

The Governing Body has been working diligently to reach a final resolution of NJ's mandated affordable housing obligation. The demands being placed on towns by the courts and Fair Share Housing Center (a not-for profit housing organization that participates in every affordable housing case) are both unfair and unrealistic. Unfortunately, they are also unavoidable. Without a settlement, towns are unprotected from 'builder's remedy' lawsuits – opening them to unlimited development.

Some towns have settled for huge housing obligations numbering in hundreds of units, including neighboring towns such as Montvale, Old Tappan and Mahwah, to obtain immunity. For instance, Montvale has approved 724 new residential units and currently is hearing an application for 169 more – if approved that will make a total of 893. Mahwah has approved 800 rental apartments.

Each municipality has been given a choice of settling or going to trial. The three towns that have chosen to litigate as of date have received very unfavorable outcomes. Englewood Cliffs chose to go to trial and the judge recently revoked their immunity from builder's lawsuits and ordered the Governing Body to accommodate 347 low/moderate income units, or 20% of the potential total to be built. They are back in court now battling a builder's remedy lawsuit to build 520 rental apartments with 80 market rate townhomes on twenty acres (30 units per acre). Upper Saddle River has been assigned the same judge as Englewood Cliffs and has been covered by temporary immunity extended by the judge while we work out a settlement agreement with Fair Share Housing. On December 13, 2019, the Court directed the Borough to advise by January 6, 2020 as to whether the case will be settled. Without a settlement, the case would likely move to trial.

Only thirty towns in the state, with ten towns being in Bergen County, do not have their Round Three obligation settled at this time. Upper Saddle River is one of the last municipalities to settle. We have been engaged in extensive and prolonged negotiations with the court-appointed Special Master and Fair Share Housing Center with the goal being to achieve a rational and reasonable outcome. Doing so earns the Borough immunity from builder's remedy lawsuits for a ten - year period called Round Three, years 2015 through 2025. Every ten years, there is an entirely new round with a new obligation.

It is essential that we protect our town from unlimited development. It is evident that going to trial will lead to a higher number of units with locations, numbers and designs that would be out of our control. It is in the best interests of the community

that we have oversight. The sole purpose of settling is to protect our quality of life and our town's unique character.

After four years of negotiations, with mandates to comply with legal requirements, a tentative settlement has been reached. The proposed settlement is available on our website, www.usrtoday.org. A special council meeting is scheduled on Monday, January 27th at 8 pm to discuss the settlement publicly. The council may vote to approve the settlement at the meeting. If approved, the settlement will be subject to a fairness hearing before a N.J. Superior Court judge at which the public can attend and have the right to testify. If the Settlement is approved by the court, the Borough's Master Plan and other land use regulations will be revised to be consistent with the approved settlement in accordance with the requirements of law which include prior published notice and a right to be heard.

Previously, in settlements with developers on One Lake Street and Apple Ridge Golf Course, the Borough agreed to affordable units behind Porcelanosa and on East Crescent, along with 22 units on the One Lake Street site. During negotiations, these units have proven extremely helpful in working towards a final settlement. In addition, Fair Share has demanded overlay zoning on lots on Parkway, off of Route 17 South, each individually owned and currently occupied by commercial entities. Overlay zoning means that if the property were to be developed for residential purposes in the future, a percentage of affordable units would be included. For instance, Apple Ridge Golf Course had been assigned an overlay zoning in 1992 in Round One – that is why units are being built at Porcelanosa in order to fulfill the Round One obligation.

The proposed settlement also requires overlay zoning on four lots on Rt. 17 North, north of the Extended Stay. One lot is vacant. The others currently house a gas station and commercial properties. The properties closest to LenapeTrail are not included and are identified as wetlands by the NJDEP.

Zoning that was put into place in 1992 as part of Round One at the end of Cottage Lane and Creative Gardens will remain exactly the same. The area on Cottage is also identified as wetlands.

This has been a long, arduous and difficult process, mandated by the NJ Supreme Court if we want to continue to maintain some measure of control over our land use regulations.

Thank you for your patience and support as we fight to achieve the best possible outcome for our community in light of the extraordinary demands being forced upon all NJ municipalities.

Joanne L. Minichetti,
Mayor - Upper Saddle River