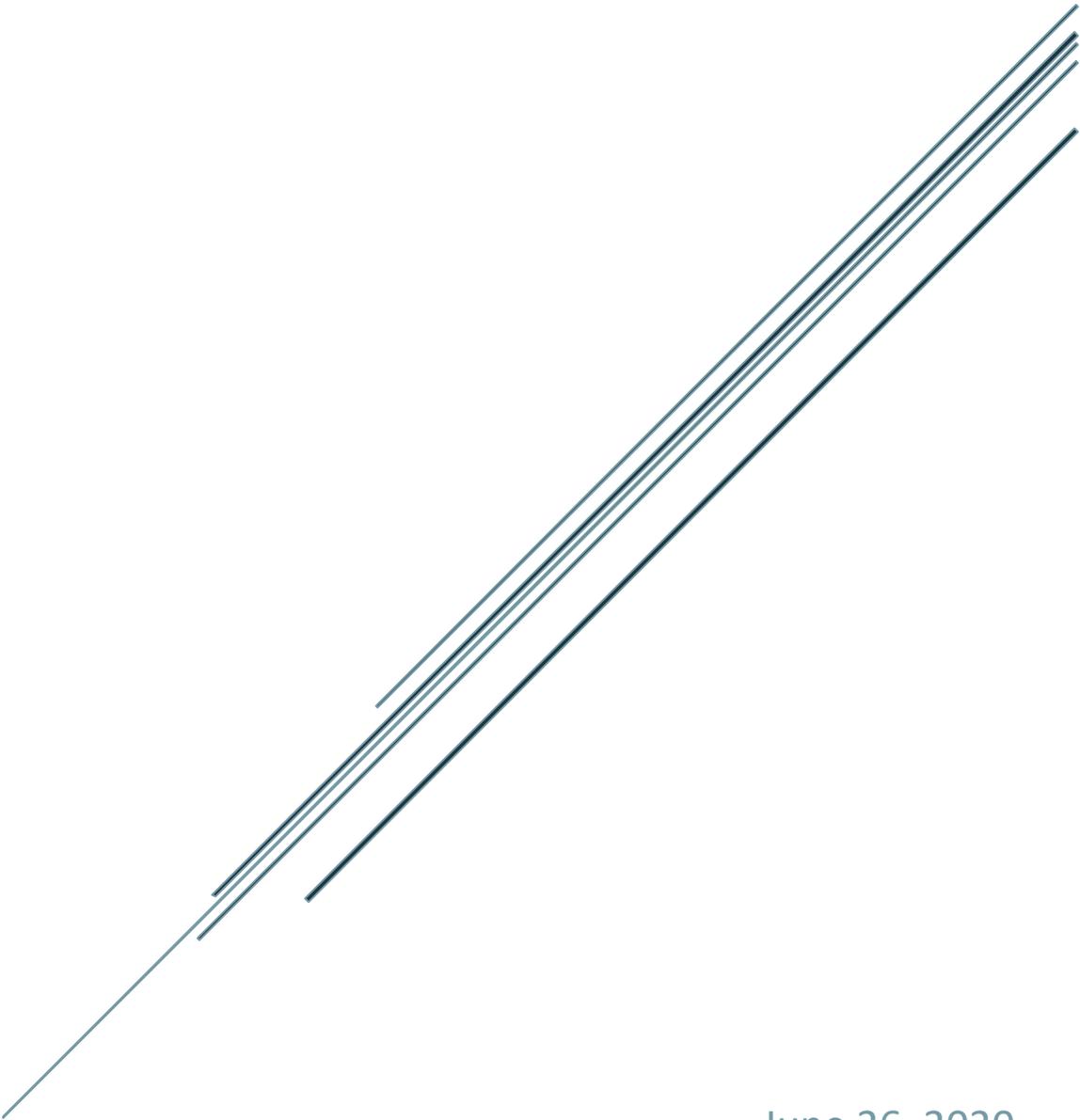


AFFORDABLE HOUSING MIDPOINT REVIEW REPORT

Township of Mahwah



June 26, 2020

PURPOSE

Paragraph 21 of the Township of Mahwah'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 Settlement Agreements with the Intervenor, John A. Merrill (hereinafter "Fyke Road") and Crossroads Developers Associates and Garden Crossroads, LLC (hereinafter "Crossroads").

The 2018 Settlement Agreement with FSHC requires that the midpoint review be posted on the Township 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.

RELEVANT BACKGROUND

Mahwah filed its Declaratory Judgment Action on July 6, 2015. The Township executed a Settlement Agreement with FSHC on June 8, 2018. The Settlement Agreements with the Township's two Intervenor, Fyke Road and Crossroads, were executed in July of 2018 and March of 2018, respectively. The 2018 Settlement Agreement with FSHC outlines Mahwah's affordable housing obligations:

- A 7-unit Rehabilitation Obligation,
- A 350-unit Prior Round Obligation, and
- An 830-unit Third Round Obligation.

The Township sought and received a Vacant Land Adjustment (hereinafter "VLA") for the Third Round. The VLA produced a 37-unit Realistic Development Potential (hereinafter "RDP"). However, during the mediation, the Special Master required the two Intervenor sites, which total 163 units, be added to the RDP. Additionally, during mediation with the Special Master in 2016 and 2017, several other properties were added to the RDP. These additional properties included approved non-residential applications that had not yet pulled building permits and were not yet under construction. This added an additional 50 units to the RDP. Therefore, the Township's total Third Round RDP was calculated to be 250 units. This results in a Third Round Unmet Need of 580 units.

On July 12, 2018, Judge Farrington entered an Order of Preliminary Judgment of Compliance and Repose following the Fairness Hearing on July 10, 2018. The Order approved the Township's Settlement Agreements with FSHC and the two Intervenor, Fyke Road and Crossroads. An Amended Preliminary Judgment of Compliance and Repose Order was entered on July 30, 2018, which corrected minor errors in the July 12, 2018 Order. Thereafter, Mahwah prepared and adopted the requisite compliance documents and ordinances. However, the Township's Intervenor, Crossroads, objected to the adopted

ordinance for the site and the Township is currently attempting to develop a mutually acceptable ordinance. Once an ordinance is adopted, a Final Compliance Hearing will be requested.

CONDITIONS OF COMPLIANCE

As noted above, Mahwah has not yet had its final compliance hearing. Therefore, no Final Order of Judgment and/or Repose has been entered.

Paragraph 19 of the 2018 FSHC Settlement Agreement requires, on the first anniversary of the Final Judgment of Compliance and Repose (hereinafter "JOR"), and every anniversary thereafter, the Township to submit annual reporting of trust fund activity to FSHC, New Jersey Department of Community Affairs, COAH, or Local Government Services, and be posted on the Township's website. Paragraph 20 concerns affordable housing activity, which has the same deadlines. Finally, paragraph 21b 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. The first anniversary has not yet occurred since the Township has not had its final compliance hearing or received a JOR.

PRIOR ROUND MECHANISM REVIEW

Mahwah received Substantive Certification from COAH in July of 1998. Paragraph 7 of the 2018 FSHC Settlement Agreement indicates the Township is able to satisfy the entire Prior Round Obligation through seven existing mechanisms, which total 276 credits and 74 bonuses. The table below and on the following page provide a summary of the mechanisms allocated to the Prior Round Obligation.

PRIOR ROUND MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Society Hill - Village I	Various block & lots	A 414-unit inclusionary development containing 92 affordable for-sale family units, including 44 low-income units and 48 moderate-income units. The affordable units each had a 25-year deed restriction, which expired around 2013.	N/A	Built & Occupied	92	
Society Hill - Village II	Various block & lots	A 466-unit inclusionary development containing 102 affordable for-sale family units, including 47 low-income units and 55 moderate-income units. The affordable units each had a 25-year deed restriction, which expired around 2013.	N/A	Built & Occupied	42	

PRIOR ROUND MECHANISMS (continued)						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Ramapo Brae	Various block & lots	A 100% affordable housing development owned by Bergen County Housing Authority containing 89 affordable family units, including 35 low-income for-sale units and 54 low-income rental units. The units are deed restricted in perpetuity.	N/A	Built & Occupied	54	
Norfolk Village/ Franklin Crossing West	Various block & lots	A 275-unit inclusionary senior rental development built in 1995 containing 75 age-restricted affordable rental units. There are 38 low-income units and 37 moderate-income units. The affordable units have 25-year deed restrictions in place.	N/A	Built & Occupied	75	
West Bergen Mental Healthcare	B92, L2	Licensed group home for very-low income clients with five bedrooms, which has been operating since 1983.	N/A	Built & Occupied	5	
New Concepts for Living - Mountain	B47, L18	Licensed group home for very-low income clients with four bedrooms. The group home received its CO in September of 2016.	N/A	Built & Occupied	4	
New Concepts for Living - Church	B56, L3	Licensed group home for very-low income clients with four bedrooms. The group home received its CO in August of 2016.	N/A	Built & Occupied	4	

THIRD ROUND REALISTIC OPPORTUNITY REVIEW

The realistic opportunity standard applies to all RDP mechanisms for VLA municipalities. There are three existing mechanisms and two proposed mechanisms allocated to the Third Round RDP, which generate 187 credits and 63 bonuses. The tables on the following pages summarize the mechanisms allocated to the Third Round RDP and their current status.

THIRD ROUND REALISTIC DEVELOPMENT POTENTIAL MECHANISMS

Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Ramapo Brae	Various block & lots	A 100% affordable housing development owned by Bergen County Housing Authority containing 89 affordable family units, including 35 low-income for-sale units and 54 low-income rental units. The units are deed restricted in perpetuity.	N/A	Built & Occupied	35	
Madeline Alternative Living	B40, L107.01 & 108.01	Bergen County United Way/ Madeline received minor subdivision and preliminary and final site plan approval in the Spring of 2014 to construct an affordable housing development. Phase I contains two alternative living facilities, totaling eight units, which serve very-low-income clients. COs were issued in November of 2016.	N/A	Built & Occupied	8	
Extended Controls - Completed	Various block & lots	The Township actively worked to recapture original affordable units, which pre-dated the COAH Rules and were only subject to a 25-year deed restriction. Mahwah had recorded new deed restrictions on 12 units.	N/A	Occupied with New Deed Restriction	12	
Madeline Senior Building	B40, L106.01	Bergen County United Way/ Madeline received minor subdivision and preliminary and final site plan approval in the Spring of 2014 to construct an affordable housing development. Phase II contains a 13-unit affordable senior rental housing building, including seven low-income units and six moderate-income units. Note that the Settlement Agreement indicates there are only 12 senior rental units.	N/A	The senior building is currently under construction and a CO is anticipated in the Fall of 2020.		12

THIRD ROUND REALISTIC DEVELOPMENT POTENTIAL MECHANISMS (continued)						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Crossroads	B26, L2, 10, & 11; B183, L1	The Township entered into a Settlement Agreement with Crossroads on March 29, 2018, which requires the Township to rezone the property to permit inclusionary mixed-use development of no more than 800 units with a 15% affordable housing set-aside, which translates to 120 affordable units. Additionally, the new zone must provide for 200 to 216 age-restricted units. Therefore, there would be 88 affordable family rental units and 32 affordable age-restricted rental units. The Settlement Agreement also permits up to 300,000 square feet of non-residential space to be constructed.	Y	The Township has adopted two ordinances for the Crossroads site. However, litigation has been filed regarding the ordinance. The Township is currently working with Crossroads to develop a mutually-acceptable ordinance, which will likely be introduced within the next 30 days.		120

THIRD ROUND UNMET NEED

The table below and on the following pages summarize the mechanisms allocated to the Third Round Unmet Need and their current status. There are five existing mechanisms and five proposed mechanisms to address the Third Round Unmet Need.

THIRD ROUND UNMET NEED MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Extended Controls - Completed	Various Blocks & Lots	The Township actively worked to recapture original affordable units, which pre-dated the COAH Rules and were only subject to a 25-year deed restriction. Mahwah had recorded new deed restrictions on 12 units. After the 2018 Settlement Agreement, one additional unit extended its deed restriction by 30 years.	N/A	Built & Occupied	1	

THIRD ROUND UNMET NEED MECHANISMS

Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Society Hill - Village II	Various blocks & lots	A 466-unit inclusionary development containing 102 affordable for-sale family units, including 47 low-income units and 55 moderate-income units. The affordable units each had a 25-year deed restriction, which expired around 2013.	N/A	Built & Occupied	60	
Society Hill - Village III - Darlington Ridge	Various blocks & lots	A 366-unit inclusionary development containing 80 affordable for-sale family units, including 44 low-income units and 36 moderate-income units. The development was built in 1987 and the affordable units had a 25-year controls.	N/A	Built & Occupied	80	
Franklin Heights	Various blocks & lots	A 420-unit inclusionary development containing 75 affordable for-sale family units, including 41 low-income units and 34 moderate-income units. The affordable units each have 25-year deed restrictions, which will begin expiring in 2021.	N/A	Built & Occupied	75	
Ridge Gardens	Various blocks & lots	A 514-unit inclusionary development containing 120 affordable for-sale family units, including 60 low-income units and 60 moderate-income units. The units were built between 1987 and 1988 and have a 25-year deed restriction, which expired between 2013 and 2015.	N/A	Built & Occupied	120	

THIRD ROUND UNMET NEED MECHANISMS (continued)						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
1 Fyke Road	B21, L 21, 22, & 23	As per the Merrill Settlement Agreement, the Township is required to rezone the property to permit inclusionary multi-family development at a density of 14 units per disturbed/ impervious acre with a 20% set-aside, regardless of tenure.	Y	On August 8, 2019, the Township adopted Ordinance No. 1880 creating the MF-1, Multi-family-1 District, which permits multi-family development at a density of 14 units per disturbed/ impervious acre with a 20% affordable housing set-aside. The Township awaits an application.		7
Extended Controls - Future	TBD	The Township will solicit homeowners in the Norfolk Village and Franklin Heights inclusionary developments who are willing to voluntarily extend their deed restrictions, which are set to expire before 2025, by 30 years. In exchange, the Township will give the homeowner at least \$10,000 to cover the costs to record a new deed.	N/A	The Township will commence this program upon receipt of a JOR.		TBD
70 Island Rd	B56, L74	Pursuant to the 2018 FSHC Settlement Agreement, the Township will construct a 15-unit 100% affordable family and/or special needs housing development on the property.	Y	On June 27, 2019, the Township adopted Ordinance No. 1870 creating the MF-2, Multi-family-2 District, which permits 100% affordable multi-family development at a density of 15 units per acre. In April of 2019, the Township received a Letter of Intent from BCUW/ Madeline Housing Partnership to develop the property with 15 bedrooms of special needs housing. The next step in the process will be a developer's agreement after the JOR is issued.		15

THIRD ROUND UNMET NEED MECHANISMS (continued)						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Block 82	All Lots in B82	Mahwah Town Center Redevelopers, LLC ("MTCR"), the owner several lots in Block 82, expressed interest in 2018 to construct an inclusionary mixed-use development. In response to their interest, the the Township included the site in the 2018 FSHC Settlement Agreement. Pursuant to the Settlement Agreement, the Block will be rezoned to permit inclusionary mixed-use development at a density of 14 units per acre with a 20% affordable housing set-aside.	Y	On June 27, 2019, the Township adopted Ordinance No. 1868 creating the Mixed-Use Development 1 Overlay (MUD-1) Zone on the entirety of Block 82. The MUD-1 Overlay Zone permits inclusionary mixed-use development at a density of 14 units per acre. The Township awaits an application.		10
Township-Wide Set-Aside	TBD	Inclusionary ordinance triggered when multi-family developments of certain sizes and density are permitted outside of an inclusionary zone.	Y	On June 27, 2019, the Township adopted Ordinance No. 1873, which requires a 20% affordable housing set-aside, as required by the Fair Housing Act as the Township is located in the Highlands Region. This applies to all applications outside of an inclusionary zone, requiring a use or density variance or approval of a redevelopment or rehabilitation plan for the construction of multi-family residential development of five or more units. The Township awaits applications.		TBD

REHABILITATION

As indicated above, Mahwah has a seven-unit Rehabilitation Obligation. As noted in Paragraph 6 of the 2018 Settlement Agreement with FSHC, the Township will put forth several efforts to meet its Rehabilitation Obligation. The current status of each is provided in italics.

- Two homes completed by the Bergen County Home Improvement Program (hereinafter “BCHIP”) in 2012.
- The Township will continue to work with the BCHIP to advertise the program to residents.
 - *Since the 2018 FSHC Settlement Agreement, the BCHIP has completed one project, which involved the installation of smoke detectors, new HVAC equipment, window replacements, patio door replacement, and a water heater replacement at 1801 Faulkner Court. The program provided \$15,200 to complete the improvements. The project was completed on June 25, 2019.*
- The Township will reserve at least \$30,000 of its Affordable Housing Trust Fund account to complete three rehabilitations through a Township-sponsored rehabilitation program. This will be completed after the Settlement Agreement is approved.
 - *The Township will commence a municipally-sponsored rehabilitation program once it receives a JOR.*

VERY-LOW INCOME ANALYSIS

Paragraph 12 of the 2018 FSHC 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					
Mechanism	Total Affordable Units	Proposed VLI Units	Existing VLI Units	VLI Percentage of Total	Status
New Concepts for Living - Mountain	4		4	100.0%	Built & Occupied.
New Concepts for Living - Church	4		4	100.0%	Built & Occupied.
Madeline Alternative Living	8		8	100.0%	Approved in 2014, built & occupied.
Madeline Senior Building	13	0		0.0%	Approved in 2014, under construction.
Crossroads	120	TBD		TBD	Currently negotiating with Crossroads to adopt a mutually acceptable ordinance.
1 Fyke Road	7	TBD		TBD	Ordinance adopted, awaiting applications.
70 Island Rd	15	TBD		TBD	Ordinance adopted, received Letter of Intent from BCUW in April of 2019. Awaiting an application.
Block 82	10	TBD		TBD	Ordinance adopted, awaiting applications.
Township-Wide Set-Aside	TBD	TBD		TBD	Ordinance adopted, awaiting applications.

CONCLUSION

As per the 2018 FSHC Settlement Agreement, the Township was required to provide a realistic opportunity for the development of affordable housing through a variety of mechanisms.

As demonstrated in the tables above, the Township has adopted the necessary ordinances to provide a realistic opportunity for affordable housing development within Mahwah for all the inclusionary mechanisms except for one. The Township has adopted two versions of the Crossroads Ordinance; however, litigation was filed. As noted above, the Township is negotiating with Crossroads to prepare a mutually acceptable ordinance.

In conclusion, Mahwah's plan implementation continues to create a realistic opportunity where that standard is applicable. Additionally, the Township has built and/or implemented its Unmet Need mechanisms, which continue to be constitutionally sufficient.