

# Third Round Midpoint Review Summary Report

## Township of River Vale Bergen County, NJ

Prepared by:



Prepared Date: July 1, 2020

*The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-12.*



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## Introduction

In accordance with the Fair Housing Act (FHA), the Township of River Vale adopted a 2019 Housing Element and Fair Share Plan (HEFSP) to plan for the provision of their “fair share” of affordable housing for low and moderate income persons and households for the Third Round. For the purposes of this report, the Third Round Obligation shall include the Gap Period present need (1999-2025), but the Third Round is generally identified as the period from 2015 to 2025.

The Township executed a Settlement Agreement with the Court and Fair Share Housing Center on September 8, 2017 in declaratory judgement proceedings under Docket No. BER-L-6277-15 In the Matter of the Application of the Township of River Vale. River Vale attended the Compliance and Fairness Hearing held on May 9, 2019, in which the Township received a “Conditional Order of Compliance and Repose” of its Settlement Agreement and HEFSP on June 12, 2019. The Township's Final Compliance Hearing is scheduled for September 2, 2020 in which the Township seeks a “Final Judgement of Compliance and Repose”, receiving the judicial equivalent to Substantive Certification.

Now, at the midpoint of the Third Round (July 1, 2020), the Township of River Vale offers the following Midpoint Realistic Opportunity Review (“Midpoint Review”) and corresponding Monitoring Form (see excel).

In accordance with the Settlement Agreement, this Midpoint Review is posted on the municipal website and has been provided to Fair Share Housing Center. Any interested party in this matter is invited to submit comments to the Township with copy to the Fair Share Housing Center:

Gennaro Rotella, Municipal Housing Liaison  
Township of River Vale  
406 River Vale Road  
River Vale, NJ 07675

Adam M. Gordon, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002

## Conditions of Compliance

1. What conditions from the court's approval of the municipal housing element and fair share plan and judgment of compliance and repose, if any, have not yet been satisfied? Explain the reasons for any delay and the steps the municipality is taking to satisfy the condition(s).

Case Management Order #4, issued on November 22, 2019, extended the 120-day timeframe originally set forth in the Settlement Agreement for several items. The Housing Element and Fair Share Plan was adopted by the Planning Board on December 18, 2019 and endorsed by the Council on January 13, 2020, complying with Order #4 (see **Attachment 1**). The Spending Plan was revised and submitted to FSHC and the Court Master for their review by Order #4's date of December 13, 2019.

### **Woodmont Properties**

Per the Settlement Agreement, the Woodmont Properties development project (“The Fairways at Edgewood”) will permit 227 total units. Per the HEFSP, the Township must obtain

a final commitment letter for a proposed monetary contribution from Woodmont Properties, towards the Mesker 100% Affordable site, to be submitted prior to the Compliance Hearing. Per the Settlement Agreement, the amount negotiated between the Township and Woodmont Properties must be made within 120 days of approval of the Settlement Agreement at a Fairness Hearing. Due to the ongoing Planning Board hearing of the site, Case Management Order #4 (issued on November 22, 2019) extended the 120-day timeframe for this item. The Township executed a Developer's Agreement with The Fairways at Edgewood, LLC within the new timeframe (by December 13, 2019), of which it states an agreed upon contribution to be used towards the Mesker 100% affordable site.

### **Mesker Inclusionary**

The Township has advertised the Mesker inclusionary site in an RFP and selected a developer. While the Settlement Agreement required this item be executed within 120 days of approval of the Settlement Agreement, Case Management Order #4 extended the 120-day timeframe for this item, stating an RFP be released by December 13, 2019 allowing developers to respond until January 27, 2020 and the Township select such a developer by March 12, 2020. However, River Vale did not receive responses to the RFP – so a developer could not be chosen within the timeline. The RFP was then reviewed and edited by the Court Master and Fair Share Housing and put out to bid again in order for the Township to select a developer by May 11, 2020.

### **Mesker 100%**

For the Mesker 100% affordable site, the Township must provide evidence as part of its Housing Element and Fair Share Plan that River Vale has adequate and stable funding. The Township passed a Resolution stating it would bond to seek temporary financing (**Attachment 2**), of which this Resolution was sent to the Courts. Presently, the Township is in the process of executing a contract with the chosen developer and they are applying for funding. Once completed, the Township will provide a construction or implementation schedule for each step in the development process as indicated in the Settlement Agreement.

### **Ordinances**

As prescribed in the Settlement Agreement, the Township adopted overlay zoning of River Vale's downtown, the Four Corners Overlay Zone (**Attachment 3**) within 120-days of the Court's approval of the Settlement Agreement. The court approved the Settlement Agreement through a "Conditional Order of Compliance and Repose" on June 12, 2019 and the ordinance was adopted on September 9, 2019.

The Township adopted a Mandatory Set-Aside Ordinance within 120-days of the Court's approval of the Settlement Agreement (**Attachment 4**). The court approved the Settlement Agreement through a "Conditional Order of Compliance and Repose" on June 12, 2019 and the ordinance was adopted on September 9, 2019.

The Township adopted an Affordable Housing Ordinance, Housing Element and Fair Share Plan, Spending Plan, and zoning changes. However, not all were adopted within 120-days of the Court's approval of the Settlement Agreement (**Attachment 5**). The court approved

the Settlement Agreement through a “Conditional Order of Compliance and Repose” on June 12, 2019 and the Affordable Housing Ordinance was adopted on September 9, 2019, which complied with the 120-day timeline identified in the Settlement Agreement.

### **Other Items Per Settlement Agreement**

On the date of the Court's approval of the Spending Plan, the Township will provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website.

The Township will provide annual reporting of all affordable housing activity on the first anniversary of the Final Judgment and Compliance Order, by posting on the municipal website and providing a copy to Fair Share Housing Center.

Within 30 days of the third anniversary of the Final Judgment and Compliance Order, and every third year thereafter, the Township will post on its municipal website and provide a copy to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements.

As described above, the Township is responsive to meeting court deadlines.

## Developments that Are Not Completed

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| 2. For each court-approved inclusionary development project that is not yet constructed, please provide a narrative as to its status and any progress towards construction. |
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### **Mesker Inclusionary**

Per the Settlement Agreement, the Township should select a developer for the Mesker inclusionary development through a Requests for Proposals (RFP) process. The Township advertised the Mesker inclusionary site as an RFP. Due April 16, 2020, the Township received one response to the Mesker inclusionary site (**Attachment 6**). On May 11, 2020 the Township chose the developer (**Attachment 7**). The Township is working with the developer to move forward on the project.

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| 3. Have any non-inclusionary development projects (including 100% affordable projects, group homes, accessory apartments, market-to-affordable, extensions of affordability controls, etc.) included in the court-approved plan not yet been built/converted to affordable housing/controls extended? If yes, explain how many units, if any, have been built for each non-inclusionary project or mechanism and when construction is expected to be completed on the remaining units. |
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### **Woodmont Properties**

The Woodmont Properties development project (“Fairways at Edgewood”), which has not yet been built but was approved by the Township Planning Board (**Attachment 8**). One

100% 24-unit affordable building would be constructed on its own lot, as part of the larger development project. As of June 9, 2020, site work has begun (tree removal, soil) and the developer submitted a construction application for the COAH building. The Township was waiting on a check for the permit to be released.

**Mesker 100%**

The Mesker 100% Affordable site has not yet been built. The Township advertised the Mesker 100% Affordable site in an RFP, as per the Settlement Agreement. Due April 16, 2020, the Township received three responses (**Attachment 6**) and on May 11, 2020 the Township chose the developer (**Attachment 9**) and is in the process of executing a contract.

**New Concepts for Living**

The Township's proposed developmental disability group home facility by New Concepts for Living will have five (5) bedrooms. The Township has undertaken several actions to move the project towards construction (see **Attachment 10**). Per the HEFSP, construction must begin within 2 years of court-approved settlement agreement. In compliance with the Settlement Agreement, as of May 29, 2020, the Township Engineer recommended approval for the site's soil moving application and construction continues to move forward.

4. Are there any projects that have missed any construction deadline established in the court-approved Settlement Agreement, or other mechanisms (e.g. market-to-affordable, accessory apartments, extensions of affordability controls) that have not met the completion schedule set forth in the Settlement Agreement or Housing Element and Fair Share Plan? If yes, what steps is the municipality taking to complete construction and what is the current timetable?

As described below, all projects and mechanisms with construction deadlines established in the Settlement Agreement are on track to meet the completion schedule requirements.

**New Concepts for Living**

The Township's proposed developmental disability group home facility by New Concepts for Living will have five (5) bedrooms. Per the HEFSP, construction must begin within 2 years of court-approved settlement agreement. In compliance with the Settlement Agreement and as of May 29, 2020, the Township Engineer recommended approval for the site's soil moving application and construction continues to move forward. The Township anticipates the facility will be complete by the end of the Third Round in 2025.

5. Are all unbuilt developments currently in a sewer service area, and if not what has the municipality done to incorporate the site into a sewer service area? Are there any barriers to obtaining water or sewer for any unbuilt site? Are there any other regulatory conditions that make it not possible to complete any site as originally contemplated?

All unbuilt projects are within a sewer service area. There are no known barriers to complete development of the Mesker Sites, the downtown, or any development meeting the qualifications for the Mandatory Set-Aside, as originally contemplated.

## Rehabilitation Obligation

6. Is the rehabilitation program being administered by a municipality, county, or both? Do the program(s) include rental rehabilitation? If the municipality has not met at least half of its rehabilitation obligation by this midpoint review, what affirmative steps is the municipality taking to meet the obligation and to facilitate participation by homeowners and/or landlords?

The Township of River Vale is administering its rehabilitation program. The Settlement Agreement states that the Township will contract with an experienced administrative agency to administer the rehabilitation program (**Attachment 11**). The Township has contracted with Piazza & Associates as their program administrator.

While the Township has not met at least half of its rehabilitation obligation, the Township intends to meet its full 30-unit rehabilitation obligation by the end of the Third Round in 2025.

## Prior Round and/or Third Round Vacant Land Adjustment

7. If the municipality's court-approved Prior and/or Third Round plan includes Unmet Need:
- Has there been any development, proposal for development received by the municipality (even if ultimately rejected), adoption of rezoning or a redevelopment plan for of any parcel larger than 0.5 acres since the settlement was approved by the court on a parcel that was neither previously identified in calculating the municipality's RDP nor included in an inclusionary overlay zone? If so:
    - Please describe the development(s), development proposal(s), rezoning(s) or redevelopment plans(s)?
    - Is any affordable housing included in any of the development(s) proposals(s), and/or rezoning(s) or redevelopment plan(s) referenced?
    - If the municipality has a mandatory set-aside ordinance, was that applied to the development(s) and/or rezoning(s) or redevelopment plan(s)?

There has been no proposed, approved, or rejected development, no adopted redevelopment plan, and no rezoning that was not previously identified in calculating River Vale's RDP nor included in an inclusionary overlay zone since the Township received a "Conditional Order of Compliance and Repose" by the Court on May 12, 2019.

- b. Has any development occurred or been proposed to occur within any inclusionary overlay zone or for which a mandatory set-aside ordinance would apply since the settlement? If so:
- i. What is that development or developments?
  - ii. Does that proposed or actual development include any affordable housing? What percentage of the development is affordable?

No applications for development have been submitted in River Vale's downtown Four Corners Overlay Zone at this time.

No development has been proposed or constructed for which the Mandatory Set-Aside Ordinance would apply.

- c. Have any changed circumstances occurred that result in additional parcels becoming available for development that were neither previously identified in calculating the municipality's RDP nor included in an inclusionary overlay zone? If yes, please identify the parcel(s) and describe how the municipality plans to address the changed circumstances.

The Township remains fully built-out with no available land for development that was not previously identified in calculating River Vale's RDP, nor included in an inclusionary overlay zone. Please see **Attachment 12**, comparing tax class changes from 2019 (the most recently available data) and 2015 (the dataset used in the HEFSP VLA in calculating RDP). Of the 60 properties showing tax class changes, none are realistically developable.

## Attachments

1. **Attachment #1** - Township Council Resolution No. 2020-56, Endorsing 2019 HEFSP (January 13, 2020)
2. **Attachment #2** - Township Council Resolution No. 2019-232, Intent to Bond in the Event of Funding Shortfall (August 12, 2019)
3. **Attachment #3** - Township Council Ordinance No. 356-2019, Creating Downtown Four Corners Overlay Zone (September 9, 2019)
4. **Attachment #4** - Township Council Ordinance No. 357-2019, Mandatory Set-Aside Ordinance (September 9, 2019)
5. **Attachment #5** - Township Council Ordinance No. 358-2019, Affordable Housing Ordinance (September 9, 2019)
6. **Attachment #6** - Responses to RFP
7. **Attachment #7** - Township Council Resolution No. 2020-124, Selecting Developer for Inclusionary Development (May 11, 2020)
8. **Attachment #8** - Developer Agreement with Fairways at Edgewood, LLC

9. **Attachment #9** - Township Council Resolution No. 2020-124, Selecting Developer for 100% Affordable Development (May 11, 2020)
10. **Attachment #10** – New Concepts for Living
  - a. Resolution No. 2018-275, Authorizing Mayor to sign purchase and sale agreement with New Concepts for Living (November 26, 2018) and the Purchase and Sale Agreement (February 12, 2019)
  - b. Resolution No. 2018-276, Authorizing Mayor to sign development agreement with New Concepts for Living (November 26, 2018) and Development Agreement (February 12, 2019)
11. **Attachment #11**
  - a. Resolution No. 2019-302 contracting with Piazza and Associates as the Administrative Agent (December 9, 2019)
  - b. Affirmative Fair Housing Marketing Plan (November 26, 2019)
12. **Attachment #12** - documentation for Question 7c, changed circumstances