

RESOLUTION GRANTING A WAIVER OF THE PHASED CONSTRUCTION SCHEDULE
PURSUANT TO N.J.A.C. 5:97 - 6.4(d)

COAH Docket 09-2135
Lacey Township, Ocean County

WHEREAS, Lacey Township, Ocean County, petitioned the Council on Affordable Housing (COAH) for substantive certification of its Housing Element and Fair Share Plan on December 29, 2008; and

WHEREAS, Lacey Township's petition was deemed complete on August 5, 2009; and

WHEREAS, Lacey Township's fair share plan addresses a total 1987-2018 affordable housing obligation of 1,112 units, consisting of a 25-unit rehabilitation share, a 580-unit prior round obligation and a 507-unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, an inclusionary project, which includes 100 affordable, age-restricted, rental units, will address eighty units of Lacey's prior round obligation and 20 units of the Township's growth share obligation; and

WHEREAS, the affordable units will be constructed by Community Investment Strategies, Inc. (CIS); and

WHEREAS, CIS is requesting a waiver to N.J.A.C. 5:97-6.4(d), which states that inclusionary zoning ordinances shall require affordable housing units to be built in accordance with a schedule that sets forth the minimum percentage of affordable housing units that must be completed in relation to the percentage of market-rate units that are completed; and

WHEREAS, CIS began working with Toll Brothers in 2003 to address a 49-unit affordable housing obligation associated with an age-restricted, market-rate community known as Seabreeze at Lacey; and

WHEREAS, as part of a subsequent agreement between CIS, Toll Brothers and Lacey Township, CIS will construct a three-story, 100-unit building, known as Heritage Village, to

address the 49-unit obligation from Toll Brothers and an additional 51 units from Lacey's prior round obligation; and

WHEREAS, CIS was approved for an HMFA permanent mortgage commitment, a HOME Express, funding through the 4% Low Income Housing Tax Credit (LIHTC) program and Toll Brothers has donated the building site and will provide a \$4,120,000 cash subsidy; and

WHEREAS, completion of the full 100 affordable units was initially to coincide with the delivery of 25% + 1 of the market-rate units by Toll Brothers; and

WHEREAS, due to changes in the housing market and interest rates, CIS has been unsuccessful in retaining lenders to partner in the 4% LIHTC program, which has caused a delay in construction of the affordable housing units; and

WHEREAS, although market conditions have stalled the progress of the affordable units, Toll Brothers has moved forward with construction of the market-rate units; and

WHEREAS, without all the funding in place, CIS will be unable to complete 10% of affordable units at the time 25% +1 of the market-rate units are completed; and

WHEREAS, CIS is requesting a waiver in order to permit Toll Brothers to continue construction of up to 50% of the market-rate units while providing CIS more time to solidify funding; and

WHEREAS CIS has committed to completing 100% of the affordable units by completion of 50% of the market-rate units and construction of the remaining 50% of market-rate units will not begin until all affordable units are completed; and

WHEREAS, Toll Brothers is agreeable to the waiver request posting a bond in the required amount of \$4,120,000 as made evident by a signed letter by its Senior Vice President from Lacey Township dated June 16, 2009; and

WHEREAS, the waiver meets the requirements of N.J.A.C. 5:96-15.2(a), because strict application of the rule would create an unnecessary financial hardship as CIS needs more time to secure the funding authorized by the LIHTC program before it can begin construction of the 100-unit building as current impacts to the financial market have caused a retraction of investors; and

WHEREAS, the waiver fosters the intent of, if not the letter of, COAH's rules because CIS will complete all of the affordable units by the time that 50% of the market-rate units will be completed, which is sooner than the schedule sets forth pursuant to N.J.A.C. 5:97-6.4(d); and

WHEREAS, a Task Force Meeting was held on July 23, 2009 and the task force recommended that the Council grant the waiver request at its August 12, 2009 meeting.

NOW THEREFORE BE IT RESOLVED that that the Council hereby grants Lacey Township a waiver from N.J.A.C. 5:97-6.4(d), which states that inclusionary zoning ordinances shall require affordable housing units to be built in accordance with a schedule that sets forth the minimum percentage of affordable housing units that must be completed in relation to the percentage of market-rate units that are completed; and

BE IT FURTHER RESOLVED that CIS will construct 100% of the affordable units by the time that 50% of the market-rate units will be completed by Toll Brothers.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on *August 12, 2009*.



Renee Reiss, Secretary

Council on Affordable Housing