

**THIRD ROUND AFFORDABLE HOUSING
MIDPOINT REALISTIC OPPORTUNITY REVIEW
TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY**

*IMO Application of the Township of Montgomery
Docket No. SOM-L-924-15*

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1.0 PURPOSE

The requirement for a midpoint realistic opportunity review derives from the Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-313, which provides: “[t]he Council (Council on Affordable Housing or COAH) shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public.” Although COAH failed to adopt regulations or procedures for a midpoint realistic opportunity review, the purpose and process is set forth in Montgomery Township’s 2017 Court-approved Settlement Agreement with Fair Share Housing Center (“FSHC”).

The purpose of the midpoint realistic opportunity review is for Montgomery to provide a status report as to the Township’s implementation of its Court-approved 2018 Amended Housing Element and Fair Share Plan (“Plan”, “HEFSP”), an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity, and an update on the progress of any incomplete mechanisms. Pursuant to Montgomery’s Settlement Agreement with FSHC, the Township is required to post this status report on its website, with a copy to FSHC and the Intervenors in the Township’s Declaratory Judgment matter (Docket No. SOM-L-924-15). The Agreement also contemplates review of unmet need mechanisms; however, this is not applicable to Montgomery. In the event the Court determines that a mechanism no longer presents a realistic opportunity and should be replaced, or if the Court determines that any mechanisms should be revised or supplemented, then Montgomery Township shall have the opportunity to supplement or revise its Plan to correct any deficiency.

To facilitate the review process, in addition to posting this Midpoint Review Report on its website and submitting copies to FSHC and the Intervenors, Montgomery Township will place on file a copy of this report for public inspection at the office of the Montgomery Township Clerk or, if the municipal building is still closed due to the COVID-19 pandemic, interested parties may request a copy be mailed. Lastly, the Township will provide newspaper notice of the availability of this report. The Township’s notice to the public of this Midpoint Review Report will include a 30-day deadline for any interested party/Intervenor comments to be submitted.

2.0 BACKGROUND

In response to the New Jersey Supreme Court's 2015 Mount Laurel decision, the Township filed its Declaratory Judgment action with the Superior Court on July 7, 2015. Through the declaratory judgment process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over the matter to review. The Township of Montgomery entered into a Settlement Agreement with FSHC, which was executed on December 8, 2017. Following a February 13, 2018 Fairness Hearing, the Settlement Agreement was approved by Superior Court Order, dated February 20, 2018, which found the Agreement and the Township's Preliminary Compliance Measures fair to the interests of low- and moderate-income citizens of the region. Montgomery then prepared an Amended Housing Element and Fair Share Plan, which was adopted by the Township Planning Board on July 2, 2018 and subsequently endorsed by the Township Committee on July 5, 2018.

The Township's Amended Plan was reviewed at a Court Compliance Hearing on July 24, 2019 and received a final Judgment of Compliance and Repose ("JOR"), also issued on July 24, 2019. This final JOR approved the Township's Plan, including the satisfaction of the Prior Round obligation and mechanisms addressing the Third Round obligation, and provided Montgomery with immunity from builder remedy lawsuits through July 1, 2025.

Pursuant to the final JOR, this office will work with the Township in the coming months to prepare an amendment to the HEFSP that incorporates recent changes to the Third Round mechanisms as detailed below. The Amended HEFSP shall be adopted by September 30, 2020.

As reflected in the Township's Court-approved Settlement Agreement and Amended HEFSP, the Township's Third Round Fair Share obligation is as follows:

- Rehabilitation Share/Present Need: 0 units
- Prior Round Obligation: 307 units
- Third Round Gap and Prospective Need Obligation: 616 units

3.0 REHABILITATION OBLIGATION REVIEW

The Township has a Rehabilitation Obligation/Present Need of 0 units, therefore no action is required of the municipality.

4.0 PRIOR ROUND REVIEW

As indicated in the Settlement Agreement, the Township’s Prior Round obligation of 307 units is fully satisfied. These units are composed of inclusionary developments, alternative living arrangements, and rental bonus credits. All of these developments are completed and occupied, and comply with rental and age-restricted unit requirements.

5.0 THIRD ROUND REVIEW

According to the HEFSP, the Township will address its 616-unit Third Round obligation with 471 affordable housing units and 154 associated rental bonus credits, resulting in a surplus of nine (9) units. These units are composed of completed, approved, and proposed inclusionary developments, proposed alternative living arrangements, a proposed assisted living facility, and a proposed 100% affordable housing development. With the exception of the mechanisms in the table below, some of which were altered or introduced after the HEFSP’s adoption, all of Montgomery’s Third Round affordable housing projects are completed and occupied. Otherwise, the Township continues to provide a realistic opportunity for each Court-approved Third Round compliance mechanism.

Compliance Mechanism	Description	Status	Notes/Additional Information
Grove at Montgomery / Country Club Meadows	Inclusionary Development	Completed – last lease issued in May 2019	27 affordable family rental units
Trap Rock	Inclusionary Development	<ul style="list-style-type: none"> ▪ Proposed / Zoned ▪ Planning Board Informal Review to refine the plans 	34 affordable rental units (reduced from 50 due to NJDEP wetlands buffer)
PIRHL / Sharbell / Tapestry at Montgomery / Kepner-Tregoe	100% Affordable Development	Under Construction	86 affordable family rental unit
CC1377, LLC / Devan / VanCleaf	Inclusionary Development	<ul style="list-style-type: none"> ▪ Zoning adopted July 19, 2018 by Ordinance No. 18-1584 ▪ Submitted plans for review at 6/2/2020 Site Plan/Subdivision Committee meeting. ▪ Some plan revisions need to be made before review by the Planning Board. 	23 affordable family rental units
Harlingen Village	Inclusionary	Proposed / Zoning adopted	9 affordable family rental

	Development	July 19, 2018 by Ordinance No. 18-1585	units
Montgomery 5 / Other Group Homes (Community Options)	Alternative Living Arrangement	One 4-bedroom completed; COI is working on the purchase of their second group home.	12 special needs rental bedrooms
Village Shopper / Village Walk at Montgomery	Inclusionary Development	Proposed / Zoning adopted by Ordinance No. 17-1557	11 affordable family rental units
Blawenburg Village Square	Inclusionary	Proposed / Zoning adopted July 19, 2018 by Ordinance No. 18-1586	1 affordable unit
Allies, Inc. (Pine Knoll)	Alternative Living Arrangement	<ul style="list-style-type: none"> ▪ Recently received approval from DDD for 6 bedrooms. ▪ Allies partnered with Monarch Housing on a HUD-811 application. ▪ The project has been delayed due to a required historic study of the house and property. 	6 special needs rental bedrooms
Tapestry Assisted Living	Inclusionary Development	Preliminary Approval	12 age-restricted affordable assisted living rental units
Convatec, Inc. Site (replaced Municipal Building / RPM or 1860 House)	100% Affordable Development	<ul style="list-style-type: none"> ▪ Planning Board adopted the Preliminary Redevelopment Investigation. ▪ A Redevelopment Plan should be approved in the coming months. ▪ Township is in discussions with the County Improvement Authority regarding a long term site lease with RPM (Developer). ▪ Due to the pandemic, the developer will apply for LIHTC in the next cycle. 	70 age-restricted affordable rental units (plus one unit for the superintendent)
Habitat for Humanity – Willow Road	100% Affordable Development	Under Construction	1 unit

The above mechanisms have been slightly modified from the Settlement Agreement and the Housing Element and Fair Share Plan, as acknowledged by the Judge and Special Master, that due to increased wetland buffers, Trap Rock can only provide 34 total affordable units

instead of the 50 total affordable units identified in the Settlement Agreement and the adopted HEFSP.

The HEFSP identified a nine (9) unit surplus; therefore, the Township is ultimately only short seven (7) units as a result of the Trap Rock revision. The Township proposes to make up the net 7-unit difference by increasing the unit count for the municipally-sponsored affordable senior rental site from approximately 60 to approximately 70 units. This will result in a three (3) unit surplus. Although Montgomery's third round age-restricted cap is 154, the Township had only proposed 67 third round affordable age-restricted units including 55 units at the municipal site and 12 at Tapestry assisted living. Thus, the proposed revisions to the HEFSP result in only 76 age-restricted units; well within the 154-unit limitation.

Additionally, Habitat for Humanity is currently construction one unit within the Township. The unit is located on Willow Road. It is a three-bedroom unit. This unit increases the existing three (3) unit surplus to a four (4) unit surplus for the Third Round obligation.

6.0 VERY LOW INCOME ANALYSIS

The amended Fair Housing Act requires the Township to ensure that 13% of all affordable units built, approved, or proposed since July 2008 are affordable to very low income households with incomes of 30% or less of regional median income. Compliance mechanisms in Montgomery's Amended Plan that meet that criterion provide a total of 297 affordable units, of which at least 39 must be affordable to very low income households. As originally calculated in the HEFSP, the Township exceeds this requirement, providing 56 very low income units among the post-2008 mechanisms alone. Plan-wide, the Township provides a total of 81 very low income units, including 41 units available to families.

Due to the revisions identified in Section 5.0 above, the Township's very-low income compliance is detailed herein:

Affordable Units Built / Approved Since 2008	Total Affordable Units	VLI Units Proposed / Provided	Status
Country Club Meadows	27	4	Completed
Trap Rock	34	5	Proposed / Zoned
Allies Inc. Group Home	6	6	Under Construction

(Pine Knoll)			
Proposed Group Homes / Montgomery 5	12	12	One 4-bedroom home is complete; one 4-bedroom home to be acquired; one 4-bedroom home proposed
PIRHL	86	12	Under Construction
DeVan	23	3	Under Review by PB
Harlingen Village	9	2	Adopted Zoning
Village Shopper	11	2	Approved
Blawenburg Village Square	1	0	Adopted Zoning
Tapestry Assisted Living	12	0	Funded / Preliminary Approval
Convatec, Inc. (Municipal Building/RPM or 1860 House)	70	8	Redevelopment Investigation Approved
Habitat for Humanity – Willow Road	1	0	Under Construction
TOTALS	292	54	-

The revised compliance mechanisms, as identified above, that meet that criterion provide a total of 292 affordable units, of which at least 38 must be affordable to very low income households. When the Township prepares an amendment to the HEFSP, this obligation will be recalculated to account for changes to various housing mechanisms and unit totals, particularly Trap Rock, Convatec and the Habitat for Humanity project. It is anticipated that Montgomery will have no issue ensuring that 13% of all units are affordable to very low income households.

7.0 SUMMARY

The Township’s Court-approved compliance mechanisms addressing its Fair Share obligations create a realistic opportunity as each compliance mechanism has met the development requirements (as extended by FSHC) set forth in the Court-approved Settlement Agreement and in the Court’s 2019 JOR. The Township maintains sufficient mechanisms for addressing its obligations and anticipates that all contemplated units will be completed and occupied between now and the end of the Third Round in 2025. The income and bedroom distribution of these units will meet UHAC and FHA requirements. In the event the Court determines that a site or mechanism no longer presents a realistic opportunity and should be

replaced, or if the Court determines that any mechanisms should be revised or supplemented, then Montgomery Township shall include such changes in the amendment to its HEFSP.