

Branchburg Township's Affordable Housing Situation

Update: May 2016

Prepared By

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What follows is an update to the letter distributed to residents in November 2015 and which formed the basis for the meeting held on December 3, 2015. That letter and all affordable housing information is available on our website (www.branchburg.nj.us). The below letter assumes that residents have read the letter from November 2015 and therefore does not go into the details explained in that letter.

WE URGE EVERY RESIDENT TO TAKE THE TIME TO READ THIS LETTER and all information available. *Another special meeting has been scheduled for May 16, 2016 at 7:00 PM in the municipal building to discuss the enormous impact that the State of NJ's affordable housing mandate will have on our community. Residents are invited to attend the meeting, view it on Comcast Channel 27, ~~FiOS 46~~ (FiOS 46 is not working as of this writing due to technical issues) or stream it live on the internet (use the "Webcast Meetings" link on www.branchburg.nj.us).*

On December 3, 2015 the Township held a public meeting to relate and explain to residents the situation, at that time, regarding our affordable housing obligation. We spent a part of the meeting time reviewing the timeline and historical process that brought the Township to its current position (as of 12/2/15). The vast majority of the meeting was spent answering questions from residents in an attempt to provide clarity to a very murky and unsure process. That meeting is available on our website for viewing.

During the December meeting and in the November letter the following comments were made by the Township:

- *"Unlike past COAH affordable housing rounds, the court this time did not provided rules, or methodology, other than some general reference to attempting consistency with the FHA, for towns to use in developing their plans."*
- *"Without such rules, every town in the State is seemingly expected to craft a housing plan with no clear idea of what the courts will accept. The courts, it should be noted, have rejected the notion that they should set these rules, stating the purview for this is the effectively dismantled COAH agency."*
- *"We are unsure of how the courts will allow us to construct a compliant housing plan. We are unsure of the actual number of affordable housing and market units that must be built."*
- *"We are seeking to develop a plan that, as best as possible, maintains the current quality of life and culture of our community while also recognizing the inevitability that the building of affordable housing is a mandate that we must plan for and realize in some capacity."*

Sadly, six months later most of the above statements still remain true. We still have no rules or methodology to help guide us in developing a plan. Nor do we know the number of affordable housing units that we must construct. However, we have been involved in a series of court mandated meetings and actions designed to move the Township towards fulfilling our affordable housing obligation (whatever that may be).

Since December of 2015 the Township has had meetings with the Court, as part of case management

conferences with other vicinage municipalities, wherein the Judge for our vicinage (Somerset, Hunterdon and Warren Counties) has discussed how he would like to see all municipalities in our vicinage move forward on affordable housing. While not providing comprehensive rules, these conferences at least gave us some level of guidance on how this process may unfold. It should be noted, and the importance not underestimated, that in all 15 vicinages in the State a similar process was unfolding. Some Judges have slowed their actions to wait and see what decisions were coming out of other Judges (underscoring the confusing and disjointed process).

In December 2015 the Township was granted immunity from “builders remedy” lawsuits until March 31, 2016. There was an expectation from the Court that Branchburg would continue to work in good faith to earn an extension of immunity until July 31, 2016. We are pleased to announce that on April 20, 2016 the Court granted continued immunity through July 31, 2016. The Township is seeking a further extension based on the progress that has been made.

One of the few specific directions the Township received from the Court was the instruction to meet with all developers who had filed as “interveners” in our affordable housing matter. That list of interveners, those who filed with the court as such, has been published on our website.

As a supplement to meeting with interveners, in February of 2016 the Township issued a Request For Proposals (RFP) to any and all developers who might wish to build in our community, not just to those who filed as interveners. The strategy of issuing an RFP versus only meeting with the filed developer interveners was to allow for an open competition between developers. The Township wanted to foster competition to get the best possible proposal outcome from each developer knowing that their proposal would be directly measured against others. Only the best and most advantageous to the Township would get our further consideration. On March 14, 2016 the Township received those RFP’s. That list too has been published on our website. It was expected by the Court that the Township would look to this list of developers (RFP respondents and intervenors) as a means to help create a plan to meet our affordable housing obligation, a plan that still has no target number of units for the community.

Going back to early 2015, and in fact as of our December 3, 2015 meeting, the only numbers that had been released and discussed were in a proposal from the housing advocacy group Fair Share Housing Council, with affordable housing unit counts that showed Branchburg Township would be responsible for approximately 1,300 units. Due to State law the number were assumed to be capped at 1,000.

During the early summer of 2015, Branchburg and almost 280 other towns joined a consortium to hire Dr. Robert Burchell, a professor at Rutgers University, as his attorney wrote, “to prepare an expert report within 60 to 90 days of being retained to establish his view of the proper way to determine each municipality’s fair share obligation”. The Township paid \$2,000 to join this group and share the expense of this paid expert. Unfortunately, in August 2015 Dr. Burchell experienced a medical issue which precluded him from completing his report.

In September 2015, in an effort to find someone to conduct a proper analysis and provide reasonable obligation numbers, the municipal consortium shifted their expert from Dr. Burchell to a firm called Econsult out of Philadelphia. During the fall of 2015 and into the winter Econsult created an analysis which, according to them, established the Township’s obligation at 182 units. Later, under pressure from the Court on its methodology, EConsult amended its numbers for Branchburg to be 329.

It should be noted that for the first two rounds of affordable housing the Township’s obligations were 347 and 302 respectively. Before the Council on Affordable Housing (COAH) was essentially dismantled by Governor Christie they had established a third round (2004 – 2014) number of roughly 350 units for

Branchburg.

One of the actions taken by the Township in an attempt to bring order to this chaotic process was to hire our own specialist to try and generate an obligation number for us so we may better understand what our target number might be. The individual we hired was counseled to follow the strict guidelines laid out under the Supreme Court ruling and past COAH decisions. This attempt is ongoing but has proven to be much more difficult than first imagined largely in part due to the fact COAH, when devising obligations numbers for the first and second rounds, did not strictly adhere to the Supreme Court guidelines. Rather an amalgamation of Court and COAH rules were used, making it nearly impossible for us to create a number and adhere to any set methodology.

Recently, over the past few months, the Court has appointed a “Special Numbers Master” for our vicinage. This Special Numbers Master is someone appointed by the Court to conduct an independent analysis of the affordable housing needs in the State, the region, and by extension, Branchburg. The same Special Numbers Master was appointed for Ocean County, and we expected his Ocean County report by now. However, due to an appeal involving an Ocean County decision, that report has been delayed. We are hoping that when that report is issued, we may be able to use the methodology of the Special Numbers Master to extrapolate our community’s obligation. As of this writing, the Special Numbers Master’s report has not been issued for our vicinage or any other.

Despite the lack of numbers or rules, a few significant milestones have occurred over the past few months which have brought us closer to some level of clarity at least on the process in which we are involved:

First, in late winter (around February) the Court appointed a Special Master (not to be confused with Special Numbers Master) who is to act as the liaison between the Court and Township. This Special Master is to help the Township adhere to the Court ordered proceedings, guide us on how she believes the Court would like us to proceed, act as a “go between” and interpreter of Court decisions. This Special Master is very important to the process in that she also will let the Township know if she believes we are not acting in accordance with Court desires. This is critical to ensure that the Township does not lose the faith of the Court, which could remove our immunity from the “builders remedy” lawsuits. The Township has sought counsel of the Special Master and has included her advice in our internal discussions.

Second, on April 7, 2016 a sub-committee of the Township Committee and Planning Board, along with Township professionals, met to review the developer proposals and discuss each as being a possible part of our affordable housing plan. The goal of the sub-committee when reviewing these proposals was to find a way to best attempt to satisfy our affordable housing obligation while providing the least impact on our community. The sub-committee looked to provide only as much housing as we need with the overriding goals of: (1) attempting to comply with the Court mandate to provide affordable housing, (2) minimizing the “market unit multipliers” (the number of market units that developers wish to build, and (3) as best we can try and provide something beneficial to our community through this process (i.e. make lemonade out of lemons). We will discuss the recommendations of this sub-committee below.

Third, in accordance with the Court’s mandate that the Township meet with those developers who filed as intervenors, on April 28th and 29th of 2016 the Township, in the presence of the Special Master, met with all the intervenors to listen to their proposals.

In the November 2015 letter we also wrote;

- *“Because of existing challenges from builders and other parties, the Township is not in a position*

at this time to release a plan to the residents showing our response to affordable housing. As soon as the Township has developed and submitted a plan, it will be released to residents and all parties.”

Having received proposals from intervenors and from those responding to our RFP, the sub-committee comprised of members of the Township Committee and Planning Board have made recommendations to the Township Committee for our affordable housing concept plan. It needs to be kept in mind that this plan being developed, and any subsequent housing that is built as a result, is not because it is something we desire, it is something we have a legal obligation to produce. As with past affordable housing “rounds” and with the current Court mandated process, Branchburg has and will always comply with State law and Court requirements.

It should also be noted that what follows is a concept plan in its truest sense. The Township Committee is looking for input from residents about this idea and has yet to align themselves on a strategy to move forward.

The current concept plan is as follows:

- The Township intends to develop the property commonly known to us as the “**Triangle**” site. This is a 9 acre site (block 74, lots 3, 3.01 and 3.02) adjacent and to the south of the Whiton Hills apartment complex on Route 202. This development will be 100 rental affordable housing units. The Township owns this land and will be contributing the land as part of our contribution to a developer who will construct the 100 affordable housing units. As the value of these units are much less than market units, a Township contribution is required to make the project economically feasible. A major benefit of this project is the fact that since it is all affordable housing there will be no market unit multipliers (5 or more market units for every 1 affordable unit) to take up more land and add students into our school system. The Township is actively pursuing this development.
- For many years the Township has been approached with possible development options for the open property directly across the street from the municipal building (on the south side of Route 202). Through a response to our RFP process, **Cronheim Management** has offered a unique proposal for their property (block 68.05, lot 1). This proposal has been available on our website since it was received back in March. Cronheim Managements has proposed to build a retail “downtown” or “town center” development with 140 rental affordable housing units above the retail on the first floor. The sub-committee sees a number of benefits to this development: first, the 140 affordable units will be built again with no market multipliers; second, the Township intends to work with this developer to create a destination place for our community providing retail, restaurant and recreational space for all residents; and third, currently the land is taxed as farmland. New Jersey tax law provides for a substantial tax break to properties that are actively farmed and can earn farmland status. By developing this site, the Township will bring in a much needed influx of revenue to the school and Township.

The above two projects will provide a total of 240 affordable housing units without adding one market unit multiplier to further strain our schools our municipal resources.

Should the Township need to add beyond 240 affordable units, the current intention is to further discuss:

- A company called Premier Development has submitted a proposal under the development name, **Sycamore Developers**. Their property is located on Route 22 eastbound roughly across from

where Route 28 meets Route 22 (block 9, lots 18, 19, 20, 21 24). This developer is proposing to build an “inclusionary” development. Such a development is one that includes market and affordable units. Their initial proposal is to build a total of 344 rental residential units, of which 86 would be affordable housing. One of the benefits of this proposal is that the affordable units comprise 25% of the total development, thereby reducing the number of market units compared to other proposals, which have offered as little as 15% affordable units. This developer also has offered the Township a cash contribution to help the Township offset the cost of other affordable housing units that might be needed. While this proposal does include market units, it must be understood that the Township must strike a “balance” of developing all affordable housing developments and inclusionary developments. Given the other tangible benefits of this proposal, the sub-committee believes this proposal could help us achieve the balance and still provide a benefit to the community.

With the addition of the Sycamore Developer proposal, the Township can meet an obligation of 326 affordable housing units with a relatively minimal impact on our community. Additionally, the three proposals provide benefits to the Township we would not see if we were to be subject to “builders remedy” lawsuits or pursue the more traditional developments that are proposed in some neighboring communities.

Should the Township be required to provide even more affordable housing units, we would consider other development proposals from either the intervenors or those responding to our RFP process. While the sub-committee has identified possible developers to work with, should the obligation exceed 326 units, we have not chosen one at this time.

We hope residents will watch or attend the meeting on May 16, 2016. The Township views this, as we did the last meeting, as an opportunity to engage the residents, share information and answer any questions you may have.

Also, please visit our website and use the existing documents to educate yourself on this matter. Attached to this letter are project concept site plans to assist in understanding each proposal. Also attached is a spreadsheet showing our current concept for meeting our affordable housing obligation. This and all the plans and documents will be discussed in further detail during the May 16th meeting.

Please feel free to contact myself or any Township Committee member if you would like to discuss this matter in a more personal setting.

Gregory J. Bonin, Administrator

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Triangle property – concept site plan



Cronheim – concept site plan



Sycamore – concept site plan



Affordable Housing Unit Figures

	Fair Share Housing Council	COAH (2010)	Econsult	Econsult revised
Presumptive Need	1000	532	182	329

Affordable Housing Concept Plans

	3rd Rnd	SubComm.		
	Jul-10	4.7.16	Notes	
Credits from 2nd Round	8	8		
Robbins Rd - Midland	5	5		
River Trace - north bldg	10	10		
Advance III	28			
Alternatives	9	9		
Midland - working adults	24			
Midland - seniors	18			
Rivertrace in lieu	1	1		
Triangle site	100	100		
Cronheim	50	140		
Sycamore Developers*		86	258 market	
Rental Bonus Credits	94	?		
Total Unit Credits	347	359		
Notes:				
Current rehab obligation is 7 - 5 units completed.				
* If needed to meet required number				