



COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

B U R G I S
ASSOCIATES, INC.

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MEMORANDUM

To: Russel Huntington Esq.
From: Ed Snieckus, Jr. PP, LLA, ASLA
Subject: Borough of Westwood Compliance with Third Round Mount Laurel Affordable Housing
Obligation
Docket No. BER-L-006015-2015
Mid-Point Review
Date: June 29, 2020
BA#: 3014.07

Introduction

The following memorandum provides a mid-point review for the Affordable Housing programs of the Borough of Westwood. It outlines the planning and zoning mechanisms required by the Borough's settlement agreement with Fair Share Housing Center (FSHC) dated April 24, 2018 and provides updates as to the status of those mechanisms.

Mid-Point Review

The following mid-point review is offered for the Borough of Westwood:

1. Rehabilitation Program

Item 5.: The Borough's efforts to meet its present need include the following: participation in Bergen County's Home Improvement Program and funding a rental rehabilitation program to be administered by contract with Bergen County Community Development. This is sufficient to satisfy the Borough's present need obligation of 48 units.

Update: The Borough adopted its most recent Housing Element and Fair Share Plan (HE&FSP) amended to February 7, 2019. This HE&FSP and the Spending Plan identified the Borough will continue to participate in the Bergen County's Home Improvement Program and allocated funding from the affordable housing trust fund to supplement this program.

The Borough has adopted a Rehabilitation Manual by Resolution No. 20-144 for the Westwood Housing Rehabilitation Program Operating Manual including the forms to establish the program. The program is being administered by the Borough's affordable housing administrative agent.

The HEFSP records identified the Borough prepared structural conditions survey wherein it was approved that the rehabilitation need is 26 units. Since the adoption of this plans reporting, no additional units have been rehabilitated but the program will be further promoted to assist Borough residents.

2. Components to Address RDP

Item 7: The RDP of 1 unit is to be satisfied by one qualified family rental unit as required by the affordable housing criteria calculated above. The Borough of Westwood, while having 110 surplus credits, has only surplus one-bedroom unit types (that are non-age restricted or non-special needs), units in Westwood House. Therefore, the Borough will, following the date of this settlement agreement is executed, require at a minimum, the first unit to be created from the overlay ordinance or the MSO provisions noted in paragraph 7 below, as a qualifying family unit in accordance with the applicable regulations as noted herein.

Update: Pursuant to the Settlement Agreement the HE&FSP identified this requirement and Ordinance 18-42 established the Mandatory Set-Aside ordinance. Additionally, the Affordable Housing Ordinance for the Borough was amended by Ordinance 19-2 in Section 195-122.1D.(a)[2] to reference this requirement.

3. Overlay Zoning

Item 7b-d: Implement overlay inclusionary zoning within the area along Broadway in the northerly area of the Borough identified as Block 701, Lots 1 thru 8 and 10 thru 16. This area located in the LB-1 zone encompasses approximately 6.52 acres (see Exhibit B). The overlay zoning shall permit residential at 20 units per acre with a 15% set-aside in the event of rental units and a 20% set-aside in the event of for-sale units.

The Borough also proposes to implement overlay inclusionary zoning for several lots currently zoned as the RW Retail / Wholesale District in the easterly area of the Borough. They are identified as Block 2001, Lot 62; Block 2003, Lot 2; Block 2210, Lot 1 and 3.01. This area would encompass approximately 2.2 acres (see Exhibit C). The overlay zoning shall permit residential at 20 units per acre with a 15% set-aside in the event of rental units and a 20% set-aside in the event of for-sale units.

The Borough will donate a property to a non-profit organization (such as Habitat for Humanity) for the development of a qualifying U.S. veteran affordable housing unit. The Borough will identify the property to be donated prior to the fairness hearing in this matter and shall initiate the donation prior to the issuance of a final judgment of compliance. The non-profit organization receiving the property shall be responsible for the construction on the property.

Update: Pursuant to this requirement, the Borough has adopted ordinances for the above referenced sites and achieved the transfer of the property to Habitat for Humanity for construction of an affordable housing residence. These are described in greater detail as follows.

- a. LB-RM Overlay Zone. The Borough has created a new LB-RM Limited Business Residential Multifamily Affordable Housing Overlay Zone for Block 701 Lots 1 thru 8 and 10 thru 13, and 16 by Ordinance No. 18-40. The LB-RM District establishes a maximum density of twenty (20) units per acre. The district also establishes that a minimum of twenty percent (20%) of the total number of units shall be set-aside for very-low, low- and moderate-income units if they are for sale or a minimum of fifteen percent (15%) of the total number of units shall be set-aside for very-low, low- and moderate-income units if they are for rent.

While no application for development has been submitted as of yet, the area continues to represent a realistic opportunity because of its density and its proximity to the Borough's business corridor and regional transportation systems.

- b. RW-RM Overlay Zone. The Borough has created a new RW-RM Limited Business Residential Multifamily Affordable Housing Overlay Zone for Block 2001 Lot 62, Block 2003 Lot 2, Block 2210, Lots 1 and 3.01 by Ordinance No. 18-41. The RW-RM District establishes a maximum density of twenty (20) units per acre. The district also establishes that a minimum of twenty percent (20%) of the total number of units shall be set-aside for very-low, low- and moderate-income units if they are for sale or a minimum of fifteen percent (15%) of the total number of units shall be set-aside for very-low, low- and moderate-income units if they are for rent.

While no application for development has been submitted as of yet, the area continues to represent a realistic opportunity because of its density and its proximity to the Borough's business corridor and regional transportation systems.

- c. Habitat for Humanity. The Borough has conveyed a property at 95 Sand Road identified as Block 1701, Lot 22 & 22.01 to Habitat for Humanity for the construction of an affordable single-family residence. The property is under building permit review with construction expected to start this year and on track to satisfying this requirement.

4. Set-Aside Ordinance

Item 8.c.: In addition, the Borough will adopt a Borough-wide Mandatory Set-Aside Ordinance ("MSO"), which will require that any site that benefits from a rezoning, use variance or redevelopment plan approved by the Borough (except for the Borough's R-1 Zone district), that results in multi-family residential development of five (5) dwelling units or more units at or above

six (6) units per acre to produce affordable housing at a set-aside rate of 20 percent for for-sale affordable units and at a set-aside rate of 15 percent for rental affordable units. The adoption of this MSO does not give any developer the right to any such rezoning, use variance, redevelopment designation or other relief, or establish any obligation on the part of the Borough of Westwood to grant such rezoning, variance, redevelopment designation or other relief.

Update: Pursuant to this requirement, the Borough adopted a mandatory affordable housing set-aside ordinance (Ord. No. 18-42). Specifically, Chapter 195 Article XXIV Section 195-186 establishes that "any multifamily or single-family attached residential development, including the residential portion of a mixed-use project, that is approved to contain five or more new dwelling units as a result of a subdivision or site plan approval, rezoning, use variance, redevelopment plan or rehabilitation plan approved by the Borough or a Borough land use board (except for the Borough's R-1 Single-Family Residential Zone district) shall be required to set aside a minimum percentage of units for affordable housing".

Section 195-186 B(4) establishes that "this requirement does not create any entitlement for a property owner or applicant for subdivision or site plan approval, a zoning amendment, use variance, or adoption of a redevelopment plan or rehabilitation plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project."

5. Very-Low Income Units

Item 8: The Borough 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. The Borough will comply with this requirement by requiring 13% of any affordable units generated in any development resulting from the overlay zoning sites or mandatory set-aside ordinance be affordable to very low-income households.

Update: This requirement has been satisfied for all the aforementioned ordinances.

6. Housing Element and Fair Share Plan

Item 17: As an essential term of this Agreement, within one-hundred-and-twenty (120) days of Court's entry of an order approving this Agreement, the Borough shall introduce and adopt an ordinance or ordinances providing for the amendment of the Borough'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.

Update: The following is noted:

- a. The Borough adopted its Housing Element and Fair Share Plan on February 7, 2019 (Amended).
- b. The LB-RM Limited Business Residential Multifamily Affordable Housing Overlay Zone for Block 701 Lots 1 thru 8 and 10 thru 13, and 16 was implemented by Ordinance No. 18-40.
- c. The RW-RM Limited Business Residential Multifamily Affordable Housing Overlay Zone for Block 2001 Lot 62, Block 2003 Lot 2, Block 2210, Lots 1 and 3.01 was implemented by Ordinance No. 18-41.
- d. The Borough adopted an affordable housing ordinance by Ordinance No. 18-43.
- e. The Borough adopted a mandatory affordable housing set-aside ordinance by Ordinance No. 18-42.

7. Fair Share Plan

Item 16: The Borough 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).

Update: The Borough adopted a Spending Plan on February 7, 2019 and endorsed by Resolution No. 19-72.

8. Appendices

Attached please find the following:

Summary tables of the Project Unit Monitoring dated June 29, 2020.

Summary tables of the Very Low-Income Units June 29, 2020.

In accordance with the settlement agreement the posting of this report shall invite any interested party to submit comments to the municipality, 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.