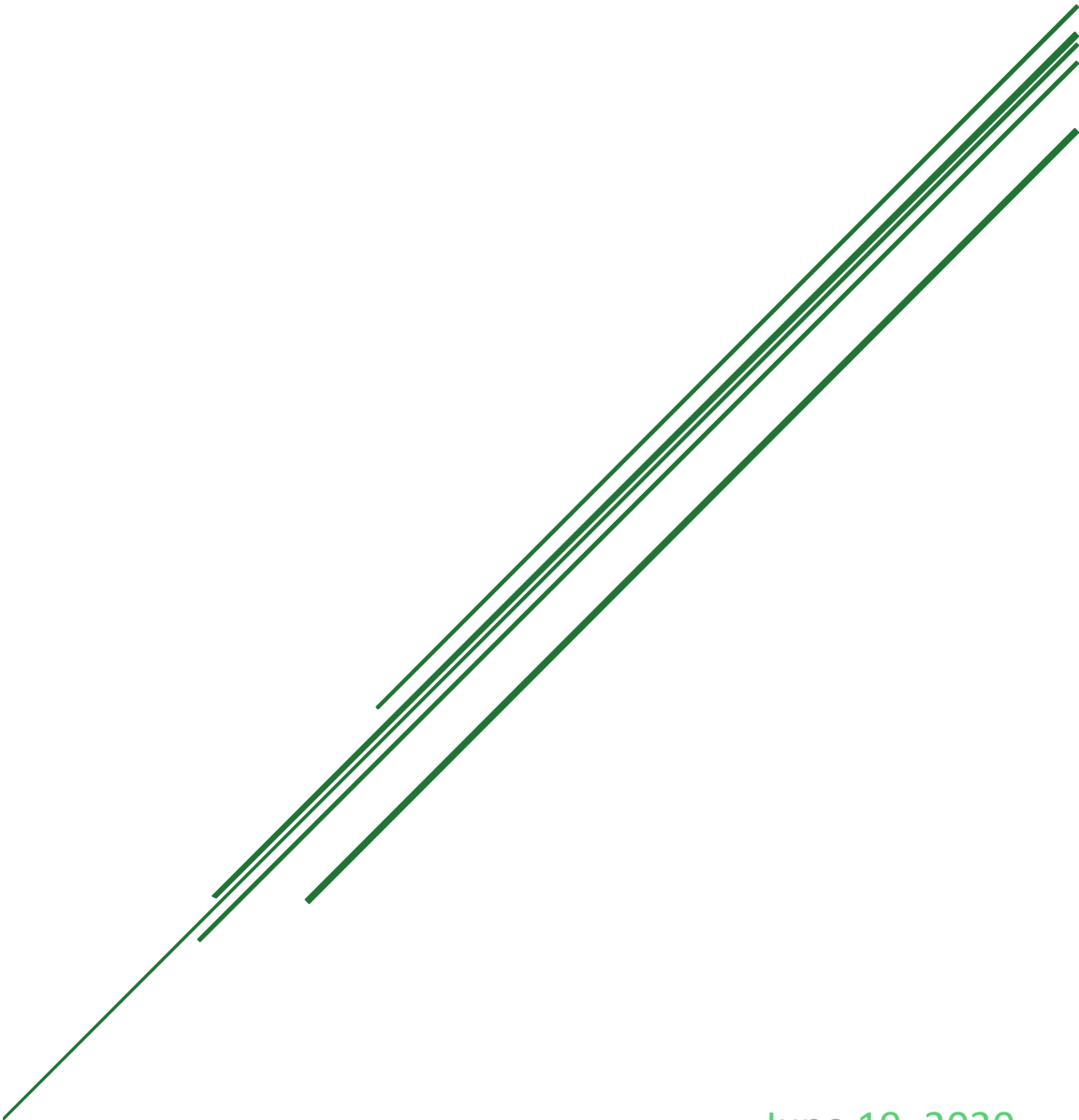


AFFORDABLE HOUSING MIDPOINT REVIEW REPORT

Township of Franklin, Hunterdon County



June 19, 2020

PURPOSE

Paragraph 17 of the Township of Franklin’s 2018 Settlement Agreement with Fair Share Housing Center (hereinafter “FSHC”) requires that the Township comply with the statutory midpoint review requirements of the Fair Housing Act and specifically N.J.S.A. 52:27D-313, which states “...the Council shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public...” This Midpoint Review Report has been modeled after the template prepared by FSHC and modified to more closely reflect the conditions in the municipality, the Settlement Agreement with FSHC, and the Court-approved Housing Element and Fair Share Plan.

The 2018 Settlement Agreement requires that the midpoint review be posted on the Township’s website, with a copy provided to FSHC. The review acts as a status report regarding the Township’s compliance mechanisms and whether or not any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. This review includes mechanisms addressing the unmet need or a durational adjustment.

RELEVANT BACKGROUND

Franklin filed its Declaratory Judgment Action on July 8, 2015. The Township executed a Settlement Agreement with FSHC on October 12, 2017. However, due to a crediting issue, an Amended Settlement Agreement was executed on August 2, 2018, which effectively replaced the 2017 Agreement. The 2018 Settlement Agreement outlines Franklin’s affordable housing obligations:

- A 0-unit Rehabilitation Obligation,
- A 36-unit Prior Round Obligation, and
- A 75-unit Third Round Obligation.

However, due to insufficient capacity for water and sewer to support inclusionary zoning, Franklin received a Durational Adjustment pursuant to N.J.A.C. 5:93-4.3. The Township has 23 existing credits to apply to the 36-unit Prior Round Obligation. The remaining 13 units combined with the 75-unit Third Round Obligation totals 88 units. Therefore, the Township received a Durational Adjustment of 88 units. Details justifying the Durational Adjustment are provided in the 2018 Settlement Agreement and the November 1, 2018 Housing Element and Fair Share Plan.

On December 11, 2017, Judge Miller entered an Order on Fairness Hearing following the December 7, 2017 Fairness Hearing regarding the Township’s 2017 Settlement Agreement. Subsequently, Franklin’s Settlement Agreement with FSHC was amended in 2018 due to a crediting issue. Between the Fairness Hearing and the summer of 2018, the Township approved and/or adopted the required compliance documents. On August 9, 2018, a Fairness and Final Compliance Hearing was held, which resulted in an Order on Fairness Hearing & Conditional Judgment of Compliance and Repose issued on October 9, 2018. This Order contained several conditions, which the Township then satisfied, resulting in a new Order from Judge Miller. On March 13, 2019 Judge Miller entered a Final Judgment of Compliance and Repose (hereinafter “JOR”).

CONDITIONS OF COMPLIANCE

Franklin’s JOR contains one condition, “As a continuing obligation and condition of this Judgment of Compliance and Repose, the Township shall comply with all the monitoring and reporting requirements identified in the Settlement Agreement.”

Paragraph 15 of the 2018 Settlement Agreement requires on the first anniversary of the JOR and every anniversary thereafter through July 1, 2025 for monitoring to be submitted regarding the trust fund activity. Paragraph 16 concerns housing activity, which has the same timelines. Finally, paragraph 17b concerns the review of very-low income units, which is due within 30 days of the third anniversary of the JOR and every third year thereafter.

Therefore, the first anniversary monitoring was due on March 13, 2020.

It should be noted that the Township filed its first anniversary trust fund and unit monitoring on March 3, 2020. Both documents are posted on the Township’s website.

PRIOR ROUND MECHANISM REVIEW

As stated above, Franklin’s Prior Round Obligation is 36 units. The Township has two existing mechanisms, totaling 23 units, allocated to the Prior Round Obligation. The remaining 13 units will be addressed through a Durational Adjustment combined with the Third Round Obligation. See the table below for a summary of the units allocated to the Prior Round Obligation.

PRIOR ROUND MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
RCA to Lambertville	N/A	12-unit RCA between the Township and City of Lambertville approved by COAH in 2000. The RCA required Franklin to contribute a total of \$240,000 to rehabilitate 12 units in Lambertville.	N/A	Awarded credits in the Township's 2000 COAH Substantive Certification.	12	
Accessory Apartment Program	Various block & lots	Township-sponsored program which subsidized the creation of 11 accessory apartments throughout Franklin. Each apartment received \$10,000 for the conversion and had 10-year affordability controls.	N/A	The units were created in the 1990s. This program was part of the Township's 2000 COAH Substantive Certification.	11	

DURATIONAL ADJUSTMENT OF THE PRIOR ROUND AND THIRD ROUND OBLIGATIONS

The Township’s Third Round Obligation is 75 units. However, due to insufficient sewer and water capacity, Franklin received a Durational Adjustment for the entire 75-unit Third Round Obligation and the remaining 13 units of the Prior Round Obligation, totaling 88 units. The table on the following page summarizes the mechanisms allocated to address the durationally-adjusted obligation and their current status.

DURATIONAL ADJUSTMENT OF THE PRIOR ROUND AND THIRD ROUND OBLIGATIONS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Walmart/ Cracker Barrel	B5, L1 & 20	Inclusionary Overlay Zone District that permits mixed-use multi-family inclusionary development.	Y	Ordinance 2018-19, adopted on December 13, 2018, created the MXD Mixed-Use Development Overlay Zone, which permits inclusionary multi-family housing on the second and third floors of buildings subject to the availability of sufficient public water and sewer. The Township awaits applications.		108
Township-Owned Properties	B5, L2 & 3	Inclusionary Zone District that permits multi-family inclusionary development.	Y	Ordinance 2018-18 was adopted on December 13, 2018, which created the Multi-family Housing District. This zone permits inclusionary residential development at a density of 8 units to the acre. The Township issued an RFP in July of 2019 for the site and emailed the RFP directly to several developers. Two responses were received by July 31, 2019. Both were reviewed by the Township and rejected as they relied on tax credits for financing. The developers were asked to refine their proposals and resubmit, which they did in October of 2019. However, both proposals still rely on tax credits. The Township intends to reissue the RFP in the Fall of 2020 to hopefully attract inclusionary developers.		17

Franklin has not been advised of any changes to water and/or sewer capacity. As noted in the Housing Element and Fair Share Plan water and sewer are controlled by the Town of Clinton. Requests for water and/or sewer capacity or extensions of said utilities would be submitted to the Town of Clinton, not the Township of Franklin.

REHABILITATION

Pursuant to the 2018 Settlement Agreement, Franklin does not have a Rehabilitation Obligation.

VERY-LOW INCOME ANALYSIS

Paragraph 8 of the 2018 Settlement Agreement indicates that 13% of all units referenced in the Agreement, except those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very-low income units. Half of those units must be available for families. The table below provides a summary of the Township’s very-low income units and their current status.

VERY-LOW INCOME UNITS					
Mechanisms	Total Affordable Units	Proposed VLI Units	Existing VLI Units	VLI Percentage of Total	Status
Walmart/Cracker Barrel	TBD	TBD		TBD	Ordinance 2018-19 created the MXD Mixed-Use Development Overlay Zone. Awaiting Applications.
Township-Owned Properties	TBD	TBD		TBD	Ordinance 2018-18 created the Multi-family Housing Zone. An RFP was issued in July of 2019, but both proposals were found unacceptable. The Township intends to reissue the RFP in the Fall of 2020.

CONCLUSION

As per Paragraph 7b.i.2., of the 2018 Settlement Agreement, Franklin was required to provide a realistic opportunity for the development affordable housing through the adoption of inclusionary zoning, subject to future availability of sufficient public water and sewer:

- Cracker Barrel/Hampton Inn, Block 5, Lot 1;
- Walmart/Shoprite, Block 5, Lot 20; and
- Township-Owned properties, Block 5, Lots 2 and 3.

As demonstrated by the tables above, the Township has adopted the requisite ordinances. In conclusion, Franklin has implemented the necessary ordinances, issued an RFP for the Township-owned site, and awaits the submission of an application for development. The necessary water and/or sewer will need to be coordinated with the Town of Clinton. As noted in the 2018 Settlement Agreement, the Township will

endorse all applications to the Department of Environmental Protection or its agent to provide water and/or sewer capacity. Therefore, these inclusionary zones continue to be constitutionally sufficient.

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