Affordable Housing Information Meeting
Greenwich Township
July 26, 2018
Elizabeth McManus, PP, AICP, LEED AP
New Jersey System

Participating Municipalities: Voluntary Process with Incentives

- Housing Plan approval:
  - COAH “Substantive Certification” or
  - Court “Judgment of Repose”
- Immunity from litigation for 10 years

Non-participating Municipalities: Risk of “Builder’s Remedy”

- Developer awarded higher density housing with affordable housing via litigation
What is a Builder’s Remedy?

- Developer sues municipality for failure address its affordable housing obligation
- Zoning is effectively overridden
- Township has little or no say regarding
  - Density
  - Design
  - Building type
  - Unit types (sale vs rent, etc.)
  - Circulation / traffic impact
## What is Affordable Housing?

Based on Regional Median Income in Essex, Morris, Union, and Warren Counties

<table>
<thead>
<tr>
<th></th>
<th>1 Person</th>
<th>2 Person</th>
<th>3 Person</th>
<th>4 Person</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Median</strong> (reference)</td>
<td>$66,755</td>
<td>$76,291</td>
<td>$85,828</td>
<td>$95,364</td>
</tr>
<tr>
<td>Moderate</td>
<td>$53,404</td>
<td>$61,033</td>
<td>$68,662</td>
<td>$76,291</td>
</tr>
<tr>
<td>Low</td>
<td>$33,377</td>
<td>$38,146</td>
<td>$42,914</td>
<td>$47,682</td>
</tr>
<tr>
<td>Very Low</td>
<td>$20,026</td>
<td>$22,887</td>
<td>$25,748</td>
<td>$28,609</td>
</tr>
</tbody>
</table>
What is Affordable Housing?

Affordable Home Sales Prices (illustrative)

- One-bedroom: $54,758 - $141,655
- Two-bedroom: $67,793 - $172,068
- Three-bedroom: $79,958 - $200,454

Affordable Rents (illustrative)

- One-bedroom: $536 - $1,073
- Two-bedroom: $644 - $1,287
- Three-bedroom: $744 - $1,488
Historical Context

1975
Mount Laurel I
Each municipality has a constitutional obligation to provide affordable housing

1983
Mount Laurel II
Required creation of municipal obligations
Court approves Housing Plans

1985
Fair Housing Act
COAH created to administer FHA

1986-2014
COAH Rule Making
COAH administered the FHA and promulgated first, second and third round rules
COAH Rulemaking “Rounds”

1\textsuperscript{st} Round
1987-1993

2\textsuperscript{nd} Round
1993-1999

3\textsuperscript{rd} Round
1999-2025

known now as
PRIOR ROUND
1987-1999
**Third Round History**

2004 - 2013

3rd Round Rules

“Growth share” rules are adopted twice and overturned

2013

Supreme Court Decision

Invalidated methodology
Ordered new rules to be adopted

2014

COAH Fails to Adopt

COAH fails to adopt 3rd round rules

2014

FSHC Motion

Fair Share Housing Center (FSHC) files motion to compel the State to adopt rules

2015

Mount Laurel IV

Supreme Court transfers approval of housing plans to Courts
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1990: Twp. receives 1\textsuperscript{st} round substantive certification
1998: Twp. receives 2\textsuperscript{nd} round substantive certification
2005 & 2010: Twp. adopts 3\textsuperscript{rd} round Housing Plan
2015: Declaratory Judgement
2017: Settlement with FSHC
2018: Twp. adopts 2018 3\textsuperscript{rd} round Housing Plan
The Obligation

- **New Construction Obligation**
  - 50% min family
  - 37% min low income
  - 13% min very low income
  - 25% max senior
  - 25% min rental

- **Prior Round**
  (1987-1999)

- **Third Round**
  (1999-2025)

- **Rehabilitation**
  (present need)
The Obligation

Three Calculations
- Econsult
- Mercer Co. Trial
- FSHC

- Prior Round
  - Final determination by Court or Settlement with FSHC
  - 41

Rehab. (1999-2025)
- Third Round
  - 82
- 299
- 292

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Ways to Create Affordable Housing

**Large Scale**
- Municipally Sponsored Development (aka 100% Affordable)
- Inclusionary Development/Zoning

**Small Scale**
- Senior / Age-Restricted
- Assisted Living
- Group Homes
- Market-to-Affordable
- Accessory Apartments
### Comparison

<table>
<thead>
<tr>
<th>Municipally Sponsored</th>
<th>Inclusionary Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>• All units are affordable</td>
<td>• Typical Set-Asides</td>
</tr>
<tr>
<td>• Funded with:</td>
<td>• Rental: 15% affordable</td>
</tr>
<tr>
<td>• Municipal trust funds</td>
<td>85% market rate</td>
</tr>
<tr>
<td>• Municipal general revenues</td>
<td>• Sale: 20% affordable</td>
</tr>
<tr>
<td>• Tax credits</td>
<td>80% market rate</td>
</tr>
<tr>
<td>• Risk: If outside funding is not received, municipal funding must be provided</td>
<td>• Funded privately by developer</td>
</tr>
</tbody>
</table>
Criteria for Inclusionary Zoning and Municipally Sponsored Development

• Must be realistically developable
• Public sewer/water access
• Road access
• Proximate to appropriate uses (residential, commercial, farm)
• Approvable by outside agencies (Highlands Council, DEP, DOT, etc.)
• Free of environmental constraints
• Mun. Sponsor. Devel. – Control over property (own or contract to buy)
<table>
<thead>
<tr>
<th>Municipal Sponsored</th>
<th>Inclusionary</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Zone site</td>
<td>• Zone site</td>
</tr>
<tr>
<td>• RFP/RFQ for developer(s)</td>
<td>• PILOTs may be provided where negotiated</td>
</tr>
<tr>
<td>• Provide PILOT, land</td>
<td></td>
</tr>
<tr>
<td>• Secure outside funding</td>
<td></td>
</tr>
<tr>
<td>• Support developer in obtaining approvals</td>
<td></td>
</tr>
<tr>
<td>• Start construction within 2 yrs of Settlement Approval</td>
<td></td>
</tr>
</tbody>
</table>
The Obligation

Three Calculations
- Econsult
- Mercer Co. Trial
- FSHC

Final determination by Court or Settlement with FSHC

Rehab. 
- Prior Round (1987-1999) 
  - 41

Third Round (1999-2025) 
- 82
- 299
- 292

8 41 41
0 41 41
0 82 292
## 2017 Settlement Agreement & 2018 Housing Plan

<table>
<thead>
<tr>
<th>Obligation</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Construction Obligation</td>
<td></td>
</tr>
<tr>
<td>Prior Round Obligation (1987-1999)</td>
<td>41</td>
</tr>
<tr>
<td>Third Round Obligation (1999-2025)</td>
<td>204</td>
</tr>
<tr>
<td>Rehabilitation Obligation (2015)</td>
<td>8</td>
</tr>
</tbody>
</table>
## 2017 Settlement Agreement & 2018 Housing Plan

<table>
<thead>
<tr>
<th>Project</th>
<th>Affordable Units</th>
<th>Rental Bonuses</th>
<th>Total Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prior Round Obligation – 41 Units</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greenwich Chase (41 of 70 units) – family sale units</td>
<td>41</td>
<td>0</td>
<td>41</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>41</td>
<td>0</td>
<td>41</td>
</tr>
<tr>
<td><strong>Third Round Obligation – 204 Units</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greenwich Chase (29 of 70 units) – family sale units</td>
<td>29</td>
<td>0</td>
<td>29</td>
</tr>
<tr>
<td>Municipally Sponsored Site - family rental units</td>
<td>121*</td>
<td>51</td>
<td>172</td>
</tr>
<tr>
<td>ARC of Warren Group Home - special needs bedrooms</td>
<td>3</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Old Greenwich School</td>
<td>TBD</td>
<td>TBD</td>
<td>TBD</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>153</td>
<td>51</td>
<td>204</td>
</tr>
</tbody>
</table>

* Agreement states 121-144
25% Rental Requirement

• Minimum 25% of obligation must be rental units
• Rental bonuses
  • Maximum 25% of obligation
  • Must have a “firm commitment” to generate bonus credits
Rental Bonuses: 1 Extra Credit per Unit

Municipal Benefit: Reduces # of units needed to satisfy obligation

<table>
<thead>
<tr>
<th>With “firm Commitment”</th>
<th>Without “firm Commitment”</th>
</tr>
</thead>
<tbody>
<tr>
<td>204 Unit Obligation</td>
<td>204 Unit Obligation</td>
</tr>
<tr>
<td>- 32 Existing Affordable Units</td>
<td>- 32 Existing Affordable Units</td>
</tr>
<tr>
<td>- 51 Rental Bonus Credits</td>
<td>- 3 Rental Bonus Credits (existing)</td>
</tr>
<tr>
<td>= 121 Affordable Units Needed</td>
<td>= 169 Affordable Units Needed</td>
</tr>
</tbody>
</table>
Settlement Agreement Implementation

LUB Adopts HEFSP

- HEFSP is an element of the Master Plan and is subject to same notice requirements

Committee Endorses HEFSP & Adopts Ordinances

- Committee adopts required resolutions
- Committee adopts ordinances implementing HEFSP

Submit HEFSP to Court

- Request Judgement of Compliance and Repose
Next Steps, continued

Compliance Hearing
- Court issues Judgement of Compliance and Repose

Plan Implementation
- Development of affordable housing sites
- Monitoring
Questions?

Elizabeth McManus, PP, AICP, LEED AP
Jon Drill, Esq.