



# Peapack & Gladstone and Affordable Housing

PEAPACK & GLADSTONE, NJ

8 MAY, 2018

BY MARK A. CORIGLIANO, COUNCIL PRESIDENT

# The Affordable Housing Mandate

- ▶ Affects most towns in New Jersey, perhaps not always in a positive way.
- ▶ This is not a new requirement. P&G has been dealing with an Affordable Housing issue for nearly 30 years.
- ▶ Along with finance and taxes, perhaps the most difficult issue this Council and prior Councils have had to deal with.
- ▶ The Borough has settled its third round obligation and the agreement was signed just a few days ago.

# The Affordable Housing Mandate

## A few notes to remember...

**The Borough does not have an obligation to construct any Affordable Housing units as specified in our settlement, however the Borough must legislate to allow the reasonable construction of Affordable Housing units, consistent with its settlement plan.**

In reviewing AH obligations, there are two numbers that should not be confused:

- ▶ Total number of credits. This is the final settlement number.
- ▶ Total number of units. The number we are more interested in. The obligation to allow the construction of 'units on the ground'
  - ▶ Some types of AH units are credited more than 1.

Is this all seemingly confusing and does not make sense?

# P&G Affordable Housing Rounds I and II

## Round I: 1987-1993

- ▶ Borough granted substantive certification on 1/9/89

## Round II: 1993-1999

- ▶ Requirement for 82 units

Development	Units	Bonus Credits	Total
Hamilton Court (Lutheran Ministries)	18*	18	36
St. Luke's Senior Village	9		9
Perth Amboy Contribution (\$740k)	37		37
<b>Totals:</b>	<b>64</b>	<b>18</b>	<b>82</b>

- ▶ Borough granted substantive certification for Round II on 1/10/96

# P&G Affordable Housing Round III

## Round III: 1999-2025

- ▶ Issues begin with COAH on account of challenges to AH rules. Rules not ratified until 2004.
- ▶ Borough granted a prospective need of 35-38 units over the next few years. Council met this requirement by purchasing and reserving land (Smith tract) at the end of Apgar Avenue (adjacent to Komline Park) for 28 units (20 family units and 8 group home).
- ▶ COAH certified this plan in 2009. P&G was one of only 68 towns in NJ to receive 3<sup>rd</sup> Round certification.

Unfortunately, our good and sincere efforts were for naught, as COAH was 'shut down' and all settlements went, well...out the door.

# P&G Affordable Housing Round III (continued)

- ▶ After the debilitation of COAH, the issue floundered between the Courts and the State with no resolution, until...2015. P&G's obligation hung in the balance.
- ▶ Since then, through many ups and downs and numerical adjustments, P&G's obligation as determined by the Courts and the newly empowered FSHC was reported to be as low as 50 and perhaps as high as 240 (units, not credits). Kinsey ends up at 188.
- ▶ Borough fights back
  - ▶ P&G files a Declaratory Judgement for protection against damaging Builder's Remedy. This is subsequently extended.
  - ▶ Contributes to joint alliance of towns that commission their own study. This reported more reasonable numbers.
  - ▶ P&G looks to align with neighbors
  - ▶ P&G reaches out to State elected officials for help

# P&G Affordable Housing Round III (continued)

- ▶ Council played hard with the numbers to keep them low. Many meetings in Somerville with the Vicinage Judge, Special Master, FSHC attorneys and with our professionals.
- ▶ P&G comes to a verbal settlement earlier this year, mediated by both the Vicinage Judge and Special Master.
- ▶ It takes months to get a settlement agreement from FSHC, which then needs revision and execution. This brings us to...today.

# P&G Affordable Housing Round III – The Settlement

## Affordable Housing Settlement for P&G

104

78 units

104 credits

# P&G Affordable Housing Round III – The Settlement (continued)

Development	Units	Bonus Credits	Total Credits
Hamilton Court (Lutheran Ministries) <i>(carryover)</i>	2*	2	4
Smith tract - family units <i>(as per previous plan)</i>	20	18	38
Smith tract - group homes <i>(as per previous plan)</i>	8	6	14
Vernon Manor	3		3
Matheny - group homes	10		10
Accessory Apartments	10		10
SJP Properties – family units	14		14
Elks/American Legion	11		11
<b>Totals:</b>	<b>78</b>	<b>26</b>	<b>104</b>

In addition to the above, the Borough shall adopt a plan to rehabilitation one unit.

\*Already constructed

# P&G Affordable Housing Round III – The Settlement (continued)

## Additional Settlement Conditions and Considerations

- ▶ The above settlement numbers do not include a rehabilitative component of one (1) existing unit.
- ▶ The settlement is still subject to ratification at a Fairness Hearing. The hearing will be in Vicinage Judge Thomas Miller's courtroom and is scheduled for June 14.
- ▶ Remember GAP? The settlement numbers include the GAP.
- ▶ Agreement has a 'poison pill' clause. If the current state of AH is overturned and AH obligations drop, P&G will not be held to the settlement numbers and instead would be held to the lower number.
- ▶ The Agreement includes a one-time payment to FSHC of \$3,750.

# Why 104? Why Settle When We Did?

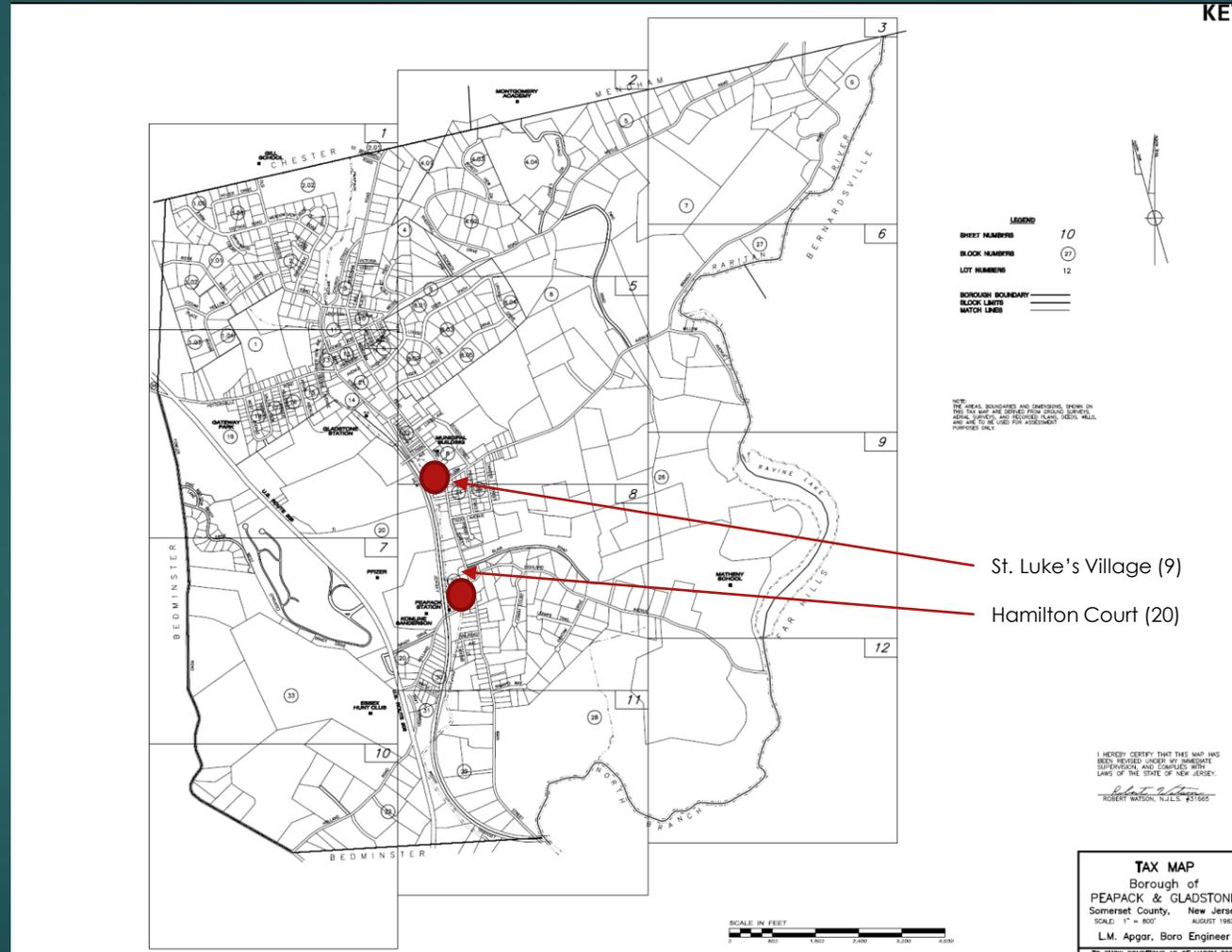
- ▶ Arrived at through more than a year of negotiations, back and forth and Judicial mediation
- ▶ Borough always based its negotiated offers on vacant land available and other options such as the Matheny settlement.
- ▶ FSHC based its numbers on numerical calculations based on the sanctioned reports (Kinsey).
- ▶ Settlement resolves P&G Affordable Housing obligation without the need for a very costly trial, one in which the Borough would likely not prevail.
- ▶ Largest developable parcel locked up at a very low density.
- ▶ Represents a substantial discount from the Kinsey 188 number.
- ▶ The spectre of the Mercer Decision always hung over us. Mercer ended up going NOT in favor of the towns. If P&G had settled after Mercer, our settlement would no doubt have been way higher.
- ▶ Borough is now fully protected from Builder's Remedy through 2025.

# Our Neighbors

- ▶ Not aware of any announced settlements by many of our neighboring communities.
- ▶ Media suggests that our settlement will be considered favorable as compared to others:
  - ▶ BN, 03/26/18: Dewey Meadow/Crown Court, Bernards Township to get hundreds of new units including an affordable housing component as part of an 'intervenor' suit by the Wilf interests.
  - ▶ BN, 04/26/18: Far Hills considering a 'village' development of 139 units plus commercial of which 51 will be affordable. Article suggests that the final settlement will be "75-85 income restricted housing units."
    - ▶ PG: 2580 residents, 78 units
    - ▶ FH: 950 residents, 75-80 units
  - ▶ Word from other communities not good. \$5,000 to \$15,000 payments to FSHC. One town within 20 minutes of P&G reportedly settling for 500+ units.

# How Affordable Housing 'looks'

Post Round I and Round II

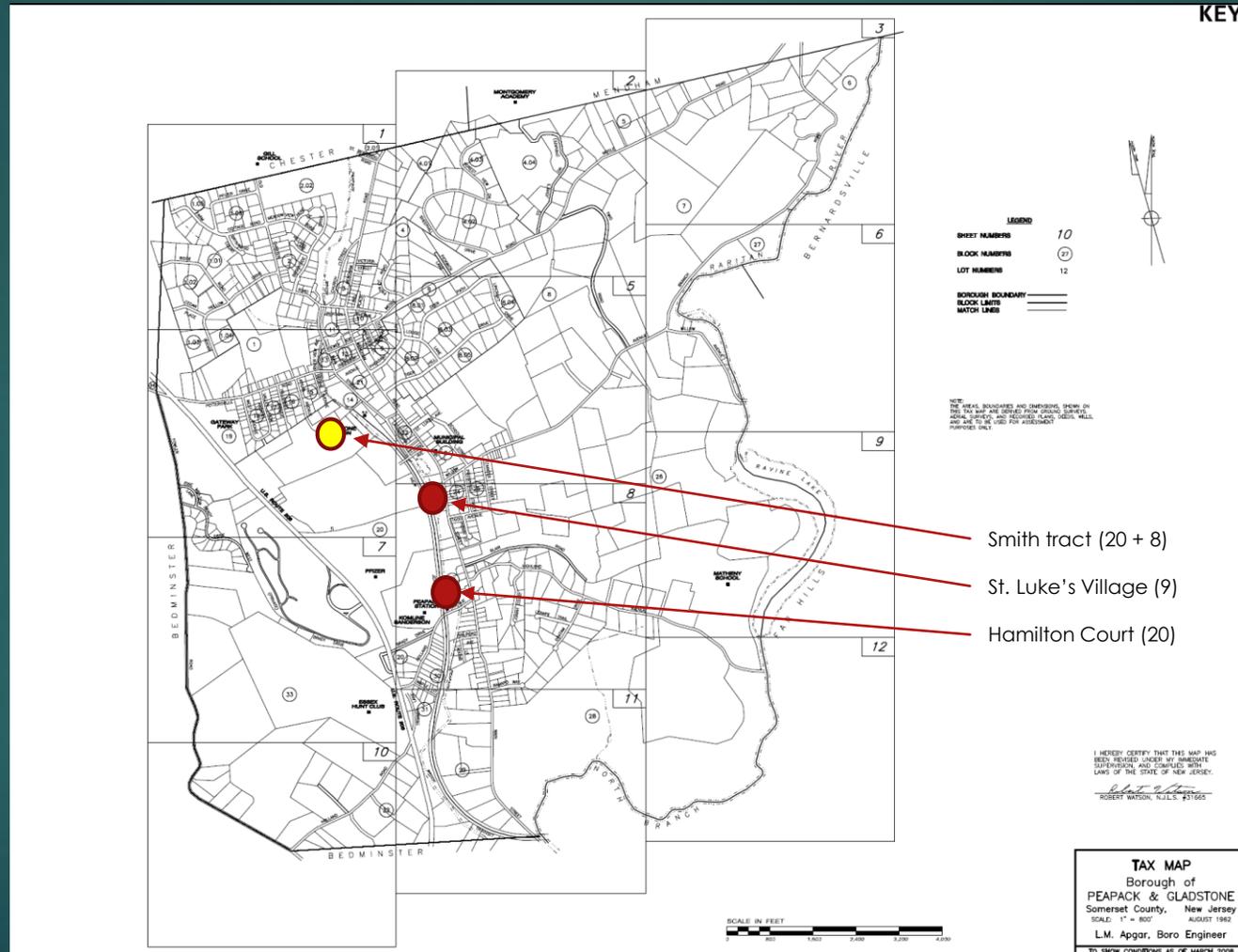


P&G has successfully completed these rounds and is in full compliance.

Not shown are 37 'paid' units in Perth Amboy.

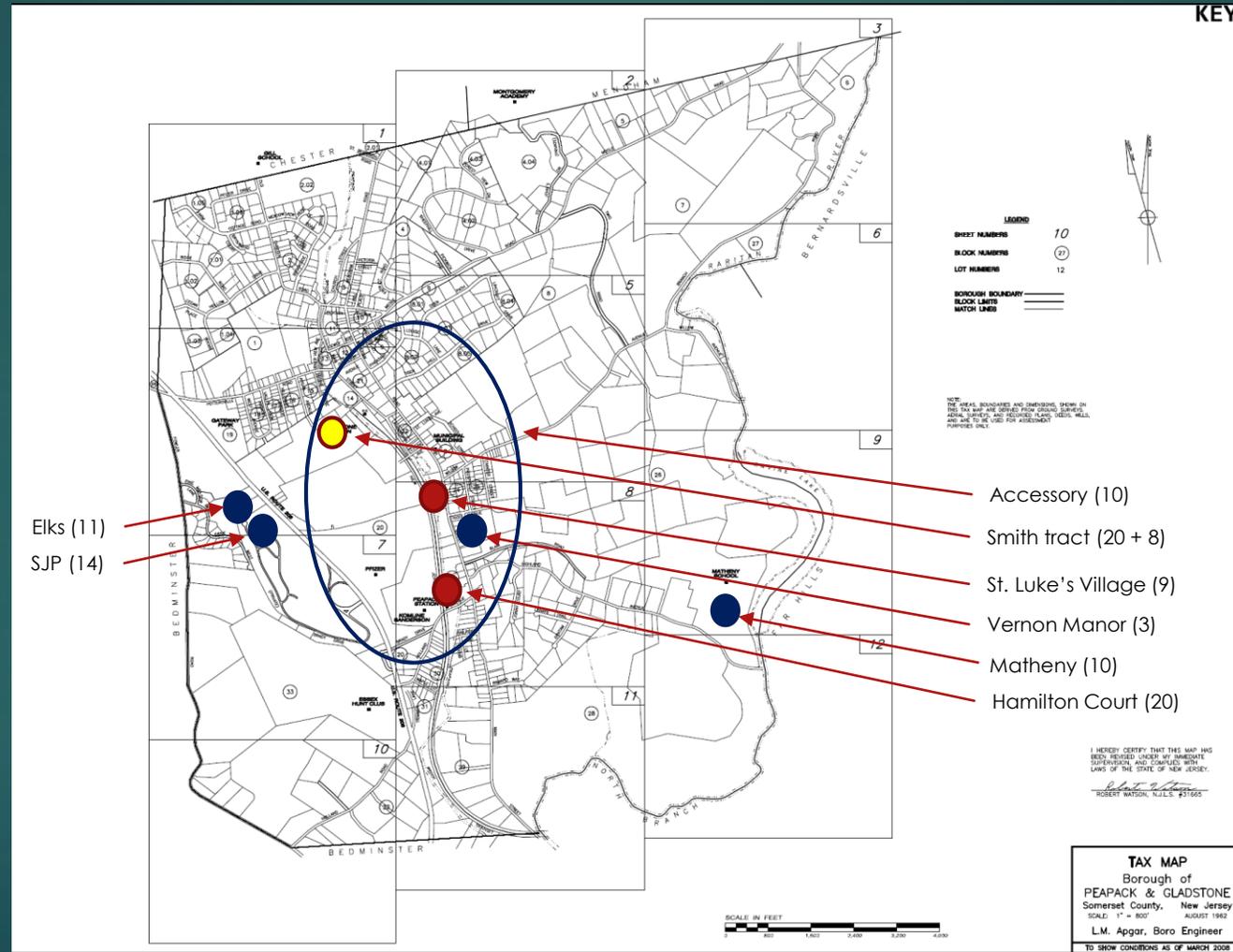
# How Affordable Housing 'could look'

Post Round III Original Settlement, circa 2005



# How Affordable Housing 'could look'

Post Round III Final Settlement (2018)



# Next Steps

- ▶ Fairness Hearing before the Vicinage Judge: Court determines that the settlement is “fair and equitable” to the interests of low and moderate income families and satisfies the Borough’s Mount Laurel mandate. Presently scheduled for June 14 in Somerville.
- ▶ Compliance Period: 120 Days. Borough adopts all necessary documents including Fair Share Plan, Ordinances and necessary appendices. Not much time to do much work.
- ▶ Compliance Hearing: Court determines the Borough to be in compliance with the settlement and subsequently issues an order of “compliance and repose.”



“We think the courts should recognize that the state’s pressing need for affordable homes should not destroy a town’s character. Good will efforts to realistically provide affordable housing should be taken into account before bulldozing small-town America.”

*-The Bernardsville News, 04/26/2018*

# A Few Words from Legal...

- ▶ Roger Thomas, P&G Land Use Attorney
- ▶ John Bruder, P&G Borough Attorney



Questions? Comments?