

Third Round Midpoint Review Summary Report

Borough of Pompton Lakes
Passaic 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 Borough of Pompton Lakes 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 Borough executed a Settlement Agreement with the Court and Fair Share Housing Center on July 3, 2017 in declaratory judgment proceedings under Docket No. PAS-L2361-15 In the Matter of the Application of the Borough of Pompton Lakes. Pompton Lakes attended the Compliance and Fairness Hearing held on May 9, 2019, in which the Borough received a "Conditional Order of Compliance and Repose" of its Settlement Agreement and HEFSP on June 30, 2019. The Borough's Final Compliance Hearing has not been scheduled at the time of submitting this report, in which the Borough will seek a "Final Judgment of Compliance and Repose", receiving the judicial equivalent to Substantive Certification. The Borough has been updating the plan and the documentation of exiting units per the comments of the Court Masters review letter dated and has been in constant contact since our initial hearing on the updating of the plan.

Now, at the midpoint of the Third Round (July 1, 2020), the Borough of Pompton Lakes 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 Borough with copy to the Fair Share Housing Center:

Kevin Boyle, Municipal Housing Liaison
Borough of Pompton Lakes
25 Lenox Avenue
Pompton Lakes, NJ 07442

Josh Bauers, 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).

Condition 1. The Borough shall provide an update to FSHC and the special master demonstrating that it has entered into Redevelopment Agreements on the sites referenced in paragraphs 7 and 8 sufficient to address its entire combined Prior Round and Third Round fair share obligations. To the degree that a payment in lieu election is made on any of the sites referenced, the Borough shall demonstrate at that point how it is using that payment in lieu to provide a realistic opportunity

Status: The Borough has entered into three redevelopment agreements for (1) Salvation Army/Lakeside Redevelopment Area (2 units AH/ 3 PIL \$45,000) (2) the CJM Building (2

units, 1 PIL \$90,000 and the (3) the Plumlaw Redevelopment Area (1 AH Unit), all agreements are contained in **Attachment 1**. To date there have not been any further signed redevelopment agreements as the property owners have not yet moved forward on their projects. The Capodagli Redevelopment Agreement is still currently under negotiation. They recently submitted a revised site plan for the construction of 212 total units, which can be seen in **Attachment 1**.

Payment in Lieu in the amount of \$45,000 for 3 affordable units has not been submitted to date for the Salvation Army/Lakeside project nor the \$90,000 for the CJM Project. They are required prior to the first CO. Capadagli's anticipated 3% PIL would be \$540,000.

Condition 2. The Borough intends to provide a realistic opportunity for the development of affordable housing through several additional sites. These sites, except the Hamburg Redevelopment Area, are not yet included in any Redevelopment Area, but the Borough intends that they will be developed via the Redevelopment process. For each site the Borough agrees that the site will be evaluated for designation as an Area in Need of Redevelopment within one year of the court's approval. **Site 1.** A and P Site - (Block 100 Lots 8 and 8.01) rental affordable units. **Site 2.** Smith Site - (Block 6300 Lot 1)

Status: The Borough has recently adopted Area in Need of Redevelopment reports (AINR) for the A & P Site (Blk 100 Lots 8 & 8.01) and the Smith Site (Blk 6300 Lot 1). The resolutions are provided in **Attachment 2**. Redevelopment Plan are currently being developed.

Condition 3. Borough will adopt a mandatory set-aside ordinance.

Status: The Borough adopted its mandatory set aside ordinance by Ordinance 19-27 and is included as **Attachment 3**.

Condition 4. The Borough will collect Payments in Lieu of on-site affordable housing for the identified affordable housing sites in Paragraphs 7 and 8 of this agreement. Payments in Lieu amounts may vary. Developers may provide a 7% set-aside of affordable housing on-site in conjunction with a 3% Payment in Lieu contribution or they may provide a 10% set aside of affordable housing on-site.

Payment in Lieu in the amount of \$45,000 for 3 affordable units has not been submitted to date for the Salvation Army/Lakeside project nor the \$90,000 for the CJM Project.

Condition 5. The Borough agrees that at least 13% of all units created as a result of the Redevelopment Areas in Paragraphs 7 and 8 shall be available to very low-income households.

Status: The Boroughs Administrative Agent, Triad Associates will work with all developers and the Pompton Lakes Redevelopment Agency to ensure that the allocation of 13% of all units are for very low-income qualified recipients.

Condition 6. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5).

Status: The Borough adopted its Affirmative Fair Housing Marketing Plan by Resolution No. 20-67 on January 22, 2020 and is included in **Attachment 4** and included all the community and regional organizations listed in the settlement agreement.

Condition 7. The Borough shall introduce 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 shall adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.

Status: The Mayor and Council of Pompton Lakes, County of Passaic and State of New Jersey approved and accept the COAH Housing Element and Fair Share Housing Plan, the COAH Spending Plan and the Borough Rehabilitation Manual in order to effectuate the terms of the above referenced settlement and to comply with the requirements of the State of New Jersey to provide low and moderate income housing by Council Resolution No. 19-213 on December 4, 2019 and is provided in **Attachment 5**.

In addition, the Borough adopted its affordable housing zones (AH-1 & AH-2) by Ordinance 20-06 on February 12, 2020 and is included as **Attachment 6**.

Condition 8. The Borough shall prepare a Spending Plan within the period referenced above, subject to review by FSHC and the approval of the Court

Status: The Borough adopted the Spending Plan by Council Resolution No. 19-213 on December 4, 2019. See **Attachment 7**.

Condition 9. For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:270-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan

Status: The Borough shall post a copy of the mid-year status report on the municipal website on July 1, 2020.

Condition 10. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein.

Status: The Borough has not posted any such documentation yet as the plan has yet to be finalized by the court and the redevelopment projects are currently under construction or just finished construction recently. By the third-year review, the Borough should have affordable units developed within the redevelopment areas to provide an update.

Developments that Are Not Completed

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.

For more than a decade, the Borough has been trying to stimulate new development in its struggling downtown district. As recommended by the 2007 Master Plan, the Borough designated two downtown redevelopment areas in 2008: Downtown Redevelopment Area-1 (DRA-1) and Downtown Redevelopment Area-2 (DRA-2) and adopted new Redevelopment Zoning in 2009.

Only recently has the Borough been able to generate potential developer interest in downtown redevelopment projects. The following projects have not yet been constructed.

1. Washington Building

Block 3101, Lot 4.01 (located in DRA-1 zone) permits the development of 18 total residential units and requires 2 family rental affordable housing units on-site as part of the 10% set-aside option. To date there has been no activity or redevelopment agreement.

2. CJM Building

Block 6300, Lot 34 (located in DRA-1 zone) permits the development of 30 total residential units, 2,000 sqft of retail and requires 2 family rental affordable housing units on-site as part of the 10% set-aside option and a \$90,000 PIL. The redevelopment agreement has been signed and is provided as **Attachment 1**. CJM was recently approved and is moving towards summer/fall construction.

3. Capodagli

Block 6300, Lots 7, 19, 23, 24, 25.01, 25.02, 25.03, 26-28 is located in DRA-1 zone. These parcels are under an investigation study for an area in need of redevelopment, per Council Resolution #19-130 (June 12, 2019). The study area includes Block 6300, Lots 7, 19, 25.01, 25.02, 25.03, 26 and 27. The sites permit the development of 238 total residential units and requires 17 family rental affordable housing units on-site as part of the 7% on-site option. The Borough will also collect \$630,000 as a payment in lieu of the remaining 3% on-site affordable housing.

However, the project has gone through several redesigns and has recently submitted a revised concept plan that proposes 212 total units and assuming the 7% set aside they would now provide 15 AH units and \$540,000 PIL. The most recent site plan has been provided as **Attachment 8**.

4. R&M Hardware

Block 3000, Lots 22-26 (located in DRA-1 zone) permits a total of 36 residential units and requires 3 family rental affordable housing units on-site as part of the 7% on-site option. The Borough will also collect \$90,000 as a payment in lieu of the remaining 3% on-site affordable housing. To date there has been no activity or redevelopment agreement.

5. Animal Hospital

Block 100, Lots 10.01 and 10.02 (located in DRA-2 zone) permits up to 28 residential total units and requires 2 family rental affordable housing units on-site as part of the 7% on-site option. The Borough will also collect \$90,000 as a payment in lieu of the remaining 3% on-site affordable housing. To date there has been no activity or redevelopment agreement.

6. Wanaque Avenue / Pompton Plaza

Block 3000, Lots 5-10 (located in DRA-1 zone) will require up to 11 residential total units on-site as part of the 10% set-aside. The developer may alternatively choose to provide a 7% set-aside of affordable housing on-site in conjunction with a 3% Payment in Lieu contribution. To date there has been no activity or redevelopment agreement.

7. Soojian

Block 2400, Lot 1 (located in DRA-2 zone) will require up to 2 affordable housing units on-site as part of a 10% set-aside. The developer may alternatively choose to provide a 7% set-aside of affordable housing on-site in conjunction with a 3% Payment in Lieu contribution. To date there has been no activity or redevelopment agreement.

8. Cardinal Gas Station

Block 3100, Lot 4 (located in DRA-1 zone) will require up to 4 residential total units on-site as part of the 10% set-aside. The developer may alternatively choose to provide a 7% set-aside of affordable housing on-site in conjunction with a 3% Payment in Lieu contribution. To date there has been no activity or redevelopment agreement.

9. A&P Site

Block 100, Lots 8 and 8.01 could be developed up to 28 family rental affordable units. The Boroughs Planning Board passed a resolution on Resolution dated March 17, 2020, recommending that the Municipal Council designate the Redevelopment Study Area as a non-condemnation "area in need of redevelopment., subsequently the Council adopted resolution 20-120 on March 25, 2020. **See Attachment 2.**

10. Smith Site

Block 6300, Lot 1 could be developed up to 4 family rental affordable units. The Boroughs Planning Board adopted a Resolution recommending that the Municipal Council designate the Redevelopment Study Area as a non-condemnation “area in need of redevelopment, however at the time of this submission the resolution was not passed to the Council because of the COVID shutdown. **See Attachment 2.**

11. Hamburg Redevelopment Area

Block 2800, Lot 11 (adopted in a redevelopment area) permits up to 6 residential units and will require 1 affordable housing unit on-site. To date there has been no activity or redevelopment agreement.

In addition to the sites above, there are other properties included in the DRA-1 and DRA-2 zones where residential is permitted. Those sites include:

1. Downtown Redevelopment Area 1 (DRA-1), east side of Wanaque Avenue:

Block 3000, Lots 1, 2, 3, 4, 5, 9, 10, 13, 14, 16, 18, 19, 21, 21.01, 22.01, 27, 28, 29, 30, 31, 32, 33, 35, 36. To date there has been no activity or redevelopment agreements associated with any of these properties.

2. Downtown Redevelopment Area 1 (DRA-1), west side of Wanaque Avenue:

Block 3100 Lots 1, 2, and 5; Block 3101 Lot 2 ; Block 6300 Lots 4, 29, 30, 31, 34.01, 35, 36, 37, 37.01, 38 ; and Block 7000 Lots 1 and 4. To date there has been no activity or redevelopment agreements associated with any of these properties.

3. Downtown Redevelopment Area 2 (DRA-2)

Block 100, Lots 9.01 and 10.03; Block 2200 Lot 12; and Block 2400 Lot 2. To date there has been no activity or redevelopment agreements associated with any of these properties.

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.

The Boroughs Housing Element and Fair Share Plan did not identify any of the above mentioned non inclusionary projects in their plan.

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?

There we no construction deadlines or deadlines for other mechanisms mentioned established in the settlement agreement for specific projects.

The Borough recently adopted the A& P Site - (Block 100 Lots 8 and 8.01) and the Smith Site - (Block 6300 Lot 1) as Areas in Need of Redevelopment (AINR) per the settlement agreement. Copies of which have been provided as **Attachment 2**.

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 located within a sewer service area. There are no known barriers to complete development of the downtown redevelopment zones DRA-1 & DRA-2 or any developments 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 Borough of Pompton Lakes will be administering its rehabilitation program. At the time of submission there is no funding in the AHTF and therefore no available funds for the rehabilitation program, however as mentioned in the sections above there will be PIL funds submitted for the completion of the

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:
- a. 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:
 - i. Please describe the development(s), development proposal(s), rezoning(s) or redevelopment plans(s)?
 - ii. Is any affordable housing included in any of the development(s) proposals(s), and/or rezoning(s) or redevelopment plan(s) referenced?
 - iii. If the municipality has a mandatory set-aside ordinance, was that applied to the development(s) and/or rezoning(s) or redevelopment plan(s)?

The Borough of Pompton Lakes through the settlement agreement process had forgone the vacant land assessment to establish methodology to meet the entire negotiated obligation through the establishment of designated redevelopment areas. There have been no additional proposed, approved, or rejected development, no adopted redevelopment plan, and no rezoning outside the specified areas that have utilized the mandatory set aside provision of the HEFS Plan.

- 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?

The following projects are approved and built and are located within the Boroughs two designated redevelopment areas.

1. **Salvation Army/Lakeside**

Block 6200, Lot 1 (located in DRA-1 zone) was the site of the old Salvation Army building. The project was approved by the Planning Board in November 2017 and is currently under construction. The new multifamily building has a total of 52 residential units and requires 2 family rental affordable housing units on-site as part of the 7% on-site option. All units will be for rent with one- and two-bedroom apartments. The Borough will also collect a total of \$45,000 as a payment in lieu of the remaining 3% on-site affordable housing. The Borough has executed a

redevelopment agreement with the owners of the Salvation Army site and it provided as **Attachment 1**. The project has been built and is **completed**.

2. Plumlaw Partners

Block 6300, Lot 33 (located in DRA-1 zone) is under construction and the Borough has executed an agreement with the owners of this site which has been provided in the attachments. The original plan was to have a total of 18 residential units, of which 2 family rental affordable housing units will be on-site as part of the 10% set-aside option. However, the redevelopment agreement only provides for 1 unit of onsite affordable housing. The Plumlaw project has been **developed and is complete**

- 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.

To the best of our knowledge there have not been any additional parcels that have become available for development since the settlement agreement. The Borough continues to concentrate its development efforts on the designated redevelopment areas contained in the plan.

Attachments

1. Salvation Army/Lakeside, CJM & Plumlaw Redevelopment Agreements
2. A&P Shopping Center & Smith Site AINR Study Resolutions
3. Mandatory Set Aside Ordinance
4. Affirmative Fair Housing Marketing Plan Resolution
5. HE&FS Plan, Spending Plan, Rehabilitation Manual Resolution
6. AH Zone Ordinances
7. Spending Plan Resolution
8. Capodagli Site Plan