



February 3, 2021

**Re: Phoenix - 410 Main Street  
Borough of Metuchen, NJ**  
*Harbor Consultants Project Number 2021029.003*

Dear Planning Board Members:

Our office has reviewed the referenced documents for Preliminary and Final Major Site Plan for the property located at 410 Main Street, otherwise known as Block 121, Lot 9. We offer the following project review report related to Affordable Housing Requirements for the Board's consideration:

**A. DOCUMENTS REVIEWED**

The following materials were received from the Applicant and reviewed:

- 1) Borough of Metuchen Application for Development, dated January 22, 2020;
- 2) Architectural drawings for Phoenix 410 Main Street LLC, consisting of nine (9) sheets prepared by Marcille Architecture, dated December 14, 2020.
- 3) Settlement Agreement by and between the Borough of Metuchen and Fair Share Housing Center, dated May 12, 2016.
- 4) Redevelopment Agreement by and between Phoenix 410 Main Street LLC and the Borough of Metuchen, dated December 2020.

**B. AFFORDABLE HOUSING REQUIREMENTS**

*Bedroom Distribution*

Pursuant to Ordinance No. 2020-09, which requires a mandatory set-aside of affordable units with a "set-aside of 15 percent if the affordable units will be for rent and 20 percent if the affordable units will be for sale". Section 2.7 of the Redevelopment Agreement for this project provides that "The Redeveloper acknowledges that this Project shall comply with the affordable housing requirements set forth in the Land Development Ordinance of the Borough of Metuchen. Furthermore, the Redeveloper acknowledges that it shall be subject to the provisions of the Statewide Nonresidential Development Fee Act, N.J.S.A. 40:55D-8.1 through -8.8 unless Redeveloper qualifies for an exemption".

Pursuant to the Uniform Housing Affordability Controls (UHAC), the following regulations are applicable under N.J.A.C. 5:80-26.3(b):

- (b) *Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:*

1. *The combined number of efficiency and one-bedroom units is no greater than 20 percent of the total low- and moderate-income units;*
2. *At least 30 percent of all low- and moderate-income units are two bedroom units;*
3. *At least 20 percent of all low- and moderate-income units are three bedroom units; and*
4. *The remainder, if any, may be allocated at the discretion of the developer.*

The UHAC requirements are codified in the Borough of Metuchen Zoning Ordinance under Article 21, “Affordable Housing”, Section 110-95.7.A(3). It is recommended that the Borough should enforce the UHAC bedroom distribution requirements. Units that do not comply with the required bedroom distribution and the Borough’s Settlement Agreement run the risk of not being credit-worthy, and thus it is vital that this project meet the agreed upon requirements. A 15-unit rental development requires a 15% set-aside, or 2.25 units – rounded down to a minimum of 2 units. These two (2) units shall be required to be one (1) three-bedroom affordable unit and one (1) two-bedroom affordable unit. No one-bedroom affordable units are allowed under the UHAC requirements. Pursuant to Article 21 “Affordable Housing” of the Borough of Metuchen Zoning Ordinance, Section 110-95.7.E(2)(a):

“(E) *Any townhouse, garden apartment or other multiple-family residential development, including PURDS, containing five or more dwelling units shall comply with the following:*

- (a) *A minimum of 15 percent of the total number of units in a rental development shall be set-aside as affordable housing units with half being affordable to low-income households and 13 percent shall be affordable to very low-income households. **If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5 percent then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of such affordable units yields a fractional unit of greater than 0.5, it shall count as one additional unit.***

Thus, to account for the fractional set-aside calculated, the development shall require 0.25 times the payment in lieu figure. It is recommended that as a condition of approval, the Applicant work with the Borough CFO and Tax Assessor to provide the necessary payment in lieu amount.

#### *Income Distribution*

Pursuant to Paragraph 9 of the Settlement Agreement, “*at least 50 percent of the units in each of the Third Round Prospective Need sites, including units fulfilling unmet need, shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households*”. Thus, the development shall require one (1) of the units to be dedicated to low-income and one (1) to be dedicated to moderate-income. It is recommended that the developer work with the Borough’s Administrative Agent to determine the preferred income distribution to be applied to the units, and recorded by the Deed restriction.

#### *Phasing*

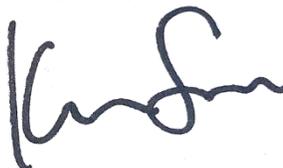
Phasing of the affordable units, and including the off-site unit, must be in accordance with the phasing requirements set forth in N.J.A.C. 5:93-5.6(d).

| Minimum Percentage of Low and Moderate Income Units Completed | Percentage of Market Housing Units Completed |
|---------------------------------------------------------------|----------------------------------------------|
| 0%                                                            | 25%                                          |
| 10%                                                           | 25% + 1 unit                                 |
| 50%                                                           | 50%                                          |
| 75%                                                           | 75%                                          |
| 100%                                                          | 90%                                          |
|                                                               | 100%                                         |

*Other Affordable Housing Requirements*

Finally, it is recommended as a condition of Approval that the Applicant contract with an experienced and qualified third party administrative agent, which may be the Borough's administrative agent ("Administrative Agent") for the administration of the Affordable Units and shall have the obligation to pay all costs associated with the properly deed restricting the Affordable Units in accordance with UHAC and other applicable laws for the Deed-Restriction Period. It is recommended that if acted favorable upon, as a continuing condition of approval, the Applicant and its Administrative Agent shall work with the Borough and the Borough's administrative agent, should the Applicant's and Borough's administrative agent not be one and the same, regarding any affordable housing monitoring requirements imposed by COAH or the Court.

Very Truly Yours,



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