

MARCH 29, 2016, 7:30 PM

LAST UPDATED: WEDNESDAY, MARCH 30, 2016, 11:45 AM

Affordable housing battle in Bergen County turns to old sites

BY MARINA VILLENEUVE

STAFF WRITER | THE RECORD

The ongoing battle over how much court-ordered housing for people of modest means should be built in the state has grown particularly contentious in Bergen County, where the main issue is: Where would it even go?

Housing advocates, developers and even some local officials have a possible answer: How about on the sites of all those aged, often vacant storefronts and corporate buildings that didn't make it?

Hundreds of municipalities are in court fighting proposed housing quotas officials claim ignore the realities of the housing market and the pressing lack of vacant land.

The Cherry Hill-based advocacy group Fair Share Housing Center also is in court, claiming that municipalities such as Edgewater, Upper Saddle River, Montvale and Park Ridge are blocking or ignoring the increasingly popular alternative — redevelopment — to paving over more green fields.

Since the 1980s, a boom of retail, office and mainly market-rate housing has built up North Jersey, leaving little vacant land for more of the multi-family complexes that have helped communities fulfill their affordable-housing quotas.

New Jersey has less than a million acres of vacant land left, according to a 2010 Rowan University and Rutgers University report.

Meanwhile, though, North Jersey has faced a surge of office vacancies, as well as empty strip malls and industrial sites.

"You have a lot of stranded assets, often out in the 'burbs, that need to be repurposed somehow," New Jersey State League of Municipalities spokesman Michael Cerra said. "How do you redevelop that and turn that around? That's a challenge a lot of communities are facing right now."

For some, redevelopment may be "the only tool" to provide affordable housing, he said.

"The balancing act is the benefits that come with the redevelopment weighed versus the cost of infrastructure — of sewer, water and roads — as well the suitability of the particular site for development," Cerra said. "There's no right or wrong across the board."

Housing rights advocates and developers are increasingly arguing that municipalities are stonewalling efforts to redevelop such unused property to meet affordable-housing goals.

"It's the towns that are standing in the way because they're afraid of expanding opportunities for New Jersey families," said Fair Share Housing Center spokesman Anthony Campisi. "It's not just the Fair Share Housing Center: This is developers saying that the market has a need for additional housing opportunities."

This winter, the court planner tasked with reviewing dozens of North Jersey housing plans gave weight to the advocates' argument.

Though "greenfield development may have been the principal target of early inclusionary affordable developments, redevelopment appears to be the prime development mode emerging in the 21st century," planner Francis Banisch wrote to Superior Court Judge Gregg Padovano, based in Bergen County.

"Many largely developed towns" such as Park Ridge and Edgewater have focused too much on the lack of vacant land, Banisch wrote in his review of both municipalities' housing plans.

Municipalities — particularly those in the Hudson River's Gold Coast — will "need to take a closer look at where redevelopment may and should happen and at what scale," Banisch wrote in his review of Edgewater's plan.

In court filings, the Fair Share Housing Center took Edgewater to task for claiming to have no realistic potential for the development of affordable housing while allowing luxury high rises. The advocacy group also suggested Edgewater consider rezoning properties — such as a former Hess site — for inclusionary or overlay zoning.

"When developed communities permit non-inclusionary redevelopment, it can eliminate any near-term opportunity for affordable housing at precisely the time when the developer's return on investment could fund the affordable housing," Banisch said. He advised Edgewater to "carefully review the issue."

In 1985, the state Legislature passed the Fair Housing Act, which enshrines state Supreme Court rulings that municipalities are constitutionally obligated to create "realistic opportunities" to fulfill their "fair share" of their region's need for low- and moderate-income housing.

In the counties of Bergen, Hudson, Passaic and Sussex, a four-person family with a \$25,327 to \$67,538 income qualifies as very low- to moderate income.

Last spring, the state Supreme Court shelved the state agency once tasked with setting and enforcing quotas for each municipality. Since then, municipalities have gone to court seeking approval for their housing plans. One issue the Supreme Court left unanswered: How much housing must be built over the next decade?

A consortium of 283 municipalities recently put out a report pegging that number at 37,000 units. A Fair Share Housing Center report released last spring said it's more than 200,000.

Several North Jersey communities have recently taken steps to redevelop unused property for affordable housing.

Last month, for example, Teaneck rezoned an industrial strip off Alfred Avenue on Route 4 as well as a vacant building off Teaneck Road once occupied by Verizon and a data center. There, BNE Real Estate has applied to build a 231-unit, five-story tall multifamily complex that, by ordinance, must include 10 percent affordable-housing units.

But opposition to such change also continued: In December the Wayne Board of Adjustment rejected a plan for a 422-unit apartment complex in the abandoned BAE building on Totowa Road, following resident opposition. Avalon Bay sought a use variance because much of the 31.8-acre site is zoned industrial. Company attorney Robert Kasuba had said the complex would be compatible with the neighborhood and also meet Wayne's affordable-housing obligation.

"The proposed construction of low income and high density housing throughout the township will change the character of Wayne forever," reads the signsofdesign.org website started by residents against such rezoning. Carver Washburn, a resident behind the website, said the Board of Adjustment's decision was the latest "good news," adding that amid a recent real-estate boom, "a lot of business have come to Wayne, and so the empty properties that have been around, a lot of them are being filled now."

A community that does not fulfill its affordable-housing quota can face a so-called builder's remedy lawsuit, in which developers may argue their plans could help satisfy the affordable-housing obligation. Now, municipalities can receive temporary immunity from such lawsuits by seeking court approval of housing plans. But even for municipalities with immunity, developers have a way to be involved in the ongoing court process — "intervening," by filing as a party challenging a municipality's housing plan. Across the state, dozens have done so.

"Bergen County is especially important in this, because it's one of the densest counties in the state, and we're seeing more of these types of lawsuits there than in other parts of the state as a result," Campisi said. The area "is on the forefront of this and could really benefit from really embracing this type of development."

Such battles are playing out in bucolic communities such as Montvale, Mahwah and Upper Saddle River. This year, Montvale and Park Ridge officials will consider a 714-multi-family unit redevelopment of the Sony Electronics campus. The court has allowed property owners Hornrock Properties to intervene.

In Mahwah, a developer that had won preliminary approval to build a shopping center at International Crossroads received court approval to intervene in Mahwah's housing plan. Crossroads Developers, which seeks to develop the 140-acre site once home to a Ford Motor Co. factory, wrote to the municipal government last summer that it is "ready, willing and able to develop" the site "as a multifamily inclusionary development" including "substantial set aside of affordable housing."

Real estate giant Mack-Cali Realty recently sued Upper Saddle River in federal court, claiming the borough is "segregated" and has blocked the company's moves to build up to 560 units of multi-family housing at a 47-acre office park once home to Pearson Education.

The borough has countered that it has fulfilled its affordable-housing obligations, and in 2014, residents resoundingly defeated the redevelopment in a non-binding referendum.

Email: villeneuve@northjersey.com

SUBSCRIBE TO **The Record** CALL (888) 504-4280