**Update on Mendham Borough’s Affordable Housing Court Settlement**

On Monday, November 25, 2019 Borough Council approved two resolutions:

1. A settlement agreement between Fair Share Housing and the Borough of Mendham to end litigation regarding our affordable housing number and request court approval for the settlement.
2. A settlement agreement between V-Fee Realty Investments LLC and the Borough of Mendham to designate the Shopping Plaza on East Main Street as an affordable housing site, also with court approval.

The unanimous passing of these two resolutions are the first in a multi-step process which will include the approval of a zoning overlay of a yet to be determined piece of property in the Borough as well as the approval of a housing project where the racquet club sits within the Shopping

Plaza proper. Since agreeing to the Shopping Plaza housing project, the Borough has maintained its immunity, which safeguards our land use approval process and will require the project to seek all the relevant approvals. We anticipate the project and the zoning overlay to come to the Planning Board in the first quarter of 2020.

This has been a difficult process for all municipalities throughout New Jersey and there is one significant court decision that the courts are basing their computation on which will determine affordable housing units within municipalities from the third round, which has taken place between the years 2000 through 2025. In the case of the Borough, this obligation has been computed to equate to approximately **196 affordable units** that should be constructed in Mendham Borough. This computation is based on various land research and analysis performed by a Special Master appointed by the court. Remember that the 196-unit number is 15 to 20% of the total units that would be built by a developer, which could be upward of 800 units total once completed.

Notwithstanding this obligation, the Borough has advocated for years for a much lower obligation. While the discussions to some extent are confidential during litigation, it’s important to know that we have taken a very hard-lined position for a result that will on the one hand obtain the court’s approval and provide for a Fair Share Housing opportunity, and on the other hand, avoid a growth that would be uncharacteristic or unreasonable for the Borough.

A couple of points. We expect to finalize which property(s) we will be required to approve a zoning overlay before our next official approval deadline – this will take place at a Council meeting early 2020. We will notify you of the specific property prior to that meeting. Also note that V-Fee Realty Investment has changed or attempted to make changes to their proposed project numerous times. We are approving zoning for a 75-unit apartment complex with 15 of those units being dedicated to affordable housing (as determined by the state guidelines). It is possible that the owner will attempt to request additional changes to the project when he comes before the Landuse Boards/Committee; we will only be required to comply with the settlement that the Court approves and will not have to accept any changes that are not in the settlement.

Below are a series of questions and answers put together for us by our law firm, Dorsey & Semrau, LLC to help everyone prepare for any questions from our residents. I suggest that if you are asked a question by a resident and are not certain of the answer do not hesitate to take their name, email, phone number and tell them you will get back to them or that Joyce or Fred will be in touch. This is a very complex issue that has been ongoing for many years and there is too much history to learn overnight. It is important that we provide the most accurate information we can to our residents, and we shouldn’t attempt to guess or surmise.

**Question 1:** What does it mean if the court decides that the Borough’s affordable housing plan is compliant?

**Answer 1:** It means that the Borough can make its own zoning decisions. If a property owner wants to construct high density residential development, the Borough has the right to say no. If there is no affordable housing fair share plan approved by the court, then the risk is that the court will override local zoning and permit high density zoning. In a municipality as desirable as Mendham Borough, this is a concern and certainly worth fighting for.

**Question 2:** How many affordable units has the Borough constructed in this third-round plan from 2000 through 2025?

**Answer 2:** The Borough has approved a total of only 2 affordable units which are both accessory apartments on Main Street.

**Question 3:** If the Borough has only approved 2 units in 25 years, what does this mean?

**Answer3:** It means we are in a difficult position that there is significant obligation that the Borough will need to address. In order to obtain this affordable housing certification, it has required extensive negotiation and review of various locations throughout the community that could be subject to a court order in the development of residential properties for the third-round plan.

**Question 4:** What are the approximate income limits if there is an affordable housing unit constructed in the Borough?

**Answer 4**: Generally speaking, in the Morris County region, a one-person unit may maintain an income limit of approximately $56,000, and a three-person unit may maintain an income limit of approximately $72,000 a year.

**Question 5:** How many residential units would it take to generally construct 196 affordable units?

**Answer 5**: When we look at other municipalities and communities, even surrounding the Borough, it would take a ratio of 4:1 or approximately 800 residential units to meet the court’s obligation for affordable housing.

**Question 6:** Where is the Borough presently in its settlement negotiations?

**Answer 6:** Fortunately, the Borough is closing in on a settlement that may only produce a total of 15 affordable units for the third round. Of those affordable units, 5 would be one-bedroom units, 5 would be two-bedroom units and 5 would be three- bedroom units. Yes, 15 total affordable units if we are successful to complete our negotiations and our plan.

**Question 7:** What is the obligation of some other towns?

**Answer 7:** Harding Township has 200 affordable housing with 44 affordable units as part of a project for development. Chester Township has agreed to a settlement which would result in \_\_\_\_\_\_\_\_\_\_ affordable housing units.

**Question 8:** Has Fair Share Housing identified properties that could be a part of the third-round plan?

**Answer 8:** Yes, Fair Share Housing, we believe, actively solicits property owners to try to be part of the affordable housing plan which would mean the further development pressures for residential, high density residential development. However, we have avoided that many of these locations be a part of the settlement and have really focused on looking at one site that may produce a minimal amount of affordable units. If we were to construct a development at this site, which would be on the property of the King’s Supermarket, we would be in effect, utilizing an existing site and avoiding constructing new development on vacant land or in pocket areas of the Borough. Accordingly, we are looking at a potential settlement which would also involve including only the King’s Supermarket as part of this plan.

**Question 9:** Would there be any other sites that would be addressed by the Borough?

**Answer 9:** Yes, the Borough has to put together an “unmet need” for the remaining obligation that we are not readily expecting to meet. In order to do so, we are currently evaluating a site such as the Day Top facility. This would mean that if the facility were to be sold and torn down, then there would be an opportunity for an “overlay zone” or some residential development, otherwise the answer is no, there would be no other developments as part of the Borough’s third round affordable housing plan.

**Question 10:** What if the Borough just went to court and did not settle?

**Answer 10:** Since only a handful of towns, less than 10 in the entire State, have gone to court

over this matter (and they did not fare very well, so the odds are not in our favor), it becomes an onerous task to avoid the fact that the Borough has only addressed affordable housing with 2 units in the past 25 years and the court has already by way of review, concluded that the Borough has a significant affordable housing obligation. Therefore, the best approach would be to attempt to settle and reduce the obligation from 196 to what we are presently discussing as 15 additional affordable units to actually be constructed through 2025.

I will continue to keep you apprised of this matter as new information is made available.

Very truly yours,

Mayor Christine Serrano Glassner