

**Moorestown Township
Council on Affordable Housing (COAH)
Background Information & Update
October 2009**

- The State Supreme Court determined in 1975 that the constitution mandates decent affordable housing for every citizen and in 1983 created a process for addressing how the housing need would be constructed – the “builder’s remedy”. The builder’s remedy allowed for a developer to build a mixed income development of 4 market rate dwellings for each one affordable dwelling.
- In 1984 the Township was sued for not addressing its affordable housing need by Affordable Living Corporation, Inc. The resolution of this lawsuit and another eventually led to the development of the Moorestown Hunt and Laurel Creek neighborhoods.
- In 1985 the Fair Housing Act was passed that established the NJ Council on Affordable Housing (COAH). COAH is charged with determining how much housing is required, each municipality’s share of that housing, and the rules by which a municipality creates and implements a housing plan.
- In 1987, the first rules were adopted by COAH. A coalition of municipal officials, the Moorestown Ecumenical Neighborhood Development (MEND) and local builders decided to address Moorestown’s obligation with affordable housing construction on sites purchased by the Township.
- The Maybury tract was purchased on December 21, 1987 for \$420,000 and the Nagle tract on February 24, 1988 for \$576,385.
- Moorestown was granted substantive certification on August 15, 1988 for its First Round Plan.
- COAH adopted new rules for the Second Round in June 1994.
- The municipality was granted certification of its Second Round Plan on July 9, 1997. The total housing obligation was 606 units of new construction and 85 units of rehabilitation.
- The Second Round housing plan was then amended by the Planning Board and Township Council to use regional contribution agreements (RCA’s) and approved by COAH on October 6, 1999. Later the number of RCA units was reduced since they were unnecessary. COAH approved this amendment on October 3, 2001. An RCA is an agreement where a municipality may pay another municipality to take a portion of its obligation. RCA’s are not permitted anymore.
- COAH adopted new rules for the Third Round in December 2004. Moorestown submitted a plan based on these rules in October 2005 with 143 credits, though no actual new units, and no rehabilitation. These rules were largely overturned in January 2007 by the Appellate Court.
- COAH adopted new rules in June 2008 and required municipalities to file housing plans by December 31, 2008. Moorestown’s obligation increased to 412 units of new construction and 18 units of rehabilitation.
- The Township had already completed 28 units of rehabilitation.
- The new construction of 412 units includes the following components:
 - 25 units (based on the number of bedrooms) for group homes and supportive housing – individual houses occupied by several unrelated persons who are often developmentally disabled.
 - 96 credits from a market-to-affordable housing program. The Township would pay MEND \$30,000 per unit to re-impose deed restrictions on units to keep them occupied by lower income families.
 - The construction of 180 new housing units on the Maybury and Nagle tracts, with a decision on what project to start to be made later. Of these, 46 would be age-restricted and 134 not age-restricted.
 - Credit for 8 units at Creed II on Chester Avenue

- 103 bonus credits.
- Four formal objections were filed with COAH over the plan. These included Pulte Homes, Toll Brothers, Concerned Citizens of Wexford, et al., and South Jersey Legal Services in April 2009. The Township responded to the objections in June 2009. Mediation among the five groups was scheduled for September 24, 2009
- COAH heard a waiver request from the Township for the market-to-affordable program on September 9, 2009. It granted 78 of the 96 requested credits, leaving the municipality 18 units short.
- COAH issued its Pre-Mediation Report on September 16, 2009. An additional proposed group home needed to be included in the plan, which results in an additional shortfall of 3 units for a total of 21 units.
- The Pre-Mediation Report requires that additional information be submitted within 60 days, later extended to 90 days (December 15), including:
 - Addressing the additional 21 units needed
 - Executing an agreement with Family Service
 - Beginning the process for a new wetlands line determination on Maybury
 - Clarifying the number and type of units (age-restricted or not age-restricted) on the Maybury and Nagle tracts
 - Developing a more specific implementation schedule
 - Executing an agreement with MEND for administration.
- Mediation occurs on September 24. The mediator will issue a report but the time when that will occur is unclear.
- Township Council is considering its options (including acquiring additional land) to address the shortfall of 18 units and which would include a contingency to transfer some units from Maybury if environmental factors warrant it. An additional group home with Family Service would be arranged for the last 3 units.
- The new rules require one affordable dwelling for each four regular dwellings produced by the market plus one affordable dwelling for every 16 jobs (based on non-residential square feet built).

Moorestown Township's Position

- As of today, we do not have an approved COAH plan and we are aggressively exploring all possible options to meet our COAH obligation of 412 units.
 - This includes acquiring additional land for possible development (which could be sold in the future if changes to COAH are made)
- We will comply with the law and control of our own destiny.
- We will continue to challenge the basis for the COAH obligation along with the New Jersey League of Municipalities (NJLM).
- We have joined in the League of Municipalities lawsuit seeking to overturn these new rules. The Appellate Court will hear oral arguments in early December 2009.
- We are not trying to show favoritism of one location over another. The reality is we must have enough land on which to develop our COAH obligation. Today, we own certain parcels (and have owned them for many years) and we may need to acquire additional ones to meet this obligation.
- The acquisition of more land is in addition to our current inventory and not in lieu of.
- While there seems to be a lot of land available, most of it is not for sale and/or the owner has other plans for it. We have evaluated (and will continue to do so) many sites and parcels of land.
- We must file our amended plan by December 15, 2009.

Potential alternatives:

- Council has also heard from some to “ignore it, it will go away.” COAH cannot be ignored it will not go away. The risk of ignoring is quite dangerous. Moorestown’s own history bears this out (see above). The Township received higher density in Moorestown Hunt and Laurel Creek as a direct result of a settlement of a builder’s remedy lawsuit.
- We also heard “Don’t do anything. A new governor is going to change everything.” The governor has a certain amount of power. However, in New Jersey, the State Constitution provides that low and moderate income housing is a constitutional right; as such the governor has no ability to change the Constitution. The governor can work hard and lobby on our behalf and we hope that, whoever he is, he does that. Keep in mind that the current governor supports the existing COAH process which we believe is significantly flawed. At the end of the day, the governor cannot change Moorestown’s obligation of 412 units over the next ten years.
- The Legislature can change how we get that number. The Legislature, as you know, previously allowed Moorestown, and other towns, to use RCA’s (Regional Contribution Agreement). We took your money and your tax dollars and sent them to Mt. Holly and other towns to help them upgrade their housing stock and in exchange we did not have to build a certain number of units in Moorestown. This is no longer available in the State of New Jersey based on legislation that was put in place in July 2008.

Summary

Moorestown is committed to working with all the stakeholders to meet its state mandated affordable housing obligation. At the same time, Town Council believes that the current statewide approach to affordable housing is flawed in several respects. We will continue to partner with our professionals, other communities and COAH to promote strategies that reduce the burden on individual municipalities.

For more information, please contact Thomas Ford, Community Development Director at tford@moorestown.nj.us.