



TOWNSHIP OF SOUTH BRUNSWICK

Municipal Building • P.O. Box 190 • Monmouth Junction, NJ 08852-0190

Phone
732-329-4000
TDD
732-329-2017
Fax
732-329-0627

Via Email and Regular Mail

December 18, 2015

Honorable Douglas K. Wolfson, J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
56 Paterson Street
P.O. Box 964
New Brunswick, NJ 08903-0964

Re: In the Matter of the Application of the Township of South Brunswick
Docket No. MID-L-3878-15
Our File No. L1347

Dear Judge Wolfson:

Pursuant to the Court's November 13, 2015, Case Management Order, the Township of South Brunswick ("Township") hereby submits proposed revisions to its preliminary draft Third Round Housing Element and Fair Share Plan that was submitted to the Court on November 9, 2015, in the above referenced matter.

As you know, the Court has not yet calculated and/or determined the Township's present and prospective obligation. Several estimates of the Township's obligation have been suggested in various reports offered by David Kinsey, Arthur Bernard and Robert Burchell. In addition, a report was prepared by Richard Reading at the request of the Mount Laurel judges in Ocean, Monmouth and Mercer Counties, which reaches different conclusions regarding the statewide need when compared to the Kinsey/Bernard conclusions. The Kinsey conclusions have also been criticized by Econsult Solutions as well as Nassau Capital, in reports prepared by these entities on behalf of the League of Municipalities. As such, it continues to be very difficult for the Township to identify which obligation it should plan for.

In an Order dated October 23, 2015, in In the Matter of the Application of the Township of Readington, Superior Court, Law Division, Hunterdon County, Docket No. HNT-L-301-15, the Hon. Thomas C. Miller, P.J.Ch., sanctioned use of the Summary of Plan sheets developed by Frank Banisch, P.P.A.I.C.P., and Elizabeth McKenzie, P.P.A.I.C.P. These are the same Summary of Plan sheets this Court directed the Township to utilize in submitting its initial draft Third Round Plan.

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Judge Miller also indicated in his Order that “the municipality may utilize the fair share numbers from the proposed third iteration of the Third Round Rules that were never adopted due to COAH’s 3-3 tie vote.” Since a court determined that, at least for purposes of submission of preliminary Third Round plans in the Summary of Plan sheets, municipalities may utilize the Burchell numbers that accompany the unadopted 2014 COAH regulations, the Township of South Brunswick chose to follow Judge Miller’s suggestion. As such, the previously submitted Summary of Plan sheets set forth the Township’s preliminary Third Round Housing Element and Fair Share Plan based upon the Burchell calculations prepared for COAH in 2014.

In order to comply with the Court’s order of November 16, 2015, the enclosed revisions to the Township’s preliminary Plan continues the use of the 2014 COAH obligation numbers for South Brunswick. Pursuant to the instructions of Christine Nazzaro-Cofone, Special Master in this matter, I have not utilized the full Summary of Plan sheets but rather submitted an abbreviated version showing the revisions that are proposed.

The Township continues to remain committed to voluntary compliance with its constitutional obligation to provide realistic opportunities for affordable housing. Given the uncertainty of the Township’s actual Third Round Prospective obligation, however, the Township reserves the right to revise its Third Round Housing Element and Fair Share Plan based upon the anticipated report from Econsult regarding statewide, regional and municipal obligations and/or further order of the Court. Accordingly, the enclosed revision is submitted without prejudice, the Township reserving all rights it has to amend same should the need arise as this matter progresses.

Thank you for your considerations in this matter. If you have any questions or comments, please do not hesitate to contact me.

Respectfully submitted,

s/Donald J. Sears

Donald J. Sears
Director of Law

DJS/lw

Cc: Robert A. Kasuba, Esq., attorney for AVB
Henry Kent-Smith, Esq., attorney for Richardson
Kenneth D. McPherson, Jr., attorney for SBC
Kevin J. Moore, Esq., attorney for SG
Kevin Walsh, Esq., and Adam Gordon, Esq., attorneys for FSHC
Brett Tanzman, Esq., attorney for Windsor
Benjamin Bucca, Jr., Esq., attorney for SB Planning Board
Christine Nazzaro-Cofone, PP, Special Master

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(Amended December 18, 2015)**

**Credits Addressing the Third Round Prospective Need Obligation (2014-2024)
Assuming Use of the 2014 COAH Obligation Calculated for South
Brunswick***

South Brunswick's Third Round Compliance Mechanisms – Prospective Need (2014-2024) = 712 needed	Units	Bonuses	Total
<i>Write-Down/Buy-Down (Market to Affordable)</i>			
REACH – inclusionary affordable family sales	32	0	32
REACH – inclusionary affordable family rentals	9	9	18
<i>Extensions of Controls</i>			
Woodhaven/Deans Apts – completed	40	0	40
Regal (5), Monmouth Walk (43), Nassau Square (49) – inclusionary sales	97	0	97
Wheeler Road Group Home	3	0	3
Major Road Group Home	3	0	3
Dungarvin (Cranston Road) Group Home	4	0	4
Charleston Place I & II - completed	84	0	84
<i>Built, Proposed , Approved Units</i>			
Sassman – inclusionary affordable family sale completed	1	0	1
Wilson Farm - affordable senior rentals/special needs rentals	-	-	-
RPM – family rentals/special needs rentals	-	-	-
The Township's recent resolution confirming funding for Wilson Farm and RPM demonstrates that funding will be available for these projects. In the event Wilson Farm and RPM remain unacceptable to the court, however, the following shall be added to the Township's Plan, in such order as the Township may determine:			
Windsor Associates – inclusionary family rentals	11	11	22
Stanton Girard – family rentals	100	100	200
SB Center –inclusionary age restricted sales	100	0	100
Hovnanian – family rentals	48	48	96
Carlyle Group – inclusionary family rentals	10	10	20
TOTAL 2014-2024	542	178	720

* In the event the Township's actual obligation is more or less than what is reflected in the 2014 COAH calculations, the Township reserves the right to add or eliminate sites from the above so that it satisfies the actual obligation established for South Brunswick.

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Explanation of Revisions

1) REACH (Write-Down/Buy-Down) Market to Affordable Program:

The Township's preliminary plan included 59 units toward its Prospective obligation, resulting in a total of 164 units in the REACH program. The court felt that this was too ambitious. The amended plan reduces the amount of units to be produced as part of the Prospective obligation to 41, which results in a total of 146 units total in the REACH program. This amount was previously reviewed and approved by COAH on October 14, 2009, as part of an application for a waiver of the limit on such units filed by the Township pursuant to N.J.A.C. 5:93-5.11(a)1. Thus, the amended plan limits the number of REACH units to that which was already approved by COAH.

2) Charleston Place I & II Extension of Controls:

Charleston Place I consists of 54 age restricted rental units that were constructed during the period April 1, 1980 – December 15, 1986. Charleston Place II consists of 30 additional age restricted rental units that were constructed during the period 1987-1999. Both are located at 3424 Route 27, Kendall Park, New Jersey 08824. The Township previously authorized a tax abatement and payment in lieu of taxes (PILOT) agreement pursuant to the Long-Term Tax Exemption Law (N.J.S.A. 40A:20-1, et seq.) on December 12, 1980, which agreement was amended on December 31, 1991, February 6, 2001, and May 25, 2001. The duration of the agreement was for a term of thirty-five (35) years from the date of the original agreement, or until December 12, 2015. Pursuant to the Long-Term Tax Exemption Law (specifically N.J.S.A. 40A:20-13.1, et seq.), the Township is permitted to extend the agreement. On December 8, 2015, the Township Council adopted Ordinance 2015-43, extending the tax abatement and PILOT agreement for an additional 20 years. The terms of the renewal, as set forth in the PILOT agreement, require an extension of the period of controls on affordability for all 84 units at Charleston Place. Therefore, the total 55-year control period from 1980 to 2035 exceeds the typical 50-year affordability control period (20-year first round plus 30-year third round) for third round extensions of controls credits.

3) Wilson Farm and RPM Henderson Road developments:

The court expressed concern at the November 13, 2015, Case Management Conference that these projects would not receive adequate funding, and therefore were “phantom projects,” with no hope of ever being funded.

Wilson Farm: The development team for Wilson Farm consists of South Brunswick Community Development Corporation (SBCDC) and The Alpert Group. SBCDC is the successful developer and operator of three existing senior affordable housing projects in South Brunswick (Charleston Place I & II and Oaks Woods) and has over 35 years of experience. It continues to own and successfully operate all three projects, all of which have no vacancies. With 150 people on a waiting list, there is a significant need in South Brunswick for this type of housing, which

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provides congregate living arrangements for low- and moderate-income elderly along with all of the necessary support services on-site, including medical, social and transportation assistance. Many of the residents in the existing facilities come from other affordable rental housing, where there are no support services. As seniors find it more difficult to live without on-site services, they look to move to these facilities where they can continue to live independently, yet with the needed support structure available at their doorstep. The Alpert Group has developed over 2,500 affordable housing units throughout the State that have been funded by tax credit awards. Unlike some applications for tax credit funding, the Wilson Farm project achieved a perfect score in the 2015 funding round, and lost the award on a very narrow tie-breaker. This is not unusual, however, since it often takes 2+ rounds of funding to receive an initial award.

This project has already received significant funding support from the County of Middlesex, which has pledged \$700,000. Since the Township already owns the land, there is no land acquisition cost. Funds from the South Brunswick Affordable Housing Trust Fund are also available. An application for 4% tax credit funding, supplemented by Revenue Backed Bonds (RABs) pursuant to N.J.S.A. 40A:12A-29, is also being developed. This would provide the necessary funding for Phase 1 (and perhaps even Phase 2) within the next six (6) months. At the same time, another application for 9% tax credit funding will be prepared and submitted in the 2016 NJHMFA funding cycle.

RPM Henderson Road: RPM Development is a very successful affordable housing developer, working exclusively in the State of New Jersey. It has already completed 5 projects in Franklin Township along Route 27. In evaluating potential projects, it does not move forward until the project is viable, and RPM does not apply for tax credit funding on a project unless it feels the project will win an award of tax credits. This is evidenced by the fact that in the last two NJHMFA tax credit funding rounds, RPM submitted eleven (11) projects and received nine (9) tax credit awards. This is a phenomenally successful record of accomplishment. As to the Henderson Road project, assuming the Area In Need of Redevelopment Study currently underway indicates that this area meets the statutory criteria for redevelopment, RPM is ready to move forward with a tax credit application for funding in the 2016 cycle. RPM has also received a pledge of support from the County of Middlesex, which has indicated that it would fund the Henderson Road project for up to \$750,000. Funds from the South Brunswick Affordable Housing Trust Fund are also available.

Even if tax credit funding is not obtained by either Wilson Farm or RPM for these projects, on December 8, 2015, the Township Council adopted a resolution outlining the significant steps already taken to bring both projects to fruition. The resolution confirmed the Township's commitment to these projects, which includes an assurance of a stable alternative funding source, such as municipal bonding, pursuant to N.J.A.C. 5:93-5.5(a)(3)ii, in the event that other funding is not approved.

4) Windsor Associates:

Objector/intervenor Windsor Associates owns 26.55 acres in the Township's Affordable Housing (AH) zone, located at the intersection of Major Road and Northumberland Way (Block

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85, Lot 17.014). Windsor has an application pending before the Planning Board for the last phase of the Southridge development consisting of 72 non-age restricted rental units, including a 15% Affordable Housing set aside (61 market units and 11 affordable family rental housing units).

In the event the court determines that the Wilson Farm and RPM Henderson Road projects remain unacceptable, this final phase of the Southridge development has been included in the Township's amended draft affordable housing plan as an alternative site. It's continued listing in the Township's plan is contingent upon a final determination of the Township's Prospective obligation, which has not yet been determined by the court.

5) Stanton Girard:

Objector/intervenor Stanton Girard owns 12.09 acres in the R-1 zone, located on New Rd across from Woodlot Park (Block 96, Lots 29.01 & 29.02). Stanton has proposed a partnership with Pennrose Development Company to construct 100 affordable housing rental apartments. As part of the project, Stanton would also partner with Onyx Renewable Partners, to develop a solar field on the former landfill on New Road that is adjacent to the Stanton property. Energy generated from the solar field would be used to directly power the affordable housing development by Pennrose. Republic Services (owner of the former landfill) has been attempting to develop the property as a solar field, but has not had success because it did not have an adjacent user for the electricity. This proposal resolves that problem. Combining the 100% affordable development with reclamation of the landfill would significantly enhance the ability to obtain funding for the project, as funding could come from Low-Income Housing Tax Credits, the Economic Recovery Grant Program administered by the N.J. Economic Development Authority, HOME and CDBG funds, Private Debt, Project-based Vouchers, Deferred Developer's fees and Third-party Equity partners as well as a willingness of the property owner to defer a portion of the purchase price in the event of a shortfall in the amount of tax-credit funding.

6) South Brunswick Center:

Objector/intervenor South Brunswick Center owns approximately 480 acres of vacant land, primarily zoned Office Research (OR), located at the intersection of Route 1 and Northumberland Way. There are approximately 179 acres of uplands and approximately 301 acres of wetlands and buffers. Of the 179 acres of uplands, approximately 61 of which are suited for retail commercial along Route 1. The remaining 117 acres is available for development, consisting of irregularly shaped pockets of uplands dispersed throughout the site ranging from 3 acres to 33 acres in size. The property is improved with a two lane access road of approximately 8,800 feet extending from the Route 1 and Northumberland intersection to the back of the site. There is also a ±1,544-foot sewer trunk line installed.

The 61 acres suited for retail commercial should be developed as such. The remaining 117 acres can be developed as an inclusionary development consisting of 300 age-restricted single family homes, 200 of which should be developed as market units consistent with the Planned Adult Residential Community (PARC) zoning requirements and 100 of which should be developed for affordable housing consistent with the Age-Restricted Residential Community (ARRC) zoning

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requirements. The remaining uplands should be purchased as Open Space and reserved for passive and/or active recreation designed for active adult use.

7) Hovnanian:

The Township owns 6+ acres of vacant uplands located along Friendship Road, near its intersection with Route 130 (Block 11, Lot 15.05). This property was donated to the Township in or about January 2014 by Matrix Development Corporation for use either as affordable housing or some other residential/recreational purposes as determined by the Township. A concept plan prepared by Matrix at the time indicates that the site can accommodate 48 family rental units. The Township has sought a development partner to construct these units since that time.

The property is immediately adjacent to the Hovnanian development known as the Oaks at Cranbury (Block 11, Lot 15.04). Hovnanian began construction of 188 family townhouse units in or about June 2015. The Township began issuing certificates of occupancy in October 2015, as units were completed. Hovnanian continues to construct these units at this time.

The Township plans to partner with Hovnanian for it to construct 48 affordable family rental units on Lot 15.05 while it is constructing the Oaks at Cranbury. .

8) Oakdale and Brookside Mobile Home Parks:

The Oakdale and Brookside Mobile Home Parks (MHPs) are both longstanding developments in the Township, having been established in or about the mid- to late-1950s. The Carlyle Group (Carlyle), a national leader in mobile home park ownership, maintenance and renovation, purchased both MHPs in 2001 in order to preserve and upgrade the existing parks as a way to provide housing that is affordable to low and moderate income households in the region. The site of the Oakdale Mobile Home Park is 21.11 acres and is located at 3717-3727 Route 1 South, just south of Finnigans Lane in South Brunswick Township (Block 92.02, Lots 13.09 and 13.11). Brookside Mobile Home Park is 7.6 acres and is located less than one-half mile away from Oakdale at 3740-3746 Route 1 North, just south of Blackhorse Lane in South Brunswick Township (Block 90.04, Lots 36, 37, 47, 51, 52 and 55). Both sites have vehicular access to Route 1 and existing water and sewer service from the Township.

Carlyle plans to invest a significant amount of its own capital into the rehabilitation/renovation of both MHPs. The Township plans to invest affordable housing trust fund money into the project to supplement the capital needed to complete the improvements. In addition, the renovation plan will include the addition of 10 new units of affordable family rental housing.. This will expand one or both of the parks. Based on the available land at both parks, this can be accomplished without any further land acquisition.