburg Township's Prior Round obligation is 302. As summarized in Table A, 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 and completed alternative living arrangement.

**Table A. Summary of Credits from Prior Round, 1987-1999**

Compliance Mechanisms:	Credits	Bonuses	Total
<b>302-Unit Prior Round Obligation (1987-1999)</b>			
RCA's - funds transferred	100		100
Family Sale - Completed			
Cedar Brook	40		40
Senior Rentals - completed			
Whiton Hills	30	4	34
Family Rentals - completed			
Whiton Hills	43	43	86
Terrace Edgewood	4	4	8
Group Homes - completed			
4 Homes with 17 bedrooms total	17	17	34
Group Homes - proposed			
Midland - 7 bedrooms (7 of 18)	7	7	14
<b>Total</b>	<b>241</b>	<b>75</b>	<b>316</b>
		Surplus	14

#### SATISFACTION OF THE THIRD ROUND OBLIGATION (1999-2025): 1000 UNITS

As indicated in the Settlement Agreement, the Township's Third Round Obligation is 1000. The Township's compliance mechanisms are summarized in Table B, Summary of Credits for the



Third Round, 1999-2025, providing a combination of 100% affordable developments, inclusionary sites, extension of controls, alternative living arrangements and third round rental bonuses.

**Table B. Summary of Credits for the Third Round, 1999-2025**

Compliance Mechanisms	Total New	VL Units	VL Units	Credits	Bonuses	Total
000-Unit - Third Round Obligation (1999-2025)	Units	Senior/SN	Family			
Credits from Prior Round						
Cedar Brook*				14		14
Group Homes - by bedrooms						
Summit Green - supportive living bedrooms	13	16		39		39
Midland - proposed	8	3		11		11
Extension of Controls						
Cedar Brook				40		40
Municipal Sponsored - 100% Project						
Conifer/Triangle Site - Approved	100		13	100	100	200
Cornerstone - Proposed (Senior)	150	20		150		150
Henderson - Approved	9			9	9	18
TJC/Premier (Senior)- Proposed	100	6		40		40
Inclusionary Sites - Family For Sale - Approved						
River Trace	50			11		11
Inclusionary Sites - Family For Rent - Approved						
Advance	81		4	28	28	56
Inclusionary Sites - Proposed						
*North Branch Walk - rental - (24.9% setaside)	364		12	91	91	182
Summit Green - rental - (25% setaside)	523		12	92	22	114
Judelson/Glen Willow	475	8	9			
Senior for sale				26		26
Senior rental				28		28
Family for sale				40		40
Family rental				31		31
<b>Total</b>	<b>1873</b>	<b>53</b>	<b>50</b>	<b>750</b>	<b>250</b>	<b>1000</b>
<b>Surplus/Deficit</b>						<b>0</b>
*Note: Ordinance approved, site plan approval pending				Required	Provided	
Min. Total Family 50% of obligation-bonus				375	397	
Min. Very Low Required - 13% of units developed after 7/17/2008				98	103	
Min. Very Low Family Required- 50% of Total VL				49	50	
Min. Total Rental - 25% of obligation				250	586	
Min. Family Rental - 50% of total rental				125	268	
Maximum Senior - 25% of obligation				250	244	

\* Note: Cedar Brook credits from the prior round are allocated to the gap obligation.

**PRIOR ROUND  
RESIDUAL UNITS –  
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 A) 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. The Township prior to the

final compliance hearing in this matter 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 and provide the other information required by N.J.A.C. 5:93-5.5 as part of the Township's Housing Element and Fair Share Plan.

**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. The Township has completed the extension of affordability controls on 28 of the 40 units. The affordability controls on the units provide extensions from 2026- 2048. Prior to the final compliance hearing in this matter, Branchburg will provide documentation that all 40 units have had controls extended for at least 30 years beyond the original expiration date of the affordability controls in accordance with the requirements of N.J.A.C. 5:97-6.14.

### **SUPPORTIVE AND SPECIAL NEEDS HOUSING – PROPOSED**

#### *Midland – 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 A) 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. The Township prior to the final compliance hearing in this matter 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 and provide the other information required by N.J.A.C. 5:93-5 as part of the Township's Housing Element and Fair Share Plan.

#### *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 sixteen (16) 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 site is located within the sewer service area.

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

#### *Henderson – 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 0.849-acre parcel located in the North Branch Hamlet zoning district. This site (Block 7/ Lot 3) is the subject of a Zoning



Board approval memorialized by resolution on April 18, 2012, Case 2010-007A UV (Appendix B) permitting a three (3) lot subdivision of a 1.2-acre lot to allow the continuation of two existing historic single family detached dwellings and the construction of 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 property owner has received extensions of time for the filing of a subdivision and site plan application, as required by the 2012 resolution, and preserving the site's use variance, through June 30, 2019. An application for subdivision and site plan approval is incomplete, but the Zoning Board has extended the time for completion of the application to September, 2019.

*Conifer/Triangle Site – Approved*

Conifer, LLC, an experienced affordable housing developer, received approval from the Township Planning Board on May 1, 2017 memorialized by resolution on June 27, 2017, Case 2017-002P PSP (Appendix C) 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 located immediately south of the Whiton Hills apartments, which is an inclusionary family rental development addressing the Prior Round obligation. The site 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.

*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 8.5 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 will pursue 9% tax credit financing from HMFA for each phase of the development. The Township during the compliance phase of this litigation will adopt an appropriate zoning ordinance 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.

*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. 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 D) 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. The Township will approve the Area in Need of Redevelopment study within 120 days of the execution of the settlement agreement and will adopt a Redevelopment Plan for the site within 120 days of the site being determined to be an Area in Need of Redevelopment.

### 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 site is located within the sewer service area.

#### *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. The site is located within the sewer service area.



## 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.

### *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 site is located within the sewer service area.

### *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 will be 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 (46 units), very low (17 units) and moderate (62 units) income households. The site is located within the sewer service area.

For all three proposed inclusionary developments and the Cornerstone and TJC/Premier developments, the Township will adopt a zoning ordinance providing a realistic opportunity for the development as specified here prior the final compliance hearing in this matter. The Township also agrees to cooperate with the developers of the inclusionary and 100% affordable sites in this plan including as follows:

- Assistance with outside approvals: the Township acknowledges that in order to construct both inclusionary and 100% affordable developments referenced in this plan, developers will be required to obtain any and all necessary and applicable agreements, approvals, and permits from all relevant public entities and utilities; such as, by way of example only, the Township, the Planning Board, the County of Somerset, the Somerset County Planning Board, the New Jersey Department of Environmental Protection, and the New Jersey Department of Transportation. The Township agrees to use all reasonable efforts to assist the developers of the sites referenced in this plan in its undertakings to obtain the required approvals.
- Timely action on applications: the Planning Board shall expedite the processing of development applications for the inclusionary and 100% affordable developments following Court approval of this Settlement Agreement in accordance with N.J.A.C.

5:93-10.1(a) and within the time limits imposed by the MLUL. If necessary, the Planning Board shall cooperate in scheduling special meetings to expedite the applications to ensure that the Board acts on the development applications for the Site within the time provisions set forth in the MLUL. In the event of any appeal of the Court approval of this Settlement Agreement, the Board shall process and take action on any development applications for the sites in this agreement which decision may be conditioned upon the outcome of any pending appeal.

- Cost generation: The Township will refrain from imposing cost generative requirements on the developments referenced in this agreement, including but not limited to that in the event of any inconsistencies between RSIS standards and any Township Ordinances, regulations or policy, the Township acknowledges that such RSIS standards shall prevail.