

MASTER'S REPORT
FOR A MOUNT LAUREL COMPLIANCE HEARING
TOWNSHIP OF WASHINGTON, BERGEN COUNTY, NEW JERSEY

IMO Application of the Township of Washington
Docket No. BER-L-6067-15

September 24, 2020

Prepared for:

The Honorable Christine A. Farrington, J.S.C.
Superior Court of New Jersey
Law Division: Bergen County
Bergen County Justice Center
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1.0 INTRODUCTION

This report has been prepared in light of the upcoming Compliance Hearing before the Hon. Christine A. Farrington, J.S.C., on October 2, 2020 In the Matter of the Application of the Township of Washington, County of Bergen, Docket No. BER-L-6067-15. This report reviews the compliance of Washington Township’s (“Township” or “Washington”) 2017 Third Round Housing Element and Fair Share Plan (“HEFSP,” “the Plan,” or “Third Round plan”) with the substantive rules of the Council on Affordable Housing (“COAH”) (N.J.A.C. 5:93, or the “Second Round rules”). It also reviews the Township’s compliance with two Settlement Agreements – the first, dated March 22, 2017, between the Township of Washington and Fair Share Housing Center (“FSHC”), and the second, dated March 22, 2017 and amended September 6, 2019, between the Township and intervenor Franklin Court LLC (“Franklin Court”), both previously approved by the Court at a fairness hearing. I am submitting this report in my capacity as Special Master appointed by the Hon. Menelaos W. Toskos, P.J.Ch. (now retired) to assist the Court in the above-captioned litigation.

Washington filed a Complaint for Declaratory Judgment on June 29, 2015, seeking a declaration of its compliance with the Mount Laurel doctrine and in accordance with the New Jersey Supreme Court’s March 10, 2015, decision In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, (2015; a.k.a. Mount Laurel IV). Washington and FSHC settled on the following fair share need allocations:

- Third Round Present Need (Rehabilitation share) of 0 units
- Prior Round obligation (1987-1999) of 85 units
- Third Round Gap and Prospective Need obligation (1999-2025) of 267 units.

The Township has limited vacant developable land, and for that reason continues to be eligible for a vacant land adjustment (“VLA”). The Township’s Prior Round obligation is reduced to a 24-unit realistic development potential (“RDP”) and a 61-unit unmet need, and the Third Round (1999-2025) obligation is reduced to an 11-unit RDP and a 256-unit unmet need, for a total RDP of 35 units and unmet need of 317 units.



Public notice of the upcoming Compliance Hearing invited interested members of the public to submit objections or comments on or before September 17, 2020. I am not aware of any written comments or objections from the public that have been submitted by the September 17, 2020 deadline.

This report acknowledges the substantial progress Washington Township has made and recommends that the Township be granted a Third Round Judgment of Compliance and Repose subject to the fulfillment of certain terms and conditions, including adoption of various documents, ordinances and resolutions.

2.0 THE SETTLEMENT AGREEMENTS AND FAIRNESS HEARING

The Settlement Agreement dated March 22, 2017 between the Township and FSHC was fully executed by Adam Gordon, Esq., for FSHC and by Washington Township Mayor Janet Sobkowicz for the Township. The Settlement Agreement between the Township and Franklin Court was signed by Uri Cohen for Franklin Court on February 28, 2017, and by Mayor Sobkowicz for the Township on March 21, 2017. An amended and restated Settlement Agreement between the Township and Franklin Court, which addressed only the location of the proposed building given wetlands constraints, was signed by Mr. Cohen on August 25, 2019 and by Township Mayor Peter Calamari on September 6, 2019.

For a May 11, 2017 Fairness Hearing, I submitted a Fairness Report, dated May 4, 2017, in which I recommended that the Court approve the Settlement Agreements with both FSHC and Franklin Court and approve the Township's preliminary compliance mechanisms with conditions. In his June 1, 2017 order approving the Settlement Agreements, the Hon. William C. Meehan, J.S.C. (now retired), declared that the Township's Settlement Agreements "are fair and reasonable to the interests of low and moderate income persons," and granted the Township 120 days from May 11, 2017, the date of the Fairness Hearing,



to comply with the requirements of the agreements and the recommendations of my report.¹

Subsequently, the Township has submitted a number of documents for review, including the Housing Element and Fair Share Plan adopted by the Planning Board on July 26, 2017 and endorsed by the Township Council on August 7, 2017; a draft Spending Plan dated November 14, 2019; a draft Affirmative Marketing Plan; adopted implementing ordinances; and crediting documentation for its proposed affordable housing obligation compliance mechanisms.

3.0 WASHINGTON TOWNSHIP'S HOUSING ELEMENT AND FAIR SHARE PLAN

This report and the upcoming Compliance Hearing focus on the Township's Third Round Plan and its compliance with the rules and requirements set forth in COAH's Second Round rules, the Fair Housing Act ("FHA"), the Uniform Housing Affordability Controls ("UHAC"), the Township's Settlement Agreement with FSHC dated March 22, 2017, and the Township's amended Settlement Agreement with Franklin Court dated September 6, 2019.

The FHA and COAH's rules prescribe the components of the municipal Housing Element of the Master Plan, as well as the requirements for a Fair Share Plan. The Township Planning Board adopted an updated Housing Element and Fair Share Plan on July 26, 2017. The governing body adopted a resolution endorsing the plan on August 7, 2017.

As discussed below, the Township's Third Round Plan meets the vast majority of the basic statutory and regulatory requirements, although a plan amendment is required and some additional documentation must be submitted for full compliance.

¹ The Court granted extensions of time to comply, and extensions of immunity in order to work out the amended agreement with Franklin Court dated September 6, 2019, and for the master's review of compliance documents. Immunity remains in effect through the date of this report.



The Township plans to address its fair share obligation as follows:

- Third Round Present Need (Rehabilitation share) of 0 units
- Prior Round obligation (1987-1999) of 85 units
- Third Round Gap and Prospective Need obligation (1999-2025) of 267 units.

Rehabilitation Share: 0 units

The Township does not have a Third Round Rehabilitation obligation under the FSHC Settlement Agreement.

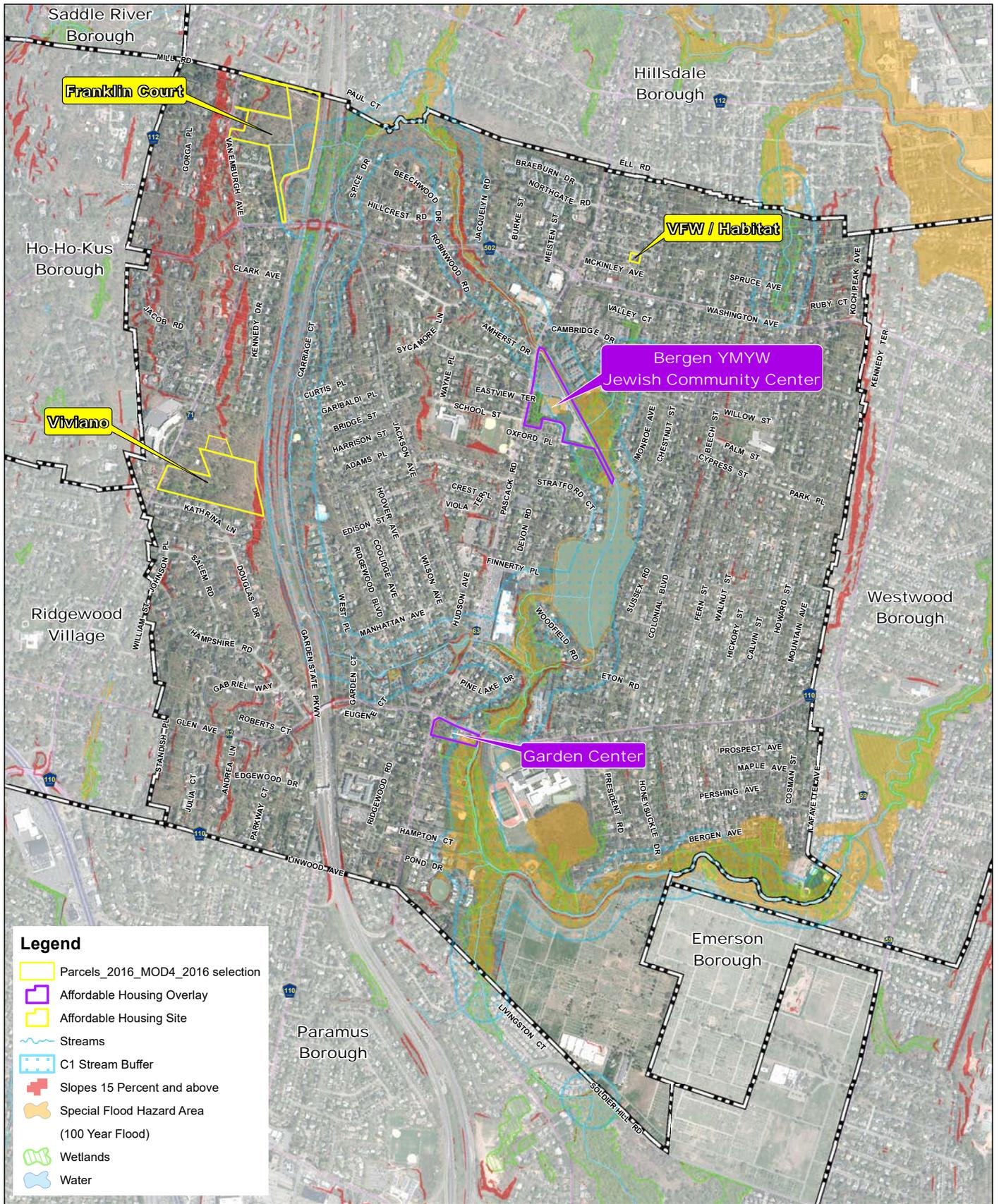
Prior Round Obligation: 85 units, reduced to 24-unit RDP and 61-unit Unmet Need

According to a Judgment of Repose entered on November 15, 2001 that approved a Settlement Agreement between the Township and Viviano, a property owner who had filed a Mount Laurel lawsuit, the Court determined that the Township had satisfied its 24-unit Prior Round RDP with seven (7) credits and six (6) Prior Round rental bonuses from two completed group home facilities, and an 11-unit Regional Contribution Agreement (“RCA”) with the City of Bayonne. The Court-approved Settlement Agreement with FSHC maintains that the Township has fully met its Prior Round RDP of 24 units with those mechanisms previously approved by the Court and shown in the chart below. The 61-unit Prior Round Unmet Need will be discussed below along with the Third Round Unmet Need.

Prior Round 24-unit RDP Compliance

	Units	Bonuses	Total
Group Home: 683 Calvin Street	4	3, cap	7
Group Home: 541 Ridgewood Boulevard	3	3	6
RCA: City of Bayonne	11		11
Total	18	6	24

The following outlines remaining items to be addressed for each of the Prior Round compliance mechanisms.



Clarke Caton Hintz ● ● ●
 Architecture
 Planning
 Landscape Architecture

Affordable Housing Sites & Overlay Zones

LOCATION: Washington Township, Bergen County, NJ

DATE: May 2017

Group Home Bedrooms: 7 credits

The Township is claiming seven credits (credit is by the bedroom) for these two facilities: four credits for four bedrooms in the group home at 683 Calvin Street, and three credits for three bedrooms in the group home at 541 Ridgewood Boulevard. In addition, the Township is claiming six rental bonuses, the maximum permitted as per N.J.A.C. 5:93-5.15(d)3.

2017 Fairness Report Conditions: Provide all necessary documentation to confirm that the group home bedrooms satisfy the crediting requirements of the Settlement Agreement with FSHC, the Uniform Housing Affordability Controls (“UHAC”), the Fair Housing Act (“FHA”), or COAH’s rules.

The Township has provided a property card, tax card, group home survey and license for the property at 683 Calvin Street. The survey and property card both show the group home has four bedrooms. The Township has also provided mortgage documentation, but it appears to be for a group home in Glen Rock, New Jersey owned by the same sponsor, Life Opportunities Unlimited. The Township has provided a group home survey and a Department of Developmental Disabilities capital funding agreement that expires in 2037 for the property at 541 Ridgewood Boulevard. The group home survey for 541 Ridgewood Boulevard indicates the property has five bedrooms.

Condition 1: For the group home at 683 Calvin Street, the Township must provide appropriate financing documents and a deed or use restriction for the property. For the group home at 541 Ridgewood Boulevard, the Township should verify the number of bedrooms available to clients, and provide a current license at the time of monitoring.

Regional Contribution Agreement: 11 credits

The Township signed an agreement with the City of Bayonne, approved by COAH on June 5, 2002, for the transfer of 11 credits at \$25,000 per unit, for a total of \$275,000. The payment was funded by a \$360,000 payment in lieu of construction by intervenor Stoneybrook Construction Corporation pursuant to their settlement with the Township dated November 4, 1998. According to the Township attorney, Kenneth G. Poller, Esq.,



the Township has paid the sum of \$275,000 to Bayonne, making the Township eligible for 11 RCA credits toward its Prior Round RDP.

Rental Requirement

The above-listed compliance mechanisms satisfy Washington’s Prior Round minimum rental requirement equal to 25% of its Prior Round RDP (24-unit Prior Round RDP x 0.25 = six units). The Township has provided seven bedrooms in two group homes to satisfy the Prior Round requirement.

Age-Restriction Cap

The Township is also in compliance with the Prior Round age-restricted cap requirement of three units ((24-unit Prior Round RDP – 11-unit RCA = 13) x 0.25 = 3.25, rounded down to three units). The Township’s Prior Round compliance mechanisms include no age-restricted units.

Third Round Obligation: 267 units, reduced to 11-unit RDP and 256-unit Unmet Need

Pursuant to the FSHC Settlement Agreement, the Township proposes to satisfy the 11-unit Third Round RDP with at least 16 credits and bonuses: four units to be constructed by Habitat for Humanity, and seven units and three Third Round rental bonuses, plus two off-site units through an in-lieu payment, from the proposed Franklin Court inclusionary development as shown in the chart and discussed below.

Third Round 11-unit RDP Compliance

	Units	Bonuses	Total
VFW Site Age-Restricted (2) and Family (2) For-Sale	4		4
Franklin Court Family Rentals	7*	3, cap	10
Total	11	3	14

* Two additional units to be provided via a payment in lieu of construction



Habitat for Humanity/VFW Site – 4 units

The Township is claiming four credits for the construction of four affordable for-sale units on the site of the former VFW Hall at 639 Jefferson Street (Block 3103, Lots 25-29). The Township purchased the property in 2011 for \$375,000 for development of affordable housing by a nonprofit sponsor. In 2016 the Township entered into an agreement with Habitat for Humanity to build the units, and conveyed the property for \$1. The agreement stipulated that Habitat construct four affordable units – two age-restricted, and two family affordable units with a veterans’ preference in accordance with a recent amendment to the Fair Housing Act at N.J.S.A. 52:27D-311. Pursuant to a deed restriction in the form of a quitclaim deed dated March 21, 2017, the units will have 30-year affordability controls, and two of the units will be affordable to low-income purchasers. The units will be affirmatively marketed pursuant to UHAC and will be administered by the Housing Affordability Service of the New Jersey Housing and Mortgage Finance Agency or a similar experienced affordable housing administrative entity pursuant to an agreement with the Township. A Court order approving the four credits to the Township was issued by Judge Meehan on March 3, 2016.

Franklin Court – 7 units

On March 22, 2017 the Township executed a Settlement Agreement with intervenor Franklin Court, LLC that provided for the development of a 44-unit inclusionary rental building, of which seven units would be set aside as affordable. The developer agreed to provide a payment in lieu to the Township to allow for the construction of two additional affordable units off-site. One of the two off-site affordable units is required to be a very low-income unit. The agreement was amended in September of 2019 to account for updated wetlands delineations from the state Department of Environmental Protection, and while the amended agreement changed the conceptual site plan, the number of total and affordable units remains the same.

Pursuant to the Court-approved 2017 Franklin Court Settlement Agreement, the Township is claiming seven credits and three rental bonuses, the maximum permitted, for the construction of seven family affordable rental units at the Franklin Court site (Block 1102, Lots 1.04, 2, 11, and a portion of Lot 9), with a payment in lieu of construction of

\$250,000 for an additional two affordable units. The developer of the Franklin Court site will construct a 44-unit inclusionary rental housing complex; seven of these units will be affordable to very low-, low- and moderate- income households (note the Housing Element and Fair Share Plan says the seven affordable units will be in addition to the 44 market-rate units). In compliance with Paragraph 8 of the Settlement Agreement with FSHC, the Housing Element and Fair Share Plan specifies that one of the on-site affordable units will be affordable to a very low-income household, three will be affordable to low-income households, and three will be affordable to moderate-income households. In addition, the 2019 amended Settlement Agreement between the Township and Franklin Court specifies that one (1) one-bedroom unit is to be low-income; four (4) units are to be two-bedroom units with one (1) very-low income, one (1) low-income and two (2) moderate income; and two (2) units are to be three-bedroom units with one (1) low-income and one (1) moderate income. All will be governed by controls on affordability of at least 30 years and affirmatively marketed pursuant to UHAC.

In addition to the seven on-site affordable units, the Franklin Court developer has agreed to make a payment to the Township's Affordable Housing Trust Fund of \$250,000 (\$125,000 per unit) in lieu of construction of two affordable units off-site. Again per Paragraph 8 of the Settlement Agreement with FSHC, one of those units must be a very low-income unit.

In addition, the Settlement Agreement with Franklin Court permits the developer to build two (2) single-family market-rate detached dwelling units on the site. The developer must create three separate lots to accommodate the two single-family units and the multi-family development. The concept plan attached to the amended Franklin Court Settlement Agreement indicates the developer intends to subdivide Lot 9 to accommodate the single-family units. The Township reports in its midpoint review that Franklin Court LLC submitted preliminary applications for the project in June 2020.

By virtue of the commitment for family affordable rental units provided as part of the Court-approved Franklin Court settlement agreement, the Township is eligible for three (3) Third Round rental bonuses.

2017 Fairness Report Conditions: Introduce an ordinance amending the Township's Land Use Legislation to establish zoning standards that provide for Franklin Court's proposed inclusionary multi-family housing development.

The Township has adopted ordinance No. 18-12, amending the Class AA zoning district to establish an inclusionary overlay district on the applicable lots, to provide for Franklin Court's proposed inclusionary multi-family housing development, and to ensure the income and bedroom distribution requirements of UHAC and the very low-income requirements of the amended Fair Housing Act are satisfied. Multi-family residential is the only use permitted by the ordinance.

Low- and Very Low-Income Requirements

Pursuant to the FSHC Settlement Agreement, the Township agrees to require that 13% of all affordable housing units included in the plan, with the exception of units approved or approved and constructed prior to July 17, 2008, be affordable to very low-income households at 30% of area median income as required by the amended Fair Housing Act. Additionally, half of all very low-income units must be available to families.

As part of its 2017 adopted Housing Element and Fair Share Plan, the Township has provided this calculation, showing it has satisfied a requirement to provide two very low-income units ($11\text{-unit RDP} \times 0.13 = 1.43$, round up to two units). One will be provided at the Franklin Court site, and, per the terms of the Settlement Agreement with FSHC, one via Franklin Court's payment-in-lieu to be constructed off-site. The Franklin Court unit will be available to families, satisfying the very low-income family requirement of one unit.

In addition, pursuant to its Settlement Agreement with FSHC, Section 239-114.C of the Township's adopted Affordable Housing Ordinance, No. 17-13, requires 13% of all future affordable housing units developed in the Township to be affordable to very low-income households, as part of a required 50% minimum number of units to be affordable to low-income households.

Rental and Age-Restricted Housing Requirements

The above-listed compliance mechanisms satisfy Washington's Third Round rental requirement, equal to 25% of its Third Round RDP (11-unit RDP x 0.25 = 2.75, rounded up to three units). The Township is proposing seven family affordable rental units on-site at Franklin Court to satisfy this rental requirement.

The Township is also in compliance with the Third Round age-restricted cap requirement of two units (11-unit Third Round RDP x 0.25 = 2.75, rounded down to two units). The Township has provided two age-restricted for-sale units at the Habitat for Humanity/VFW site. In addition, pursuant to Section 239-114.D of the Township's adopted Affordable Housing Ordinance, No. 17-13, no more than 25% of any future affordable units constructed in the Township may be age-restricted.

Pursuant to the Settlement Agreement with FSHC, half of the total units – six of 11 – and half of all rental units – four of seven – addressing the Township's Third Round RDP must be available to families. Of the Township's proposed 11 total affordable units to address its Third Round RDP, nine are family units, above the four-unit minimum. Of the 11 total units, four are for-sale units, resulting in seven total affordable rental units, all of which are available to families, above the four-unit minimum family rental requirement.

Bedroom Distribution Requirements

The March 21, 2017 deed restriction/quitclaim deed between the Township and Habitat for Humanity for the four affordable for-sale units specifies that each of the four units will contain two bedrooms. As noted above, the amended Settlement Agreement between the Township and Franklin Court specifies the bedroom distribution for affordable units at that site.

Of the nine family units that contribute to satisfying the Township's Third Round RDP, at least two are required to be three-bedroom units and only one may be a one-bedroom unit. The Township meets these requirements with one proposed one-bedroom unit and two proposed three-bedroom units at Franklin Court.

In addition, Section 239-114.E of the Township’s adopted Affordable Housing Ordinance, No. 17-13, requires all new inclusionary and 100% affordable housing projects constructed in the Township to meet the relevant requirements for bedroom distribution. Monitoring reports required by the Settlement Agreement should include updated information on how developers of any new affordable units are complying with these requirements.

Unmet Need – 317 units (Prior Round 61-unit Unmet Need and Third Round 267-unit Unmet Need)

The Prior Round Court-approved VLA reduces the Township’s 85-unit Prior Round obligation to 24 units, leaving a Prior Round Unmet Need of 61 units. The Third Round 11-unit RDP similarly reduces the Township’s 267-unit Third Round obligation, leaving a Third Round Unmet Need of 256 units. This gives the Township a combined Prior and Third Round Unmet Need of 317 units, which it has agreed to address by adding overlay zoning and a mandatory township-wide affordable housing set-aside as detailed below, and updating its existing affordable housing development fee ordinance.

Pursuant to COAH’s Second Round rules at N.J.A.C. 5:93-4.2, overlay zoning requiring inclusionary development is an approved mechanism to address unmet need and specifically states that “where the prior use on the site is changed, the site shall produce low- and moderate-income housing.” Consistent with this provision, the Township has implemented the COAH-required inclusionary overlay zoning on two sites, as well as a mandatory Township-wide affordable housing set-aside.

Stone Mill Gardens

The Township has adopted ordinance No. 17-17, creating a Single-Family-Attached/Multi-Family Overlay District for this 2.45-acre property, known as Block 3405, Lot 1, at 767 Ridgewood Avenue. The site, of which 1.7 acres are developable, is currently in the AA single-family residential zoning district, which permits the construction of single-family detached homes on a minimum lot area of one-half acre, for a density of two dwelling units per acre. The overlay zone permits the construction of either townhouse-style or multi-family style housing at a density of eight dwelling units per acre, while imposing a mandatory on-site affordable housing set-aside of 20 percent of affordable for-sale units

and, as agreed to by FSHC as part of the Court-approved Settlement Agreement, 15 percent for affordable rentals. This overlay zoning represents a substantial increase in residential density and offers a valid compensatory benefit and opportunity to accommodate additional affordable housing units towards Unmet Need.

Bergen County Y/Jewish Community Center

The Township has adopted ordinance No. 17-16, creating a Multi-Family Inclusionary Overlay District for the Bergen County Y/Jewish Community Center site, known as Block 3202.01 Lot 3, at 605 East Pascack Road. The 9.7-acre property is currently zoned OR, Office Research, which permits single-family dwellings on minimum lot sizes of 10,000 square feet, for a density of 4.3 units per acre. The overlay zone will permit reuse or redevelopment of the property with multi-family housing at a density of 15 dwelling units per acre while imposing a mandatory on-site affordable housing set-aside of 20 percent of affordable for-sale units and, as agreed to by FSHC as part of the Court-approved Settlement Agreement, 15 percent for affordable rentals. This is a more intense residential use than is presently permitted on the site and represents a valid compensatory benefit and opportunity to accommodate additional affordable housing units towards Unmet Need.

Mandatory Affordable Housing Set-Aside Ordinance

In accordance with its Settlement Agreement with FSHC, on September 11, 2017, the Township adopted ordinance No. 17-14, requiring for all new housing developments of five units or more a mandatory affordable housing set-aside of 15 percent of all units created if the affordable units are to be for rent, and 20 percent of all units created if the affordable units are to be for sale. The Township has provided a draft updated ordinance that includes language specifying that the mandatory set-aside requirement does not give a developer a right to a rezoning or “d” variance.

Additional HEFSP Comments

The Township’s adopted Third Round Housing Element and Fair Share Plan did not include the statutorily required 10-year projection of housing growth. The Township has

since provided this projection, and intends to include it in the plan via a technical amendment.

Additional Fairness Report Conditions

The 2017 Fairness Report required the Township to adopt a resolution appointing a municipal employee as its Municipal Housing Liaison; provide an adopted resolution authorizing it to retain the services of an experienced and qualified Affordable Housing Administrative Agent; and provide the executed agreement with the Administrative Agent and a copy of its operating manual.

The Township has provided an adopted resolution authorizing it to enter into an agreement with Community Grants Planning and Housing (“CGP&H”) to serve as the Township’s Affordable Housing Administrative Agent.

Condition 2: The Township must provide the executed agreement and operating manual, and a resolution appointing a Municipal Housing Liaison.

Spending Plan

The Township has provided a draft Spending Plan dated November 14, 2019, noting appropriate sources and uses of affordable housing trust funds, demonstrating compliance with applicable maximum and minimum expenditures, and including a proposed schedule for collection and expenditures of funds. The plan indicates the Township will contract with a qualified consultant to administer an affordability assistance program, and lists the proposed elements of that program, including rental assistance, energy assistance, and down-payment assistance. The plan also notes that the Township will submit to the Court details on any proposed new mechanism not specified in the plan, and request approval if necessary for an amended Spending Plan. The Township indicates that it will fund any shortfall in funds through trust fund revenue or other available funding sources, including bonding.

I provided comments on the Spending Plan requesting more specifics on the proposed affordability assistance mechanisms and offering suggestions, which the Township has indicated it will include when it adopts the Spending Plan, which it intends to do as a

condition of compliance. As noted above, the Township will also retain the services of CGP&H, a qualified and experienced Affordable Housing Administrative Agent, to administer its affordability assistance programs.

Condition 3: The Township must provide an updated Spending Plan and, following review by the Court Master, must adopt the Spending Plan.

Amendments to Affordable Housing Ordinance

The Township has provided a copy of its adopted Affordable Housing Ordinance, No. 17-13, and a proposed amendment to that ordinance that includes language on regional income and asset limit calculations as required by the 2017 Fairness Report. The Township intends to adopt the amended ordinance as a condition of compliance.

Condition 4: The Township must change the language of Paragraph 239-113.M.(3) of the draft amended ordinance to reflect that 13% of all low- and moderate-income rental units must be affordable to very low-income households, earning 30 percent or less of the regional median household income, per the amended Fair Housing Act. The Township should also include in the ordinance the monitoring requirements from paragraphs 15, 16, and 17 of the Settlement Agreement with FSHC.

Monitoring

The terms of the FSHC Settlement Agreement include requirements that the Township report annually on all housing activity in the Township and on all activity related to the Township's Affordable Housing Trust Fund, as well as periodic reporting on how the Township is satisfying its requirement that 13% of all units approved or constructed after July 2, 2008 be affordable to very low-income households.

2017 Fairness Report Condition: The Township must provide a status report on its compliance with its very low-income requirement every third year after the submission of its initial such report.

The Township's midpoint review report includes details on its compliance with the very low-income requirement.

Affirmative Marketing Plan

The Township has provided a draft updated Affirmative Marketing Plan that includes information on all compliance mechanisms and, in accordance with the terms of the Settlement Agreement, on all the community organizations that must be notified whenever there are affordable units available in the Township. The plan requires all developers to do the same. The Township has also incorporated the provisions of newly enacted legislation requiring all affordable units to be listed on the New Jersey Housing Resource Center website. The Township intends to adopt this Affirmative Marketing Plan as a condition of compliance.

Condition 5: The Township must provide an adopted Affirmative Marketing Plan.

Development Fee Ordinance

The Township submitted a revised development fee ordinance as part of its 2017 Housing Element and Fair Share Plan. The ordinance needed to be revised to remove references to COAH's invalidated Third Round rules, to amend the section on non-residential development fees to conform to the Statewide Non-Residential Development Fee Act, and to incorporate required monitoring provisions from the Settlement Agreement with FSHC. In September 2019, the Township submitted a revised draft development fee ordinance addressing those concerns, and in January 2020 it prepared a further revision adding a 0.5% fee on residential replacements, which had previously been exempt. The Township intends to adopt this revised ordinance as a condition of compliance.

Condition 6: The Township must provide an adopted updated development fee ordinance.



4.0 CONCLUSION

This report has been prepared in light of the upcoming Compliance Hearing before Your Honor on October 2, 2020. This report reviews Washington Township's 2017 adopted HEFSP, prepared by Stan C. Slachetka, AICP PP, of T&M Associates, and related documents as well as an amended 2019 Settlement Agreement with Franklin Court LLC. As the amendments to the Franklin Court Settlement Agreement did not change any substantive terms of the prior Court-approved agreement, it was not necessary to provide a new fairness hearing or fairness analysis of the amended agreement. The Township is seeking a Final Judgment of Compliance and Repose for its Third Round Plan. The Township's Fair Share Plan is generally consistent with the Court-approved Settlement Agreements, the Fair Housing Act, and COAH's Second Round rules with the few exceptions noted herein.

I find the Township's 2017 Housing Element and Fair Share Plan to be consistent with the *Mount Laurel* doctrine and the Mount Laurel IV decision. I recommend that Your Honor grant the Township a Judgment of Compliance and Repose, subject to the Township fulfilling the conditions contained herein. I would recommend that the Township be provided 120 days from the entry of the Court's order of repose to address the conditions. Your Honor may wish to have the Township submit a certification with any required supporting documentation as to how each condition has been addressed. Once the Township has satisfied all conditions, I will notify Your Honor and copy all parties, at which point the issuance of a final Judgment of Compliance and Repose would be warranted. I don't believe an additional court hearing would be required. In the meantime, I recommend that immunity remain in effect.