

Woolson Anderson Peach

A Professional Corporation • Attorneys at Law

11 EAST CLIFF STREET • SOMERVILLE • NEW JERSEY • 08876
Telephone (908) 526-4050 • Fax (908) 450-1569 • www.WoolsonLaw.com

MARK S. ANDERSON
RANDALL J. PEACH
CHRISTINE L. NICI

STEVEN B. LIEBERMAN
Of Counsel
WILLIAM R. SUTPHEN III
Retired

August 28, 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 ¹ |
| 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 Affordable Housing Compliance Plan attached hereto as Exhibit A.

¹ Fourteen Prior Round units in excess of Branchburg's Prior Round obligation were produced by Branchburg, as reflected in 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 Exhibits 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

Woolson Anderson Peach
A Professional Corporation

Adam Gordon Esq.

Page 11
August 28, 2019

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

Woolson Anderson Peach
A Professional Corporation

Adam Gordon Esq.

Page 12
August 28, 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:nc

Accepted on behalf of Fair Share Housing Center



Adam M. Gordon
Attorney for Fair Share Housing Center

Date: 9-24-19

Accepted on behalf of the Township of Branchburg by resolution
of the Township Committee this date



Anna Columbus, Mayor

Date: 8-26-19

EXHIBIT "A"

Exhibit A
BRANCHBURG 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 |
|--|------------|-----------|------------|
| 302-Unit Prior Round Obligation (1987-1999) | | | |
| 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 |
| Total | 241 | 75 | 316 |
| | | 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 Units | VL Units Senior/SN | VL Units Family | Credits | Bonuses | Total |
|---|-----------------|--------------------|-----------------|------------------------|------------|-------------|
| 000-Unit - Third Round Obligation (1999-2025) | | | | | | |
| 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 |
| T.JC/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 |
| Total | 1873 | 53 | 50 | 750 | 250 | 1000 |
| | | | | Surplus/Deficit | | 0 |

* 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.

A
P
P
E
N
D
I
X

A

NEW UNIT



Midland Adult Services, Inc.
PO Box 5026
North Branch, NJ 08876

May 20, 2019

Mr. Gregory Bonin
Administrator of Branchburg Township
1077 US Highway 202
Branchburg, New Jersey, 08876

Dear Mr. Gregory Bonin,

This correspondence is in follow-up to our conversation of May 17, 2019 regarding Midland's potential interest in expanding our Community Residential Services through the addition of more accessible and affordable rental units.

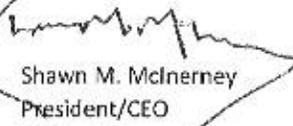
The Midland Organization will mark its 60th year of operation in the year 2020. We operate award-winning School, Employment, Day Habilitation and Community Residential (group homes and supervised apartments) programs. Our Work Center is CARF accredited. Midland's Residential programs support Medicaid eligible adults who have intellectual and developmental disabilities and are licensed as Community Residences under N.J.A.C. 10:44A.

Midland receives numerous inquiries throughout the year regarding Residential Services. We are mission driven and are committed to be part of the solution and our Board of Trustees has identified this as an area of growth for Midland and prioritized expansion of our Residential Services

As part of our strategic planning process, Midland has determined that we may be able to serve an additional 20 adults in newly constructed apartments. Our vision of future Residential development includes creating access to additional first floor accessible and affordable ADA compliant units. We envision a mix of both two (2) and potentially some three (3) bedroom units. Furthermore, any mixed-use site that contains both residential, business and retail such as food establishments, outlets for leisure recreation and other amenities is highly desirable. Any expansion, if approved, will be incorporated into Midland's strategic plan.

We look forward to additional discussion and collaboration. In the interim, please do not hesitate to contact me should you require additional details.

Best Regards,


Shawn M. McInerney
President/CEO
Midland Corporation
Cc: Gregg Sweetman
Mike Castles
Stacey Gravina



A
P
P
E
N
D
I
X

B

TOWNSHIP OF BRANCBURG BOARD OF ADJUSTMENT

RESOLUTION

Case No. 2010-007; Henderson
Block 7, Lot 3
1100-1104 Route 28
Approved April 18, 2012
Adopted May 16, 2012

WHEREAS, Robert Henderson ("Applicant") has applied to the Branchburg Township Board of Adjustment (the "Board") for variance relief to permit the construction of multi-family Affordable Housing on property located at 1100-1104 Route 28 and designated Block 7, Lot 3 on the Branchburg Township Tax Map (the "Subject Property"); and

WHEREAS, a public hearing was held by the Board at its regular meeting of April 18, 2012, at which time the Board reviewed the Application and supporting materials filed by Applicant, heard testimony from Applicant's architect and site engineer, received and reviewed exhibits, heard oral argument offered by Applicant's counsel, reviewed municipal reports, heard comments from its consultants, and gave members of the public an opportunity to be heard; and

WHEREAS, the Board has considered all of the Application materials, the testimony, reports, exhibits, comments of the Board's consultants, legal arguments by counsel for Applicant, and there being no comments from members of the public;

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment of the Township of Branchburg that, based upon the foregoing, the Board makes the following findings of fact and conclusions of law:

1. Applicant is the owner of the Subject Property, located at 1100-1104 Route 28 and designated Block 7, Lot 3 on the Branchburg Township Tax Map.

2. The Subject Property is a 1.18 acre parcel, having approximately 235 feet of frontage on Route 28, located in the North Branch Hamlet (NBH) Zone.

3. The Subject Property is presently improved with two separate historic single family homes and a number of accessory structures. The Applicant proposes to retain both single family homes, but proposes removing the accessory structures. Applicant proposes then to build a three-story, nine-unit Affordable Housing development on the rear portion of the Subject Property.

4. Applicant proposes that the Subject Property be subdivided into three separate lots. The two existing single family dwellings would be located on two separate frontage lots (approximately 8,000 square feet and 6,000 square feet, respectively), with the proposed Affordable Housing building located on the rear of the property on a lot of approximately 37,000 square feet. Applicant submitted a "Conceptual Variance Plan" prepared by D.S. Engineering, P.C., (1 sheet) dated September 23, 2011, and last revised March 26, 2012 (the "Plan"). The Plan shows the proposed subdivision of the Subject Property, conceptual site improvements, and the locations of the three buildings. Neither the formal subdivision, nor a fully engineered site plan is presently before the Board, this being a bifurcated application for the required "d" variance relief.

5. Applicant had previously made Application to this Board for use variance relief to permit the construction of a larger Affordable Housing building, which plan involved the retention of one of the existing historic single family dwellings, but the removal of the other. The Application was denied by the Board, which denial was memorialized in a Resolution adopted October 30, 2010. Applicant filed an appeal to the Superior Court of New Jersey, Law Division, Somerset County, in the course of which litigation Applicant and the Board reached a

settlement agreement concerning uses to be permitted and the conceptual development of the Subject Property. As a result, this present Application constitutes the basis for a "Whispering Woods" hearing with respect to the uses to be permitted and the proposed implementation of the settlement agreement.

6. In addition to the Plan, Applicant submitted architectural sketches and floor plans prepared by D.A. Denson Architects (4 sheets) dated March 22, 2012 (the "Architectural Plans"). Applicant's witnesses described the proposed site layout, building layout, and the general architectural design and appearance of the site and the new building, including the specific floor plan layouts shown in the Architectural Plans and the architectural elements and materials to be used in constructing the Affordable Housing building.

7. The Board also received from the Branchburg Township Historic Preservation Commission a favorable review of the Architectural Plans now being proposed. This review, by letter dated March 19, 2012, enumerated specific design features and materials which Applicant's architect confirmed to the Historic Preservation Commission would be used. The Commission indicated that its favorable determination on the Architectural Plans related, at least in part, to the specific design features and materials submitted. The Commission requested that any changes in design or finishes be brought back by Applicant to the Commission should the Architectural Plans submitted for construction differ in these matters from the Architectural Plans reviewed by the Commission.

8. Applicant's architect also submitted an analysis of area calculations relating to the proposed Affordable Housing building. These were accepted by the Board in aid of understanding the sizes of the apartments which would constitute the Affordable Housing

building, and the architect's testimony that the unit sizes exceeded the minimums required by the regulations governing Affordable Housing.

9. Applicant's proposed development requires "d" variance relief as follows:

(a) A use variance for the multi-family building, multi-family residential use not being permitted in the NBH zone;

(b) A density variance, since only one dwelling unit per acre is permitted in the NBH zone.

10. The Plan for Applicant's proposed development shows "c" variance relief required as follows:

(a) a lot area variance for proposed Lot 3.03 (8,000 square feet required; 5,927 square feet proposed);

(b) a minimum side yard setback variance for proposed Lot 3.03 (10 feet required; 7.55 feet existing and proposed);

(c) a front yard setback variance for proposed Lot 3.01 (15 feet required; 9.48 feet existing and proposed);

(d) a variance from Section 4-5.4B which requires a 20 foot transition buffer area for proposed Lot 3.02 (a portion of the parking areas and dumpster are located within the 20 foot transition buffer required for adjacent Lot 2 located in the Mobile Home Zone);

(e) a variance from Section 4-4.2 which requires all single family homes to have a least a one car garage.

Although the specifics may vary from the data shown on the Plan as the result of factors which are identified in the course of creating a fully engineered subdivision/site plan, the "c" variance relief based on the concept plan is appropriate.

11. At this time, Applicant seeks confirmation of the settlement agreement, and approval and grant of “d” variance relief, on a bifurcated application, as to use of the Subject Property and density of development, with a proposal to permit construction of a three-story nine-unit Affordable Housing development, while preserving and upgrading two (2) existing historic structures (each of which will have its own separate lot, by way of subdivision, conceptually approved, including the recognized need for a lot area variance as to one of the lots, several setback variances, possible buffer variances, and a variance for failure to provide garages for the single family dwellings as detailed in finding number 10, above).

12. Applicant also confirmed to the Board that the agreement reached with the chairman of the Branchburg Historic Preservation Commission regarding the preservation, repairs and upgrading of the historic dwellings on the Subject Property, applicable to the two (2) existing single family dwellings, would be implemented, as follows:

- Save both houses, each on separate lots.
- Each house will be deed-restricted so that it could not be demolished and any alterations must be approved by the Historic Commission.
- Improvements will be made to each house as follows:
 - Large House -
 - Sand and remove any blistering paint from the existing clap-board siding.
 - Replace any damaged or rotted clap-board siding.
 - Repair all existing house windows, including scraping, painting, re-glazing.
 - Remove the existing front porch and replace with a new smaller porch.

- Prime and paint entire exterior of house.
- Remove all overgrown shrubs and dead trees around house.
- Landscape front and sides of house.
- Install walk-ways from front and side doors to new driveway.

Small House -

- Power-wash exterior of house.
 - Replace any damaged cedar-shakes on house.
 - Stain exterior of house.
 - Prepare and paint all trim, including windows on house.
 - Make necessary repairs to existing porch and paint the porch.
 - Remove all overgrown shrubs from around house.
 - Landscape front and sides of house.
 - Install walk-ways from front and rear doors to new driveway.
- All work will be done in order to preserve the historic character of both houses.

13. Applicant's engineer described the feasibility of required site improvements, including drainage, parking, landscaping, and site operation, sufficient to support the use variance relief being sought.

14. Since this present Application constitutes the resolution of an application initially filed as a "bifurcated d" variance, the Board is technically dealing at this time only with the proposed use of, and density of development on, the Subject Property, as well as the conceptual subdivision and site plan with related "c" variances. Part of the basis for the settlement agreement was to assure that the proposed Affordable Housing building would be designed and

constructed as indicated by Applicant's architect and that the site would be laid out in substantial compliance with the concept plan submitted by Applicant's engineer.

15. Applicant will be required to return to the Board with a formal subdivision and site plan application, including the anticipated, conceptually approved, "c" variances described above, as well as any required new "c" variance relief and/or design standard exceptions related to the fully engineered plan to be presented.

16. Applicant's present proposal reduces the size and scale of the Affordable Housing building which is proposed relative to the previously denied development application. Although the Land Development Ordinance has a limitation of 2.5 stories, the design requires a three-story building to achieve nine units of multi-family Affordable Housing. The building does, however, comply with the 40 foot maximum height limitation. The Board recognizes that the proposed new use on the property is a 100% Affordable Housing structure and constitutes an inherently beneficial use. The footprint of the Affordable Housing building is reduced from that which was previously denied, the overall size of the building is reduced, and the appearance of the structure -- its size, its design features, its architectural elements, and its materials -- are better adapted to blend with the area and be sympathetic to the agricultural history of the North Branch Hamlet.

17. Applicant proposes that all of the Affordable Housing units in the new building will be two bedroom, moderate income units. They will be built in compliance with municipal and state regulations and subject to affordability controls.

18. The Board concludes that the redesign and down-sizing of the Affordable Housing building, together with revised site arrangement, significantly mitigates the previous concern over visual impacts of Applicant's prior proposal. The Board finds further benefit to the

Township from Applicant's agreement to retain and preserve both historic structures on the Subject Property, upgrading them for market rate use as single family residences.

19. Applicant's reduction in the size, unit count, and scale of the Affordable Housing building brought the project into line with the recommendations of the Township's COAH consultant, who had generally favored the Subject Property as an appropriate site for Affordable Housing.

20. The reduction in footprint of the Affordable Housing building also allows the creation of additional open space and opportunities for recreational amenities for children.

21. The Board concluded, based upon all of the foregoing, that "d" variance relief could be granted to Applicant for use and density to permit the construction of the proposed Affordable Housing building in substantial compliance with the Architectural Plans and the design elements and materials presented to the Historic Preservation Commission, together with preservation and upgrading of the two existing historic structures on the Subject Property, in accordance with the settlement agreement reached by the parties, and that this relief could be granted, upon appropriate conditions, without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

BE IT FURTHER RESOLVED that, for the reasons set forth above, the application of Robert Henderson for "d" variance relief permitting a multi-family, Affordable Housing building to be constructed, while preserving the two historic structures on the Subject Property, resulting in density in excess of one dwelling unit per acre, the Affordable Housing building to be a three-story structure as depicted in the Architectural Plans submitted, be and hereby is granted and approved subject to the following conditions:

1. A complete subdivision and site plan application (substantially in accordance with the Concept Variance Plan presented to the Board at the "Whispering Woods" hearing) shall be filed by Applicant within one year of the date of this Resolution, and thereafter satisfactorily prosecuted to an approval to permit the "d" variance relief to be implemented. The variance relief granted hereby remains subject to approval of the formal subdivision and site plan by this Board of Adjustment. The Board anticipates and conceptually accepts the need for a lot area variance, several setback and/or buffer variances, and a variance for failure to provide garages to the historic dwellings, as depicted on the Plan, but Applicant must offer appropriate proofs with respect to any bulk, dimensional or other "c" variances which may be required, and as to any not conceptually approved with the Plan herein, include proofs that they are not contradictory to the findings and conclusions which underlie the grant of "d" variance relief.

2. Construction shall be in accordance with the plans, architectural designs, elements, materials and finishes accepted by the Township's Historic Preservation Commission. Any changes shall be submitted to the Historic Preservation Commission for review.

3. Repairs and upgrades to the historic structures shall include and be consistent with those detailed in finding number 12, above. In addition, Applicant shall submit a proposed deed restriction with respect to each of the lots containing an historic structure prohibiting demolition and requiring any alterations to be approved by the Historic Preservation Commission. The proposed restrictive covenant shall be submitted to the Township Engineer and the Board of Adjustment Attorney for review and approval as to form and content. After approval of same, and at the time the proposed subdivision is to be perfected, Applicant shall record the restrictive covenant in the Office of the Somerset County Clerk and, subsequent to recording, provide a copy of the recorded document to the Township's Land Use Administrator.

4. The site plan shall include satisfactory landscaping and/or fencing to mitigate the visual impacts of the development and access easements, as well as appropriate recreational amenities for children on the Subject Property.

5. Applicant shall obtain any other required approvals from any board, body or agency, whether federal, state, county or municipal with respect to the proposed use and development of the Subject Property and the completion and operation of same.

6. All open taxes, as well as application and escrow fees and funding of sufficient escrow and inspections fees to cover unbilled work to the completion of the Application and the Project shall be paid by Applicant.

7. Applicant shall be responsible for any Affordable Housing contribution or development which may be required as a result of the proposed new use of the Subject Property.

8. The continuing prosecution of this Application, including the filing and prosecution of a formal, fully engineered subdivision and site plan application, as well as development and operation of Subject Property, shall be in accordance with the testimony offered by and on behalf of Applicant at the April 18, 2012 hearing, the findings and conclusions of the Board set forth in this Resolution, and the conditions of approval set forth herein.

BE IT FURTHER RESOLVED, that this Resolution adopted this 16th day of May, 2012, memorializes the action of the Board, as set forth above, taken at its meeting on April 18, 2012.

On motion by TOM LEMBRICH, seconded by TERRY POLLIN, the Board of Adjustment voted to adopt the Resolution.

ROLL CALL

Case No.2010-007A UV PSUB; Robert Henderson;
Block 7, Lot 3; 1104 Route 28

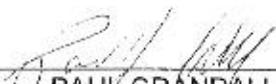
Application Approved :April 18, 2012

Resolution Adopted: May 16, 2012

| MEMBER | Y | N | NE | NV | ABS | MEMBER | Y | N | NE | NV | ABS |
|----------|---|---|----|----|-----|----------|---|---|----|----|-----|
| BOWERS | | | | | ABS | LEMBRICH | | | NE | | |
| BYE | | | | | ABS | PAPPAS | X | | | | |
| CRANDALL | | | NE | | | POLLIN | X | | | | |
| ERD | | | NE | | | PETRELLI | X | | | | |
| | | | | | | TRUPPI | | | NE | | |

X - indicates vote
NE - not eligible to vote
NV - not voting (abstained)
ABS - absent


CHRISTOPHER ERD, CHAIRMAN


PAUL CRANDALL, SECRETARY

STATE OF NEW JERSEY
SOMERSET COUNTY

SS.

I, Deborah Brooks being of full
age, being duly sworn upon her oath, certifies:
that a notice of which the annexed is a true copy, was
published in the Courier News which is a newspaper
published in Somerset County, New Jersey;
on the 19th day of May, 2012.
in said newspaper

Deborah Brooks

Sworn and subscribed before me this

21 day of May 2012

Linda Lee Smithers
Notary Public of New Jersey

LINDA LEE SMITHERS
NJ NOTARY #2376055
COMMISSION EXPIRES: 07/25/13

TOWNSHIP
OF BRANCHBURG

PUBLIC NOTICE

1- PLEASE TAKE NOTICE the
2- Board of Adjustment of the
3- Township of Branchburg took
4- the following action at the reg-
ular meeting held on Wednes-
day, May 16, 2012.

RESOLUTION:

Case No. 2010-007A UV
PSUB, Henderson, Block 7,
Lot 3, 1104 Route 28, ap-
proved use variance.

The above determinations are
on file in the office of the Engi-
neering Department, and may
be examined during regular
business hours at the municipal
Building, 1077 U.S. High-
way 202 North, Branchburg,
New Jersey.

Deborah Brooks
Board of Adjustment Clerk
Posted: May 16, 2012
(\$11.88) 561189

1
2
3
4
5
6
7
8
9
10

A
P
P
E
N
D
I
X

C

**TOWNSHIP OF BRANCBURG
PLANNING BOARD RESOLUTION**

CONIFER, LLC

Case 2017-002P PSP

Resolution No. _____

Block 74, Lots 3, 3.01 and 3.02

May 1, 2017

WHEREAS, Conifer, LLC ("Applicant") has filed an application identified as Case No. 2017-001P PSP with the Township of Branchburg Planning Board (the "Board") for Preliminary Major Site Plan approval to construct 100 affordable rental family apartments, tot lot, community building, management office and various site amenities on property located at Block 74, Lots 3, 3.01 and 3.02 as shown on the Tax Map of the Township of Branchburg; and

WIHEREAS, the property is located in the AH-2 Affordable Housing 2 District; and

WHEREAS, the Application reviewed by the Board consisted of the following plans and/or reports and each is incorporated by reference into this Resolution.

| <u>Description of Plan/Report</u> | <u>Date of Plan/Report</u> |
|--|--------------------------------------|
| Memorandum of Township Zoning Officer, Thomas Leach | April 4, 2017 |
| Memorandum of Township Environmental Commission | April 17, 2017 |
| Memorandum of Fire Official | April 11, 2017 and April 25, 2017 |
| Memorandum of Health Official | April 17, 2017 |

| | |
|---|--|
| Memorandum of Planning Board Planner James Kyle, P.P. | April 14, 2017 |
| Memorandum of Township Engineer, Douglas Ball | April 14, 2017 |
| Preliminary and Final Site Plan prepared by Maser Consulting, P.A. | March 30, 2017 |
| Boundary and Topographic Survey prepared by Maser Consulting, P.A. | December 7, 2016, Rev'd. February 2, 2017 |
| Community Building Architectural Drawing, prepared by Clark, Caton Hintz | January 16, 2017 |
| Architectural Elevations prepared by Clark, Caton Hintz | March 10, 2017 |
| Landscape Plan prepared by Clark, Caton Hintz | March 30, 2017 |
| Traffic Impact Study prepared by Maser Consulting, P.A. | March 20, 2017 |
| Report Subsurface Exploration and Infiltration Evaluation prepared by Maser Consulting, P.A. | February 21, 2017 |
| Report of Subsurface Exploration and Foundation Evaluation | March 20, 2017 |
| Stormwater Management Report prepared by Maser Consulting, P.A. | March, 2017 |
| Memorandum of Elizabeth McKenzie, P.P. | April 25, 2017 |

WHEREAS, the Applicant initially requested a sign variance, however, the sign variance was withdrawn. No variances are requested by the Applicant; and

WHEREAS, the Applicant required the following design waivers:

Description

- One way drive width (20' vs. 22') §5-2.1D

- Less than 8% interior parking area with shrubs §5-2.2D
- Greater than 20 parking spaces in a row without curbed island §5-2.212
- Street trees in 10' planting easement outside the right of way §5-3.4.1
- Tree Removal and Tree Replacement Plans §5-11.2A

WHEREAS, the following exhibits were presented at the hearing:

Exhibits – April 18, 2017

- 0-1 Letter submitted by Derek W. Orth, Esq., on behalf of the Objector, Whiton Hills Development (Old York Road Associates, L.P.), dated April 18, 2017
- A-1 Preliminary Major Site Plan rendering
- A-2 Branchburg Family Housing – Building 6 Architecturals
- A-3 Branchburg Family Housing – Clubhouse Plans
- A-4 Branchburg Family Housing – Buildings 1-5 Elevations
- A-5 Branchburg Family Housing – Building 6 Elevation
- A-6 Branchburg Family Housing – Buildings 1-5 Architecturals.

Exhibits – April 25, 2017

- A-7 Memorandum of Elizabeth McKenzie
- O-2 Aerial Exhibit Sheet No. 2

- O-3 Photo Location Plan Exhibit
- O-4 Site Photo Exhibit
- O-5 Packet of 20 photographs
- O-6 Site Plan Sheet 1 of 8
- O-7 Site Plan Sheet 3 of 8
- O-8 Grading Exhibit Sheet 4 of 8
- O-9 Utilities Plan Sheet No. 5 of 8
- O-10 Soil Erosion and Sediment Plan Sheet 6 of 8.

WHEREAS, public hearings were held on this application by the Board on April 18, 2017, April 25, 2017 and May 1, 2017; and

WHEREAS, the Applicant did properly publish newspaper notice of the Hearing and serve notice upon property owners within 200 feet in compliance with the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, the Board, after reviewing the evidence presented, including all reports and exhibits submitted by the Applicant and Objector, the reports and comments of the Board professionals, and considering all of the testimony and exhibits presented at the Hearing, makes the following Findings:

FINDINGS

1. The property known as Block 74, Lots 3, 3.01 and 3.02, is owned by the Township of Branchburg and contains a total of 9.1 acres and is located on the north side of Route 202 with frontage on both Route 202 and Old York Road. Surrounding uses include the Whiton Hills apartment complex to the northeast, a PSE&G substation to the south across Route

202, a single family dwelling and telecommunications tower to the southwest, and single family dwellings to the northeast along Old York Road.

2. The subject property, also known as the "Triangle" site, was identified and included in Branchburg Township's Third Round Housing Element and Fair Share Plan dated November 25, 2008, which noted that the Township, in order to meet its constitutional obligation, was taking steps to acquire a tract of land for the purpose of contracting with an affordable housing provider to construct a total of 120 affordable family rental units at this location.

3. The Township of Branchburg subsequently purchased the subject properties and entered into an agreement with the Applicant to construct one hundred (100) affordable family rental units on the subject property in order to address the Township's constitutional obligation to provide its fair share of affordable housing.

4. Consistent with the goals and objectives of the Land Use Element of the Township Master Plan, which include addressing Branchburg Township's affordable housing obligation, as well as the Housing Element and Fair Share Plan, which specifically identifies the Triangle site for future affordable family rental units, the Township Committee on April 10, 2017 adopted Ordinance 2017-1308 zoning the subject property AH-2 Affordable Housing 2 District, which permits as its principal use 100% affordable rental units.

5. The Applicant filed an Application for Preliminary Major Site Plan approval to construct 100 affordable rental units consisting of 20 one bedroom units, 50 two bedroom units and 30 three bedroom units within 6 buildings. The development will also include a 2,412 sq. ft. clubhouse, 3 trash enclosures and 233 total parking spaces. No variances are requested or required for the proposed development.

6. On April 18, 2017, prior to any testimony from the Applicant, Derek Orth, Esq., representing the Whiton Hills development (Old York Road Associates, L.P.), objected to the hearing proceeding on the basis that the application requested waivers from certain submission items and had not been declared complete by the Township Zoning Officer. It should be noted, however, that certification of a complete application is not jurisdictional as suggested by the Objector. N.J.S.A. 40:55D-10.3 specifically provides that an applicant may request that one or more of the submission requirements be waived, in which event the agency or its certified committee shall grant or deny the request within 45 days.

7. The Applicant's project engineer, Pamela Pellegrini, P.E., from Maser Consulting, P.A., was qualified as an expert in the field of civil engineering and testified that she had prepared the engineering site plan in connection with the application for Preliminary Site Plan approval. Ms. Pellegrini noted that the Applicant was seeking a number of submission waivers and deferral of several application checklist items until final approval. Specifically, the Applicant requested submission waivers from the following checklist requirements:

#26. Location of all existing proposed right of ways and easements within 200 feet of the tract. Ms. Pellegrini noted that the submitted plans show the existing rights of way and easements between 50 – 100 feet and that the parcel is bordered on two sides by roadways and that the properties on the other two sides are fully developed. Ms. Pellegrini contends that strict compliance is not necessary since adequate information is already shown on the plans.

#32. Separate sheet for slope categories. Ms. Pellegrini noted that the vast majority of the site was less than 10% slope with the exception of an area along Route 202 which would be under the jurisdiction of the NJDOT. Ms. Pellegrini contends that submission of separate sheets is not necessary.

#34. Location of all water courses, ponds, wetlands within 200 feet of the site. Ms. Pellegrini noted that the site was bounded on two sides by roadway and on the other two sides by fully developed properties. The wetlands on the property are identified and the Applicant is in the process of applying for a Letter of Interpretation from the NJDEP.

#35 / #45. Tree Conservation Plan and Tree Removal permit. Ms. Pellegrini noted that the submitted plans show the area of proposed clearing and the proposed perimeter

buffers, however, it is impractical to locate every tree greater than 6" in diameter until final location is determined. (Note: Affordable projects are exempt).

#42. Environmental Impact Statement (EIS). Ms. Pellegrini noted that an EIS is not technically required, however, the Applicant would provide the EIS prior to final approval.

#43. Community Impact Statement. Ms. Pellegrini noted that this was a Township owned property and included in the Township's Housing Element and Fair Share Plan and, therefore, the Township has already evaluated the community impact of the project.

The Applicant also requested the following checklist items be deferred until Final

Approval:

#3. Soil Erosion and Sediment Control filing.

#6. County Planning Board filing.

#27. Sight Triangles.

#30. Road paving cross sections.

#36. Sign details.

#37. Lighting Plan.

#38. Partial Stormwater Management Plan (deferral of full design details to final approval).

#44. Partial Landscape Plan (deferral of full details to final approval.)

#50. Letter of Interpretation from NJDEP (Application in process.)

Ms. Pellegrini noted that this is an Application for Preliminary Site Plan only and that final details of the requested deferral items would be submitted prior to final approval. With respect to the Stormwater Management Plan, Ms. Pellegrini noted that the Applicant had completed substantial soil investigation and submitted a detailed Subsurface Exploration and Infiltration Report and a Stormwater Management Report detailing the conditions and describing the preliminary Stormwater Management Plan. Ms. Pellegrini noted that the final Stormwater

Management Plan will comply with New Jersey Best Management Practices and all Township stormwater management requirements.

The Township professionals agreed that the requested submission waivers and deferrals were reasonable and the Planning Board granted the requested waivers and deferrals for purposes of completeness only. See, N.J.S.A. 40:55D-10.3.

Following the Board's determination of completeness, Ms. Pellegrini testified that the Applicant has submitted an application for Preliminary Site Plan Approval in connection with the development of a 100% affordable residential rental project located on the north side of Route 202 immediately west of the Whiton Hills affordable development. The property is owned by the Township of Branchburg and consists of three lots totaling 9.1 acres with frontage on both Route 202 and Old York Road. Primary access for the proposed project would be from a single driveway to Old York Road opposite from Craig Road with an emergency access provided to Route 202. Ms. Pellegrini noted that the property is bisected by wetlands and that the project would be built in a U shape dictated by the location of the wetlands. The project would consist of five (5) three-story walk-up townhouse structures containing 15 units each, one (1) four-story elevator serviced building containing parking on the first floor with 25 units, a community room and a storage and fitness room. The project also includes a 2,412 sq. ft. clubhouse, three trash enclosures and 233 total parking spaces, including 16 handicap parking spaces.

Ms. Pellegrini testified that the project met all of the bulk standards for the AH-2 Affordable Housing District and that the Applicant would comply with all of the comments of the Township professionals with the exception of the following requested design waivers:

1. §5-2.1D (20' vs. 22' one way drive width).
2. §5-2.2D (<8% of interior parking area with shrubs).

3. §5-2.2H (>20 spaces in a row without a curbed island).

4. §5-3-41D (street trees).

5. §5-11.2A (tree removal and replacement plan).

Ms. Pellegrini testified that the 20 foot one way drive width is related to the entry and egress to and from the first floor parking under Building 6 and that the structure of the building makes it impractical to construct a 22 foot driveway. Ms. Pellegrini testified that 20 feet was more than adequate for a one way drive.

With respect to the percentage of interior area with shrubs and number of parking spaces in a row without a curbed island, Ms. Pellegrini testified that the waivers were dictated by the parking requirement of the Township which is greater than the RSIS requirement and that compliance was impractical.

With respect to the street trees within a 10' planting easement, Ms. Pellegrini testified that the Applicant is providing the required street trees but not in the required easement because the easement area coincides with the 35 foot buffer along Old York Road.

With regard to the tree removal and replacement plan, Ms. Pellegrini noted that the Applicant is providing shade trees in every reasonable location and that it is impractical, given the nature of the development, to inventory all of the trees on site.

8. The Applicant's traffic engineer, Jeffery Fiore, P. E., from Maser Consulting, was qualified as a traffic expert and testified that he had conducted a traffic study to determine the traffic impact of a proposed 100 unit multi-family development located along Old York Road opposite the intersection of Craig Road. Mr. Fiore noted that this was an "as of right" application which involved a permitted use of the property. As such, the impact on off-tract traffic conditions and specifically the intersection of Old York Road and Route 202, is beyond

the jurisdiction of the Planning Board. Mr. Fiore's traffic study evaluated the current and future traffic conditions in the vicinity of the site and concluded as follows:

- Under the "build" condition, all movements at the intersection of Old York Road with Route 202 will continue to operate at or near "no build" levels of service during peak hours. Site generated traffic will account for less than 2% of the overall traffic at the intersection and is, therefore, considered negligible.
- Under the "build" condition, all movements at the intersection of Old York Road with Craig Road will continue to operate at or near "no build" levels of service with calculated 95% percentile queue lengths of less than one vehicle during peak hours.
- The proposed site access and site design is sufficient to accommodate delivery and emergency vehicles.
- The proposed parking supply of 233 spaces meets the Township ordinance and RSIS requirements.

With respect to the intersection of Old York Road and Route 202, Mr. Fiore noted that several intersection movements exceed or operate near capacity during peak hours. Under "build conditions" the intersection will continue to operate at or near the existing conditions. Mr. Fiore further noted that mitigation of the existing condition would require either a traffic light or the closure of center median. Both of these mitigation situations are beyond the scope of the application and are outside the jurisdiction of the Planning Board.

9. The Applicant's project architect, George Hibbs, A.I.A., was qualified as an expert in the field of architecture and testified regarding the architectural design of proposed

buildings 1 through 5 and building 6 as well as the club house building. Mr. Hibbs testified that buildings 1 through 5 were identical three story buildings containing flats with townhouses located over the flats and individual entries and rear patios for each unit. Building 6, known as the "podium" building is a four story building containing a mix of one and two bedroom units. The 7th building is the "club house" building which contains a multi purpose community room, maintenance room, fitness room, laundry room and office. Buildings 1 through 5 will be less than 35 feet in height as permitted in the ordinance. Building 6 will be approximately 50 feet in height, which is less than 55 feet as permitted in the ordinance. Mr. Hibbs noted that the buildings would include brick masonry at the base with siding above and asphalt shingle roofs.

10. Following the testimony of the Applicant's architect, Derek Orth, Esq., Attorney for the Objector, Whiton Hills (Old York Road Associates, L.P.) requested that the Board defer ruling on the design waivers as the Objector would be presenting an engineer and possibly a second witness to testify regarding the application and the requested design waivers.

11. The Planning Board agreed to continue the hearing and advised the Objector's attorney that the matter would be carried to April 25, 2017 and that potential special meetings would be scheduled for April 27, 2017 and/or May 1, 2017, if necessary.

12. On April 25, 2017, the Objector, Whiton Hills Development, presented the testimony of James Giurintano, P.E. from Bowman Consulting Group, and Eric Keller, P.E. from Bowman Consulting Group. The Applicant's attorney, Mr. Orth, also represented that another witness named William Hamilton, who was not present but would arrive later in the evening would testify regarding landscape and planning issues.

13. The Objectors presented the testimony of James Giurintano, P.E. from Bowman Consulting. Mr. Giurintano testified that he had reviewed the site plan, transcripts of the hearing

and Township professional reports and was of the opinion that there was insufficient information for the Planning Board to grant preliminary site plan approval. Mr. Giurintano testified at length and questioned a number of site plan details. Mr. Giurintano acknowledged, however, that all of the site plan details with the exception of stormwater management were items that could be accommodated in the final plans. Mr. Giurintano questioned whether the stormwater management plan was feasible, but did not dispute that the applicant would be required to meet Best Management Practices and all Township requirements relating to stormwater management in order to obtain final approval of the project.

14. The Objector's traffic witness, Eric Keller, P.E., testified that he had reviewed the Traffic Impact Study prepared by Maser Consulting, the sight distances, the traffic circulation and RSIS compliance. Mr. Keller testified at length and offered the opinion that insufficient information had been submitted to assess traffic safety and impacts on the roadway system. In particular, Mr. Keller questioned the impact of the development on the off-tract intersection at Old York Road and Route 202, as well as the sight distance at the proposed access on Old York Road. Mr. Keller contended that provision should be made for off-tract improvements to the Route 202 intersection.

15. The Objector's third witness, William Hamilton, did not arrive by the conclusion of the testimony of Mr. Giurintano and Mr. Keller.

16. In rebuttal to the testimony of the Objector's witnesses, the Applicant presented the testimony of Maurice Rached, P.E. Mr. Rached was qualified as an expert traffic engineer and testified that the site could accommodate the necessary sight distances and that the required sight triangles would be provided as a condition of final approval. Mr. Rached also testified that

the existing off tract traffic conditions at the Route 202 intersection were outside the scope of this project and beyond the jurisdiction of the Planning Board.

17. The Applicant's project engineer, Pamela Pellegrini, in rebuttal to the testimony of Mr. Giurintano, testified that the Applicant had conducted extensive stormwater investigation and that adequate information had been presented in the stormwater management report to show that a Stormwater Management Plan could be designed that would be fully compliant with Best Management Practices and Township requirements. Ms. Pellegrini also confirmed that the Applicant was required to meet all Township requirements and Best Management Practices as a condition of final site plan approval.

18. The Objector's proposed witness, William Hamilton, did not arrive until approximately 11:30 p.m. after testimony had concluded for the evening. The Board advised the Objector that the meeting would be carried to the May 1, 2017, special meeting to permit the Objector to present Mr. Hamilton's testimony or the testimony of another witness relating to landscaping and planning.

19. On May 1, 2017, the meeting was continued at which time the Applicant's attorney advised the Board that no further witnesses would be presented. No explanation was provided regarding Mr. Hamilton's unavailability. Mr. Orth argued that the application lacked critical information and that there was no assurance that the project could be constructed. Mr. Orth also requested that the application be carried to permit Mr. Hamilton to testify.

20. The Planning Board denied the Objector's request to continue the hearing. The Board concluded that the Objector had been given ample opportunity to present witnesses in opposition to the application. In fact, the Objector was given the entire evening of April 25, 2017 to present testimony. Mr. Hamilton chose to attend another meeting that evening and failed

to arrive until after testimony had concluded. The Board carried the hearing until May 1, 2017, specifically to permit the Objector to present the testimony of Mr. Hamilton or another witness regarding landscape issues. Mr. Hamilton failed to attend the May 1, 2017, meeting and the Objector presented no further witnesses. No explanation was offered for Mr. Hamilton's failure to attend. The Objector was given full opportunity to cross examine all of the Applicant's witnesses at length and ample opportunity to present testimony in opposition to the application. The Objector's witnesses, James Giurintano and Eric Keller, testified exhaustively regarding the Objector's engineering and traffic concerns. The Objector's third witness was twice given the opportunity to testify but chose to attend a different meeting on April 25, 2017, and no explanation was offered for his failure to attend the meeting on May 1, 2017. It should also be noted that this is an application for preliminary approval only. The Objector will have full opportunity to present testimony regarding landscape and architecture as well as the final stormwater management plan prior to any final approval.

CONCLUSIONS

21. Based upon the testimony and evidence presented, the Planning Board concludes that the application for preliminary site plan approval with the requested waivers should be granted subject to the conditions listed in this Resolution. The Planning Board notes that the proposed development is a permitted use in the AH-2 Affordable Housing District and is consistent with the goals and objectives of the Branchburg Township Master Plan and in furtherance of the Township's constitutional obligations to provide its fair share of affordable housing. The Planning Board also notes that this is an application for preliminary site plan approval. With regard to an application for "preliminary" site plan approval, N.J.S.A. 40:55D-46(a) requires the

submission of a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met. The site plan and any engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval. N.J.S.A. 40:55-D-46(a) makes clear that preliminary site plan approval may be obtained on the basis of tentative engineering plans which may be supplemented by more detailed plans submitted with an application for final approval. See, Toll Bros. v. Township of Greenwich, 244 N.J. Super 514, 579-520 (App. Div. 1990). While the Planning Board acknowledges the questions and concerns raised by the Objector, the Planning Board is satisfied that the Applicant has submitted sufficient information on the feasibility of the fundamental elements as to permit preliminary approval. In particular, the Planning Board notes that the Applicant's engineering consultants conducted extensive subsurface investigations and submitted both a Subsurface Exploration and Infiltration Evaluation and Stormwater Management Report. On the basis of the testing and investigation conducted, the Applicant's experts testified that a stormwater management plan could be prepared that would meet all Township requirements and Best Management Practices. The Applicant further acknowledged that any final approval would require that the stormwater management plan meet all Township requirements. With regard to sight distances, the Applicant's traffic experts testified that proper sight distances could be obtained and that the Applicant would comply with Township requirements to assure safe ingress and egress to and from the site. The Planning Board acknowledges the existing off-tract traffic conditions at the intersection of Route 202 and Old York Road. The Planning Board, however, is without authority to deny site plan approval for a permitted use because of off-site traffic conditions. "The authority to prohibit or limit uses generating traffic into already congested streets or streets

with a high rate of accidents is an exercise of the zoning power vested in the municipal governing body.” See, *Dunkin Donuts of New Jersey, Inc. v. Twp. of North Brunswick*, 193 N.J. Super. 513, 515 (App. Div. 1984). With regard to the requested waivers, N.J.S.A. 40:55D-51(b) provides that the planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions of the site plan ordinance if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. In this case, the Planning Board is satisfied that the requested design waivers are reasonable and appropriate for the reasons set forth in more detail below.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Branchburg, after carefully considering all of the evidence presented, makes the following conclusions:

1. The Board finds and concludes that the Application for Preliminary Site Plan approval, together with the requested design waivers, can be granted. The Board specifically finds and concludes that pursuant to N.J.S.A. 40:55D-51, the Applicant has demonstrated that the design waivers can be granted where the literal enforcement of the requirements of the Ordinances would be impracticable or would exact undue hardship, and that the waivers are reasonable under the facts presented, consistent with the Court’s decision in Garofalo v. Burlington Tp. (212 N.J. Super.458). More specifically, the Board finds:

- With respect to the waiver for one way drive width (20’ vs. 22’), §5-2.1D, associated with the entry and egress to building 6, the structure of the building presents a practical limitation to widening the driveways beyond 22’ .

- With respect to the waiver for providing less than 8% interior parking area with shrubs, §5-2.2D, the applicant has provided ground cover and shrubs in all parking islands and areas that can be considered interior to the parking area, and as such, compliance is impracticable.
- With respect to the waiver for providing greater than 20 parking spaces in a row without a curbed island, §5-2.2H, given the need to comply with parking requirements, providing the curbed island in front of building 5 would result in the loss of a parking space, and push the project below the required parking standard. It is therefore impracticable to meet this standard in this one location in the overall project.
- With respect to the waiver for providing street trees in 10' planting easement outside the right of way, §5-3.41D, the location of the required 10' planting easement coincides with the required 35' buffer along Old York Road. In reviewing the buffer plan, the applicant is providing the street trees otherwise required, just not within a separate planting easement. The Board finds this meets the intent of the standard, and is satisfactory relative to the requirements of the ordinance.
- With respect to the waiver for providing a Tree Removal and Tree Replacement Plan, §5-11.2A, based on the testimony of the applicant and the Board's planner in this matter, the applicant is providing new shade trees in every reasonable location on the site plan. The Board finds that the proposed landscape plan meets the intent of providing replacement trees for those over 6" in diameter, and that it would create undue hardship on the applicant to inventory the trees on site based on the nature of the project as a 100% affordable housing development.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Branchburg, that the Applicant's request for Preliminary Site Plan approval, together with the requested design waivers, is hereby granted, subject to the following conditions:

1. The Applicant shall comply with the terms and conditions set forth in the April 14, 2017, Memorandum of the Township Engineer, the terms of which are incorporated in this Resolution by reference as if fully set forth herein.

2. The Applicant shall comply with the terms and conditions set forth in the April 14, 2017, Memorandum of the Planning Board's Planner, the terms of which are incorporated in this Resolution by reference as if fully set forth herein.

3. The Applicant shall comply with the terms and conditions set forth in the April 17, 2017, Memorandum of the Environmental Commission, the terms of which are incorporated in this Resolution by reference as if fully set forth herein.

4. The Applicant shall comply with the terms and conditions set forth in the April 11, 2017 and April 25, 2017, Memorandum of the Fire Official, the terms of which are incorporated in this Resolution by reference as if fully set forth herein.

5. The Applicant shall comply with the terms and conditions set forth in the April 17, 2017, Memorandum of the Health Officer, the terms of which are incorporated in this Resolution by reference as if fully set forth herein.

6. No building permits shall be issued for any work prior to final site plan approval.

7. The Applicant shall submit Environmental Impact Statement prior to final site plan approval.

8. Prior to final site plan approval, the Applicant shall submit the following checklist items which shall be subject to review and approval of the Planning Board and Planning Board

Professional:

- (a) Soil Erosion and Sediment Control Filing;
- (b) Somerset County Planning Board approval;
- (c) Sight triangles, text of deed restrictions or other encumbrances;
- (d) Road paving cross sections;
- (e) Lighting plan;
- (f) Storm water management plan;
- (g) Landscape plans;
- (h) Letter of interpretation from NJDEP.

9. The Applicant shall comply with all requirements of the State, County, Soil Conservation District, or any other agency having jurisdiction over this application, including, but not limited to:

- (a) NJDEP;
- (b) NJDEP TWA;
- (c) NJDEP Highway Access Permit;
- (d) Somerset Raritan Valley Sewerage Authority;
- (e) Soil Erosion and Sediment Control Plan.

10. The Applicant shall provide and record necessary deed restrictions and conservation easements as required under NJDEP permit.

11. The Applicant shall comply with all applicable notes within the NJDEP permits or site plans.

12. The Applicant shall comply with the Township Soil Removal and Import Policy.
13. The Applicant shall submit for review and approval the following, if applicable:
 - (a) Developer's Agreement;
 - (b) Stormwater Facility Approval;
 - (c) O & M Manual;
 - (d) Stormwater Facility Map indicating BMP features subject to Stormwater Facility approval;
 - (e) Easements pertaining to BMP which shall be subject to review and approval of Township Attorney and Township Engineer.
 - (f) Conveyances and deed restrictions which shall be subject to review and approval of the Township Attorney and Township Engineer.
14. Applicant shall prepare Decd of Consolidation for Block 74, Lots 3, 3.01 and 3.02 which shall be subject to review and approval of the Township Attorney and Township Engineer.
15. All conditions of approval shall be subject to review and approval of the appropriate Township representative. Township Engineer shall be copies on transmittal sheets.
16. The Applicant shall comply with the Memorandum of Branchburg Township Affordable Housing Planner, Elizabeth McKenzie, P.P., dated April 25, 2017, which is attached hereto and incorporated by reference.
17. Applicant shall comply with all ADA requirements.
18. Applicant shall provide supplemental tree planting along Route 202 as permitted by NJDEP.
19. Applicant shall provide a school bus pad at the entrance to the development on Old York Road.

20. Applicant shall work with Township officials to make community activity room in clubhouse available to Township residents.

21. Applicant shall provide additional recreation area as noted in memorandum of Township Affordable Housing Planner Elizabeth McKenzie dated April 25, 2017

Todd M. Hay
Chairman, Branchburg Township Planning Board

Dated: June 27, 2017.

On motion by Mr Schworn seconded by Mr. Devlin, the Planning Board voted to adopt the Resolution.

| ROLL CALL | | | | | | | | | | | |
|--|---|---|----|----|-----|----------|---|---|----|----|-----|
| Case No. 2017-001P PSP; Conifer, LLC | | | | | | | | | | | |
| Block 74, Lots 3, 3.01 & 3.02; | | | | | | | | | | | |
| 1376-1372 Route 202/ 975 Old York Road | | | | | | | | | | | |
| Heard: 4/18/17, 4/25/17, 5/1/17 | | | | | | | | | | | |
| Adopted: 6/27/17 | | | | | | | | | | | |
| MEMBER | Y | N | NE | NV | ABS | MEMBER | Y | N | NE | NV | ABS |
| BOUWMAN | ✓ | | | | | SULLIVAN | | | | | X |
| DEVLIN | ✓ | | | | | YOUNG | | | X | | |
| CHABRAK | ✓ | | | | | SCHWORN | ✓ | | | | |
| HAY | | | X | | | TRUPPI | | | | | ✓ |
| HUNSCHER | ✓ | | | | | | | | | | |
| X – indicates vote NE – not eligible to vote NV – not voting (abstained) ABS – absent | | | | | | | | | | | |


 VICE-CHAIRMAN


 SECRETARY

TOWNSHIP OF BRANCHBURG
PUBLIC NOTICE

PLEASE TAKE NOTICE the Planning Board of the Township of Branchburg took the following action at the regular meeting held June 27, 2017.

RESOLUTION:

Case No. 2007-009P PFSP, 991 Route 202 LLC; Block 54, Lot 19; 991 Route 202; application was granted a one (1) year extension of time for the Preliminary and Final Site Plan approval.

Case No. 2006-035 P PSUB, Joseph and Karen Hoff; Block 95, Lot 3; Maple Ave. & Woodfern Rd. Application was granted a one (1) year extension of time for the Preliminary and Final Site Plan approval.

Case No. 2017-002P PSP, Conifer, LLC; Block 74, Lots 3, 3.01 & 3.02; 1376-1372 Route 202/975 Old York Rd. Application for Preliminary Major Site Plan with variances.

The above determinations are on file in the office of the Engineering Department, and may be examined during regular business hours at the Municipal Building, 1077 U.S. Highway 202 North, Branchburg, New Jersey.

Jo-Ann M. Ricks
Board Clerk/Deputy Zoning Officer

Posted: June 28, 2017

CN Legal Advertising Holiday Deadline Alert

LEGALS, CN <CLEGALS@gannettnj.com>

Wed 6/28/2017 10:04 AM

To: Joann Ricks <joann.ricks@branchburg.nj.us>;

*This is an Automatic Reply Message to let you know your email has been received. Below is general information that applies to both our invoiced customers with accounts as well as private citizens.

Thank you for e-mailing the Courier News Classified Legal Advertising Department.
Ads placed by private individuals will be accepted on a payment-in advance basis only.



Our Legal Advertising office will be CLOSED on Tuesday, July 4th.

*Please see below for changes in the deadlines due to the holiday.

AD SUBMISSION GUIDELINES

If you e-mail or fax Legal Ad(s) to us, the following information must be provided:

- Account name and number
- Billing telephone number
- Contact person
- Preferred publishing dates
- Number of affidavits needed
- Address affidavit should be sent to, if different from billing.
- P.O. number (applicable to government accounts and agency advertisers)

Your notice will be published on the next available publication date unless otherwise requested.

Date of Publication:

Monday

Deadline:

Thursday, 12noon

6/28/2017

Mail - joann.ricks@branchburg.nj.us

| | |
|-----------|-------------------|
| Tuesday | Friday, 12noon |
| Wednesday | Monday, 12noon |
| Thursday | Tuesday, 12noon |
| Friday | Wednesday, 12noon |
| Saturday | Thursday, 11am |
| Sunday | Thursday, 12noon |

Changes in Deadlines for the week of July 4th are as follows:

| Date of Publication: | Deadline: |
|-----------------------------|------------------|
| Wednesday 7/5 | Friday 6/30, 3pm |
| Thursday 7/6 | Monday 7/3, 11am |

We appreciate your business. If you are interested in using our self-serve portal, which includes the added benefit of extended deadlines, to place future notices, please contact us at 1-888-516-9220. Office hours Monday – Sunday 8:30am-5pm.

** Please note: An Affidavit of Publication (which is your notarized proof that you legally published your notice in the newspaper) will be charged and automatically added to your invoice unless you let us know **in writing** that you do not wish to have one.

STATE OF NEW JERSEY
SOMERSET COUNTY

SS.

I, Jo-Ann M. Ricks, being of full
age, being duly sworn upon her oath, certifies:
that a notice of which the annexed is a true copy, was
published in the Courier News which is a newspaper
published in Somerset County, New Jersey;
on the 30th day of June, 2017.
in said newspaper.



Sworn and subscribed before me this

30th day of June 2017



Notary Public of New Jersey

Linda A Giliberti
NJ Notary # 50043594
Commission Expires: 08/09/2021

Legal Notices

TOWNSHIP OF BRANCHBURG
PUBLIC NOTICE

PLEASE TAKE NOTICE the Planning Board of the Township of Branchburg took the following action at the regular meeting held June 27, 2017.

RESOLUTION:

Case No. 2007-009P PSP, 991 Route 202 LLC, Block 54, Lot 19, 991 Route 202, application was granted a one (1) year extension of time for the Preliminary and Final Site Plan approval.

Case No. 2006-035 P PSUB, Joseph and Karen Hoff, Block 95, Lot 3, Maple Ave. & Woodfern Rd. Application was granted a one (1) year extension of time for the Preliminary and Final Site Plan approval.

Case No. 2017-002P PSP, Conifer, LLC, Block 74, Lots 3, 3.01 & 3.02, 1376-1372 Route 202/975 Old York Rd. Application for Preliminary Major Site Plan with variances.

The above determinations are on file in the office of the Engineering Department, and may be examined during regular business hours at the Municipal Building, 1077 U.S. Highway 202 North, Branchburg, New Jersey.

Jo-Ann M. Ricks
Board Clerk/Deputy Zoning Officer

Posted: June 28, 2017
(\$20.64)

030216077-01

Classified

TO ADVERTISE, VISIT:
MYCENTRALJERSEY.COM/PLACEANAD

Classifieds: (877) 707-6500

Employment: (888) 263-5017

Legal Notices: (888) 516-9220

Hours: 8:00 a.m. - 6:00 p.m. M-F





Auto

Car shop with confidence!



Homes

Find great homes inside!

Rid the old, make room for the new!



MYCENTRALJERSEY.COM/PLACEANAD

Some of which are available from our Advertising Dept. All ads are subject to approval before publication. The Courier News reserves the right to edit, refuse, reject, classify or cancel any ad at any time. Errors will be reported in the first copy. No expense that results from an error in or omission of an advertisement. No refunds for early cancellation of order.



CHECK YOURSELF BEFORE I WRECK YOURSELF.

Be far less than you're worth. accurate and local salary information on CareerBuilder.com.

SPEND 5 MINUTES A DAY. BUILD A BETTER LIFE.

careerbuilder

With over 1.4 million vehicle listings, we have the right car for you.



Find the right car for you.

SELL IT BUY IT FIND IT

Place your classified ad today.

Homes

mycentraljersey.com/homes



Having a clean-out? Get the word out!

GARAGE SALE

DESIGN ADVERTISING PACKAGES AVAILABLE

CALL 888-508-9353 TO PLACE YOUR AD!

Mon-Fri 8am-5pm



Home for Sale - State

REAL ESTATE SALE

Owner



H, 2BR 1BA, 650 sq ft, hwd. f. f. f. lg fence yd, past lawn, p. s. main, mail, track, MUST SEE! 2061 (except ThuTh)

Furniture & Household Items

★★★★★

BED \$139

All New Mattress/Box Set
\$139 Twin Plus • \$149 Full Plus
\$165 Q Pillow Top • \$289 King Plus
732-253-6690 Call Mark



LEATHER RECLINER, Blue, EKORVES Brand. Excellent condition. Only \$1500. Cotman Included. Barbara. Receipt avail. \$500. 732-821-4764

Legal Notices

TOWNSHIP OF BRANCHBURG PUBLIC NOTICE

PLEASE TAKE NOTICE the Planning Board of the Township of Branchburg took the following action at the regular meeting held June 27, 2017.

RESOLUTION:
Case No. 2007-009P PFSP, 991 Route 202 LLC, Block 54, Lot 19; 991 Route 202; application was granted a one (1) year extension of time for the Preliminary and Final Site Plan approval.

Case No. 2006-035 P PSUB, Joseph and Karen Hoff, Block 95, Lot 3; Maple Ave. & Woodfern Rd. Application was granted a one (1) year extension of time for the Preliminary and Final Site Plan approval.

Case No. 2017-002P PSP, Conifer, LLC, Block 74, Lots 3, 3.01 & 3.02; 1375-1372 Route 202/975 Old York Rd. Application for Preliminary Major Site Plan with variances.

The above determinations are on file in the office of the Engineering Department, and may be examined during regular business hours at the Municipal Building, 1077 U.S. Highway 202 North, Branchburg, New Jersey.

Jo-Ann M. Ricks
Board Clerk/Deputy Zoning Officer

Posted: June 28, 2017 (\$20.64)

Legal Notices

BOROUGH OF NEW PROVIDENCE

ORDINANCE 2017-10

"An Ordinance Amending Chapter 147 of the Code of the Borough of New Providence Entitled 'Fees and Licenses'"

I, Denise Brinkofski, Deputy Borough Clerk of the Borough of New Providence, hereby certify that the above titled ordinance was duly passed on final reading at a regular Borough Council meeting held on Monday, June 26, 2017.

Denise Brinkofski
Deputy Borough Clerk

Dated: June 27, 2017 (\$10.32)

Legal Notices

BOROUGH OF NEW PROVIDENCE

ORDINANCE 2017-11

"AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 257 OF THE CODE OF THE BOROUGH OF NEW PROVIDENCE ENTITLED 'VEHICLES AND TRAFFIC'"

I, Denise Brinkofski, Deputy Borough Clerk of the Borough of New Providence, hereby certify that the above titled ordinance was duly passed on final reading at a regular Borough Council meeting held on Monday, June 26, 2017.

Denise Brinkofski
Deputy Borough Clerk

Dated: June 27, 2017 (\$11.18)

Professional Service

for needs...

Up & Removal

Wanted to Buy

ATTENTION!

ALWAYS PAYING CASH For Sports Cards & Autographs. Buying Collections incl High-end Cards, Call 732-542-4381

BUYING GOLD - Silver, Diamonds, Coins & Jewelry. Also buying costume jewelry. Private buyer. Paying top \$\$. Call buy: 732-580-7771

DEBRIS REMOVED

Yards, Brush, Junk, Daniel Cleaning & Hauling

47 732-221-7569

CASH

FOR SEALED & UNEXPIRED DIABETIC TEST STRIPS

Call Toll Free Today!

(856) 448-4620

FREE Pickup & Delivery!

Beyond the Job Search.

BOUND BROOK SCHOOL DISTRICT NOTICE

The following Resolution(s)/Appointment(s) were adopted by the Bound Brook Board of Education at a public meeting conducted on June 26, 2017 and are available for inspection at the Bound Brook Board of Education office during regular business hours:

6/26/17-21 Award Bid for 2017-18 Nursing Services

RESOLVED, the Bound Brook Board of Education approves a contract with Bayada Home Health Care for the period of July 1, 2017 through June 30, 2018 to provide Nursing Services. This contract is being awarded in accordance with the submission of "Requests for Proposal" held on June 1, 2017. Following are the results of the RFP:

| | | |
|---|--------------------------|-------------------------|
| Bayada Home Health Care Substitute Nursing Services (19.78) | LPN Cost: \$42.50 / hour | RN Cost: \$52.50 / hour |
| | | \$55.00 / hour |

A
P
P
E
N
D
I
X

D

William B. Savo ⁴
Charles Z. Schalk ^{3,4}
Ellen M. Gillespie
Michael P. O'Gradnick ⁴
Alexander G. Fisher ^{1,4}
Christopher M. Corsini ¹

Michael V. Camerino ⁴
John F. Bracaglia, Jr.

THE LAW OFFICES OF
SAVO SCHALK
GILLESPIE, O'GRADNICK & FISHER, P.A.

77 North Bridge Street
Somerville, New Jersey 08876

(908) 526-0707

Fax (908) 725-8483

www.centraljerseylaw.com

Michael G. Friedman ²
Edward A. Halpern
Henry E. Rzemieniewski
Frederick H. Allen, III
Stanley E. Rizzolo

George A. Mauro, Jr. (1993-2006)
Alan Bart Grant (1998-2003)

¹ Also NY Bar
² Also ME Bar
³ Cert. Civil Trial Adv.
⁴ U.S. Supreme Court

August 1, 2019

VIA E-MAIL AND REGULAR MAIL

Mark Anderson, Esq.
Woolson Anderson Peach, P.C.
11 East Cliff Street
Somerville, NJ 08876

**Re: Lamington Developers, LLC – Township of Branchburg
TJC Homes Site - Block 3, Lot 19**

Dear Mr. Anderson:

As you are aware, this firm represents Lamington Developers, LLC (an affiliate of Premier Development), the proposed developer of the TJC site in the Township of Branchburg.

My client is dedicated to developing the TJC Homes site, subject to reaching a satisfactory agreement with the Township, being able to conduct due diligence, receiving the site for nominal consideration, receiving all required land use approvals, and entering into a PILOT agreement with the Township.

I have attached a proforma from my client for the TJC Homes site showing the ability to build the proposed development (see Exhibit A). My client has sufficient resources to construct the proposed development.

Below please find a timeline showing that the construction can be commenced within two years, noting that my client acts as its own General Contractor. This timetable will, of course, require the Township to expedite the consideration of the TJC Homes development pursuant to N.J.A.C. 5:93-10.1-10.5.

TJC Homes Site:

- Redevelopment Plan/Designations/Agreement with Township/Due Diligence/PILOT Agreement – 3 months
- Preparation of Site Plan – 4 months

SAVO, SCHALK, GILLESPIE, O'GRODNICK & FISHER, P.A.

- Municipal Approvals – 3 months
- State/Outside Agency Approvals – 8 months
- Finalize Compliance/Closing/Commence Construction – 6 months

Please do not hesitate to contact me if you have any questions or concerns regarding this matter or require any further information.

Very truly yours,


William B. Savo

cc: Lamington Developers, LLC

| Rental Projections | # Units | Mo. Rent | Total Rent |
|---|----------------|-----------------|---------------------|
| Affordables - Mixed Bedrooms | 40 | \$950 | 456,000 |
| 2 BR Flat | 60 | \$1,975 | 1,422,000 |
| Totals | 100 | | 1,878,000 |
| Projected Pro Forma | | | Total |
| Total Projected Rent | | | 1,878,000 |
| Vacancy Rate @ 5.00% | | | 93,900 |
| Effective Gross Income (EGI) | | | 1,784,100 |
| Stabilized Operating Expenses | | | |
| Utilities | | | (70,000) |
| Landscaping/Snow Removal | | | (77,500) |
| Insurance | | | (40,000) |
| Garbage Removal | | | (16,800) |
| Repairs and Maintenance | | | (146,000) |
| Employee Compensation | | | (150,000) |
| Capital Reserves | 2.50% | | (44,603) |
| Management Fees | 5.00% | | (89,205) |
| Net Operating Income (NOI) pre tax | | | 1,149,993 |
| PILOT @10% | | | -\$178,410 |
| Net Operating Income (NOI) | | | \$971,583 |
| Overall Cap Rate (OAR) | | | 5.65% |
| Market Value (NOI/OAR) | | | \$17,196,150 |

| | | | | | |
|----------------------------------|--|------------------|------------------|---------------------|-------------------|
| Development Costs | | | | | |
| Site Preparation | | 3.5Acres | \$24/SF | 2,472,000 | |
| Building Hard Costs | | 103,000 SF | \$120/SF | 12,360,000 | |
| Soft Costs | | 103,000 SF | \$15/SF | 1,545,000 | |
| Total Construction Costs | | | | 16,377,000 | |
| Land Acquisition Costs | | | | 0 | |
| Total Development Cost | | | | 16,377,000 | |
| Developer's Overhead @ 5% | | | | 818,850 | |
| Total Cost Plus Profit | | | | \$17,195,850 | |
| Gap Calculation (rounded) | | | | | |
| Total Cost Plus Profit | | | | 17,196,000 | |
| Capitalized Value (NOI/OAR) | | | | 17,196,000 | |
| Gap | | | | 0 | |
| | | | | | |
| | | Unit Type | Unit Size | # Units | Total SF |
| | | Affordable | 850-sf | 40 | 34,000-sf |
| | | 2 BR Flat | 1,150-sf | 60 | 69,000-sf |
| | | Total | | 100 | 103,000-sf |

EXHIBIT "B"

JEFFREY R. SURENIAN AND ASSOCIATES, LLC
707 Union Avenue, Suite 301
Brielle, NJ 08730
(732) 612-3100

Attorneys for Declaratory Plaintiff, Township of Readington
By: Jeffrey R. Surenian (Attorney ID: 024231983)
Michael J. Edwards (Attorney ID: 032112012)

IN THE MATTER OF THE
DECLARATORY JUDGMENT ACTIONS
FILED IN THE COUNTY OF
SOMERSET, STATE OF NEW JERSEY,
PURSUANT TO In Re Adoption of
N.J.A.C. 5:96, 221 N.J. 1
(2015)

IN THE MATTER OF THE
DECLARATORY JUDGMENT ACTIONS
FILED IN THE COUNTY OF
HUNTERDON, STATE OF NEW
JERSEY, PURSUANT TO In Re
Adoption of N.J.A.C. 5:96, 221
N.J. 1 (2015)

IN THE MATTER OF THE
DECLARATORY JUDGMENT ACTIONS
FILED IN THE COUNTY OF WARREN,
STATE OF NEW JERSEY, PURSUANT
TO In Re Adoption of N.J.A.C.
5:96, 221 N.J. 1 (2015)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION

DOCKET No.: SOM-L-000903-15
DOCKET No.: HNT-L-301-15

CIVIL ACTION - MOUNT LAUREL

ORDER SETTING AFFORDABLE
HOUSING REGIONAL INCOME LIMITS
FOR ALL MUNICIPALITIES IN
VICINAGE 13

This matter having come before the Court via Declaratory Judgment Complaints filed by approximately 60 municipalities filed in July of 2015 (hereinafter "DJ Actions"); and Fair Share Housing Center ("FSHC") having participated as an interested party in all of DJ Actions and intervenor in some of them; and an important function historically performed by the Council on Affordable Housing ("COAH") is setting income limits for each of the COAH

housing regions, which are used to determine eligibility for affordable housing, and setting rent increases for existing affordable housing; and COAH having not published income limits or rent increases since 2014; and the Court finding it necessary to establish income limits and rent increase information to comply with the directives of the Fair Housing Act, and to more generally ensure the implementation of municipalities' constitutional obligations through the availability of existing affordable housing and new affordable housing constructed pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV"); and Mount Laurel IV having directed trial courts to adhere to the First and Second Round rules and aspects of the two earlier versions of the Third Round rules that were not found invalid by the appellate courts; and the Vicinage 13 Group and ESHC and the Court thus having deemed it appropriate to establish income limits and rent increases based on COAH's methodology for setting such income limits and rent increases, and to empower municipalities to update such income limits and rent increases on an annual basis themselves based on the process historically used by COAH; and the Court previously having approved such income limits for some municipalities through individual municipal orders and deeming it advisable to approve

income limits for all municipalities in Vicinage 13 to ensure consistency for applicants seeking affordable housing in Hunterdon, Somerset, and Warren Counties and for municipalities administering affordable housing, and such a vicinage-wide approval being consistent with COAH's past practice of having approved income limits universally for each region; and this Order having been submitted under the 5-day rule by Michael J. Edwards, Esq., counsel to the Vicinage 13 Group with the consent of Fair Share Housing Center, and good cause having been shown;

IT IS on this 11th day of October 2018 ORDERED as follows:

1. Income limits for all affordable housing units located in any municipality that has filed a DJ Action in Vicinage 13, 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 each municipality annually within 60 days of the publication of determinations of median income by HUD as follows:

- a) Regional income limits shall be established for the region that the municipality is located within (i.e. Region 2 for Warren County and Region 3 for Hunterdon and Somerset Counties) 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 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 municipality's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. 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.

- b) The income limits attached hereto are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for for 2018, and shall be utilized until the municipality updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- c) 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 municipality annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) 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.

2. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established pursuant to the process defined above:

- a) The resale prices of owner-occupied low- and moderate- income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to paragraph 1 above. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- b) The rent levels of very low, low and moderate income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.
3. A copy of the within Order shall be served upon all parties on the Service List within 7 days from the date of entry of this Order.
4. At the time of the entry of this Order, some of the municipalities impacted by the Order have settled their DJ

Action and some have not settled their DJ Actions and may proceed in the future to a methodology trial. This Order is being entered to facilitate the establishment of up to date limits on income, rental increases and sales price increases related to the administration of affordable units and programs and is without prejudice to any party in an action that has not yet settled challenging the methodology or its basis in the future.

/S/ THOMAS C. MILLER, P.J.Cv.

Hon. Thomas C. Miller, P.J.Cv.

EXHIBIT A

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - April 2018

2018 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on

| | | 1 Person | *1.5 Person | 2 Person | *3 Person | 4 Person | *4.5 Person | 5 Person | 6 Person | 7 Person | 8+ Person | Max Increase Rents** Sales*** | Regional Asset Limit**** | |
|---|----------|----------|-------------|----------|-----------|-----------|-------------|-----------|-----------|-----------|-----------|----------------------------------|-----------------------------|-----------|
| Region 1 Bergen, Hudson, Passaic and Sussex | Median | \$63,597 | \$68,140 | \$72,682 | \$81,767 | \$90,853 | \$54,487 | \$98,121 | \$105,359 | \$112,657 | \$119,926 | 2.2% | 5.52% | \$175,679 |
| | Moderate | \$50,678 | \$54,512 | \$58,140 | \$65,414 | \$72,682 | \$75,589 | \$78,497 | \$84,311 | \$90,126 | \$95,940 | | | |
| | Low | \$31,738 | \$34,070 | \$36,341 | \$40,884 | \$45,428 | \$47,243 | \$49,060 | \$52,095 | \$56,329 | \$59,063 | | | |
| | Very Low | \$19,079 | \$20,442 | \$21,805 | \$24,530 | \$27,256 | \$28,346 | \$29,436 | \$31,617 | \$33,797 | \$35,978 | | | |
| Region 2 Essex, Morris, Union and Warren | Median | \$60,755 | \$71,523 | \$76,291 | \$89,828 | \$95,364 | \$99,179 | \$102,993 | \$110,622 | \$118,252 | \$125,881 | 2.2% | 1.22% | \$182,955 |
| | Moderate | \$53,404 | \$57,210 | \$61,033 | \$68,662 | \$76,291 | \$79,343 | \$82,395 | \$88,498 | \$94,601 | \$100,705 | | | |
| | Low | \$33,377 | \$35,762 | \$38,146 | \$42,914 | \$47,682 | \$49,589 | \$51,497 | \$55,311 | \$59,126 | \$62,940 | | | |
| | Very Low | \$20,036 | \$21,457 | \$22,887 | \$25,748 | \$28,609 | \$29,754 | \$30,898 | \$33,127 | \$35,475 | \$37,764 | | | |
| Region 3 Huntdon, Middlesex and Somerset | Median | \$75,530 | \$80,025 | \$85,320 | \$97,110 | \$107,900 | \$112,210 | \$116,532 | \$125,164 | \$133,796 | \$142,428 | 2.2% | 2.37% | \$205,458 |
| | Moderate | \$60,434 | \$64,740 | \$69,056 | \$77,688 | \$86,320 | \$89,773 | \$93,226 | \$100,131 | \$107,037 | \$113,942 | | | |
| | Low | \$37,765 | \$40,463 | \$43,160 | \$48,599 | \$53,950 | \$56,108 | \$58,266 | \$62,582 | \$66,898 | \$71,214 | | | |
| | Very Low | \$23,659 | \$24,270 | \$25,096 | \$29,133 | \$32,370 | \$33,665 | \$34,960 | \$37,549 | \$40,139 | \$42,728 | | | |
| Region 4 Mercer, Monmouth and Ocean | Median | \$69,447 | \$74,407 | \$79,368 | \$89,285 | \$99,209 | \$103,178 | \$107,146 | \$115,083 | \$123,020 | \$130,956 | 2.2% | 5.19% | \$186,616 |
| | Moderate | \$55,517 | \$59,526 | \$63,494 | \$71,431 | \$79,368 | \$82,562 | \$85,717 | \$92,060 | \$98,416 | \$104,765 | | | |
| | Low | \$34,713 | \$37,204 | \$39,684 | \$44,644 | \$49,605 | \$51,589 | \$53,573 | \$57,541 | \$61,510 | \$65,478 | | | |
| | Very Low | \$20,834 | \$22,322 | \$23,810 | \$26,787 | \$29,763 | \$30,953 | \$32,144 | \$34,525 | \$36,906 | \$39,287 | | | |
| Region 5 Burlington, Camden and Gloucester | Median | \$61,180 | \$65,550 | \$69,920 | \$78,660 | \$87,400 | \$90,896 | \$94,392 | \$101,384 | \$108,376 | \$115,368 | 2.2% | 5.03% | \$161,977 |
| | Moderate | \$48,044 | \$52,440 | \$56,836 | \$62,928 | \$68,920 | \$72,717 | \$75,514 | \$81,107 | \$86,701 | \$92,294 | | | |
| | Low | \$30,550 | \$32,775 | \$34,960 | \$39,390 | \$43,700 | \$45,448 | \$47,196 | \$50,692 | \$54,188 | \$57,684 | | | |
| | Very Low | \$18,354 | \$19,665 | \$20,976 | \$23,598 | \$26,220 | \$27,269 | \$28,318 | \$30,415 | \$32,513 | \$34,610 | | | |
| Region 6 Atlantic, Cape May, Cumberland, and Salem | Median | \$51,085 | \$54,734 | \$58,383 | \$69,681 | \$72,979 | \$75,698 | \$78,817 | \$84,655 | \$90,494 | \$96,332 | 2.2% | 0.00% | \$136,630 |
| | Moderate | \$40,868 | \$43,787 | \$46,706 | \$52,545 | \$58,383 | \$60,718 | \$63,054 | \$67,724 | \$72,399 | \$77,096 | | | |
| | Low | \$25,543 | \$27,357 | \$29,192 | \$32,840 | \$36,489 | \$37,949 | \$39,409 | \$42,328 | \$45,247 | \$48,166 | | | |
| | Very Low | \$15,326 | \$16,420 | \$17,515 | \$20,704 | \$21,894 | \$22,769 | \$23,645 | \$25,397 | \$27,148 | \$28,900 | | | |

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

** This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The increase for 2015 was 2.3%, the increase for 2016 was 1.1%, the increase for 2017 was 1.7%, and the increase for 2018 is 2.2% (Consumer Price Index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, or 2017 may increase rent by up to the applicable combined percentage from their last rental increase for that unit. In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

**** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.14(b)3.

Notes: Since the Regional Income Limit for Region 6 in 2017 were higher than the 2018 calculations, the 2017 income limits will remain in force for 2018 (as previously required by N.J.A.C. 5:97-9.2(c)).

EXHIBIT B

| MUNICIPALITY | DOCKET NO. |
|---|-------------------|
| <u>SOMERSET COUNTY</u> | |
| In the Matter of the Township of Bedminster | SOM-L-914-15 |
| In the Matter of the Township of Bernards | SOM-L-899-15 |
| In the Matter of the Township of Bernardsville | SOM-L-925-15 |
| In the Matter of the Township of Branchburg | SOM-L-898-15 |
| In the Matter of the Township of Bridgewater | SOM-L-934-15 |
| In the Matter of the Borough of Far Hills | SOM-L-903-15 |
| In the Matter of the Township of Franklin | SOM-L-866-15 |
| In the Matter of the Township of Greenbrook | SOM-L-929-15 |
| In the Matter of the Township of Hillsborough | SOM-L-900-15 |
| In the Matter of the Township of Montgomery | SOM-L-924-15 |
| In the Matter of the Borough of North Plainfield | SOM-L-935-15 |
| In the Matter of the Borough of Peapack-Gladstone | SOM-L-905-15 |
| In the Matter of the Borough of Raritan | SOM-L-926-15 |
| In the Matter of the Borough of Rocky Hill | SOM-L-901-15 |
| In the Matter of the Township of Warren | SOM-L-904-15 |
| In the Matter of the Borough of Watchung | SOM-L-902-14 |
| | |
| <u>HUNTERDON COUNTY</u> | |
| In the Matter of the Township of Alexandria | HNT-L-300-15 |
| In the Matter of the Township of Bethlehem | HNT-L-316-15 |
| In the Matter of the Borough of Bloomsbury | HNT-L-298-15 |
| In the Matter of the Township of Clinton | HNT-L-315-15 |
| In the Matter of the Town of Clinton | HNT-L-304-15 |
| In the Matter of the Township of East Amwell | HNT-L-306-15 |
| In the Matter of the Borough of Flemington | HNT-L-308-15 |
| In the Matter of the Township of Franklin | HNT-L-314-15 |
| In the Matter of the Township of Frenchtown | HNT-L-309-15 |
| In the Matter of the Borough of Glen Gardner | HNT-L-302-15 |
| In the Matter of the Borough of High Bridge | HNT-L-310-15 |
| In the Matter of the Township of Kingwood | HNT-L-317-15 |
| In the Matter of the City of Lambertville | HNT-L-311-15 |
| In the Matter of the Borough of Lebanon | HNT-L-321-15 |
| In the Matter of the Township of Lebanon | HNT-L-299-15 |
| In the Matter of the Township of Milford | HNT-L-303-15 |
| In the Matter of the Township of Raritan | HNT-L-312-15 |
| In the Matter of the Township of Readington | HNT-L-301-15 |
| In the Matter of the Township of Tewksbury | HNT-L-313-15 |
| In the Matter of the Township of Union | HNT-L-305-15 |
| In the Matter of the Township of West Amwell | HNT-L-307-15 |

WARREN COUNTY

| | |
|--|--------------|
| In the Matter of the Township of Allamuchy | WRN-L-232-15 |
| In the Matter of the Town of Belvidere | WRN-L-238-15 |
| In the Matter of the Township of Blairstown | WRN-L-226-15 |
| In the Matter of the Borough of Bloomsbury | WRN-L-298-15 |
| In the Matter of the Township of Franklin | WRN-L-224-15 |
| In the Matter of the Township of Frelinghuysen | WRN-L-231-15 |
| In the Matter of the Township of Greenwich | WRN-L-228-15 |
| In the Matter of the Township of Hackettstown | WRN-L-234-15 |
| In the Matter of the Township of Hardwick | WRN-L-240-15 |
| In the Matter of the Township of Harmony | WRN-L-239-15 |
| In the Matter of the Township of Hope | WRN-L-237-15 |
| In the Matter of the Township of Independence | WRN-L-246-15 |
| In the Matter of the Township of Knowlton | WRN-L-215-15 |
| In the Matter of the Township of Lopatcong | WRN-L-241-15 |
| In the Matter of the Township of Mansfield | WRN-L-242-15 |
| In the Matter of the Township of Oxford | WRN-L-243-15 |
| In the Matter of the Township of Pohatcong | WRN-L-220-15 |
| In the Matter of the Borough of Washington | WRN-L-230-15 |
| In the Matter of the Township of Washington | WRN-L-244-15 |
| In the Matter of the Township of White | WRN-L-245-15 |