

## **Midpoint Review Questions *Frenchtown***

In addition to updating the attached monitoring spreadsheet with up to date information on each project in your approved settlement/fair share plan, please answer the following questions in narrative form:

### **Conditions of Compliance**

1. What conditions from the court's approval of the municipal housing element and fair share plan and judgment of compliance and repose (or whatever standard terms is being used), if any, have not yet been satisfied? Explain the reasons for any delay and the steps the municipality is taking to satisfy the condition(s). **See attached report.**

### **Developments that Are Not Completed**

2. For each court-approved inclusionary development project that is not yet constructed, please provide a narrative as to its status and any progress towards construction. **See attached report for status.**

3. Have any non-inclusionary development projects (including 100% affordable projects, group homes, accessory apartments, market-to-affordable, extensions of affordability controls, etc.) included in the court-approved plan not yet been built/converted to affordable housing/controls extended? If yes, explain how many units, if any, have been built for each non-inclusionary project or mechanism and when construction is expected to be completed on the remaining units. **No non-inclusionary mechanisms are proposed.**

4. Are there any projects that have missed any construction deadline established in the court-approved Settlement Agreement, or other mechanisms (e.g. market-to-affordable, accessory apartments, extensions of affordability controls) that have not met the completion schedule set forth in the Settlement Agreement or Housing Element and Fair Share Plan? If yes, what steps is the municipality taking to complete construction and what is the current timetable? **No deadlines noted in the Settlement Agreement.**

5. Are all unbuilt developments currently in a sewer service area, and if not what has the municipality done to incorporate the site into a sewer service area? Are there any barriers to obtaining water or sewer for any unbuilt site? Are there any other regulatory conditions (e.g. changes to DEP permits or conditions) that make it not possible to complete any site as originally contemplated? **All proposed mechanisms are within a sewer service area.**

### **Rehabilitation Obligation**

6. Is the rehabilitation program being administered by a municipality, county, or both? Do the program(s) include rental rehabilitation? If the municipality has not met at least half of its rehabilitation obligation by this midpoint review, what affirmative steps is the municipality

taking to meet the obligation and to facilitate participation by homeowners and/or landlords?  
**See attached report, no rehabilitation program is proposed.**

**For Municipalities with a Prior Round and/or Third Round Vacant Land Adjustment (note please make sure any development referenced in the answers to these questions that includes or will include affordable housing is also in the monitoring spreadsheet): No VLA.**

7. If the municipality's court-approved Prior and/or Third Round plan includes Unmet Need:

a. Has there been any development, proposal for development received by the municipality (even if ultimately rejected), adoption of rezoning or a redevelopment plan for of any parcel larger than 0.5 acres since the settlement was approved by the court on a parcel that was neither previously identified in calculating the municipality's RDP nor included in an inclusionary overlay zone? If so:

i. Please describe the development(s), development proposal(s), rezoning(s) or redevelopment plans(s)?

ii. Is any affordable housing included in any of the development(s) proposals(s), and/or rezoning(s) or redevelopment plan(s) referenced?

iii. If the municipality has a mandatory set-aside ordinance, was that applied to the development(s) and/or rezoning(s) or redevelopment plan(s)?

b. Has any development occurred or been proposed to occur within any inclusionary overlay zone or for which a mandatory set-aside ordinance, if required to be adopted by the municipality, would apply since the settlement? If so:

i. What is that development or developments?

ii. Does that proposed or actual development include any affordable housing? What percentage of the development is affordable?

c. Have any changed circumstances occurred that result in additional parcels becoming available for development that were neither previously identified in calculating the municipality's RDP nor included in an inclusionary overlay zone? If yes, please identify the parcel(s) and describe how the municipality plans to address the changed circumstances.

**For Municipalities with a Prior Round and/or Third Round Durational Adjustment: No durational adjustment.**

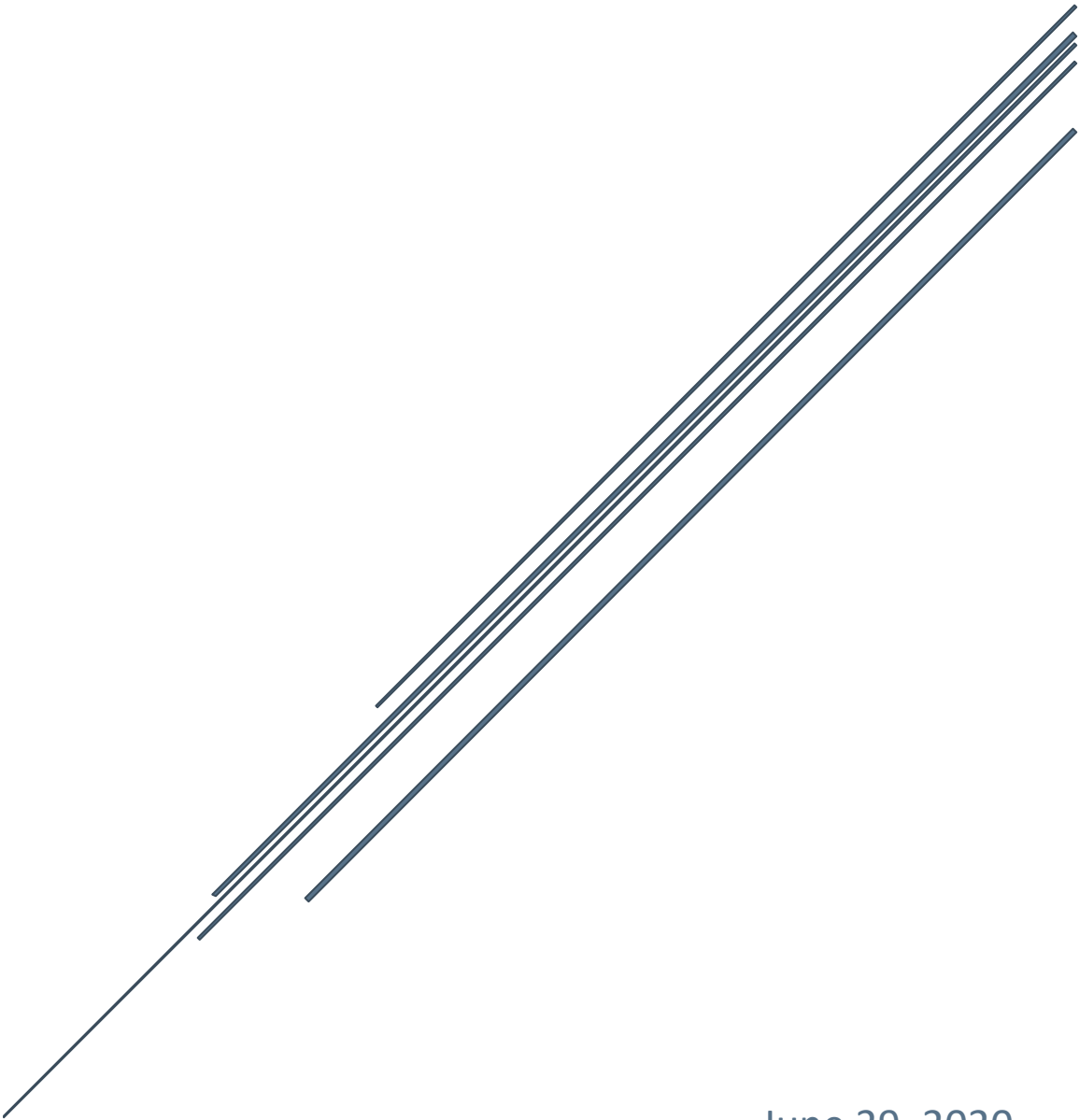
8. If the municipality's court-approved plan had a durational adjustment, have there been any changed circumstances with regards to limited sewer and/or water capacity? If yes, please describe the changes and when and where additional infrastructure capacity will become available.

9. What steps has the municipality taken, if any, to address limited water and/or sewer capacity, and to facilitate the extension of public water and/or sewer to any site identified in the settlement agreement?

10. Has any property owner or developer contacted the municipality to extend public water and/or sewer to a site not identified in the settlement agreement? If so, how did the municipality respond to the request?

# AFFORDABLE HOUSING MIDPOINT REVIEW REPORT

Borough of Frenchtown



June 29, 2020

## PURPOSE

Paragraph 17 of the Borough of Frenchtown's 2017 Settlement Agreement with Fair Share Housing Center (hereinafter "FSHC") requires that the Borough 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 2017 Settlement Agreement requires that the midpoint review be posted on the Borough's website and a copy be provided to FSHC. The review acts as a status report regarding the Borough's compliance mechanisms and whether or not any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity.

## RELEVANT BACKGROUND

Frenchtown filed its Declaratory Judgment Action on July 6, 2015. The Borough executed a Settlement Agreement with FSHC on February 1, 2017. The 2017 Settlement Agreement outlines Frenchtown's affordable housing obligations:

- A 3-unit Rehabilitation Obligation,
- A 2-unit Prior Round Obligation, and
- A 52-unit Third Round Obligation.

On October 10, 2017, Judge Miller entered a Conditional Judgment of Compliance and Repose, which followed the Compliance Hearing on September 22, 2017. Subsequently, on February 26, 2018, Judge Miller entered a Final Unconditional Judgment of Repose recognizing that the Borough has satisfied all conditions of the 2017 Conditional Judgment. However, on March 16, 2018, Judge Miller entered an Amended Final Unconditional Judgment of Repose (hereinafter "JOR").

## CONDITIONS OF COMPLIANCE

Frenchtown's JOR does not contain any conditions.

The 2017 Settlement Agreement requires annual unit and trust fund monitoring on the anniversary of the execution of the agreement. Therefore, the first annual monitoring was due February 1, 2018. Additionally, the Borough is required to submit a review of very-low income housing units every third year after the execution of the agreement. The first very-low income housing monitoring was due February 1, 2020. To seven reports required to date have been prepared and distributed. The reports are posted on the website - <https://frenchtownboro.com/local-government/clerk/resources-forms/>

## PRIOR ROUND MECHANISM REVIEW

Paragraph 5 of the 2017 Settlement Agreement indicates the Prior Round Obligation will be satisfied by one low-income family rental unit in the River Mills development and one rental bonus. A summary of this mechanism is provided in the table on the following page.

PRIOR ROUND OBLIGATION MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
River Mills	Proposed B34, L 1.01	A mixed-use inclusionary development originally approved in 2006. The site has received various approvals since 2006. A May 2019 approval granted a Minor Subdivision and a February 2019 approval granted Amended Preliminary and Final Site Plan. The latest approval includes a mixed-use building with retail on the ground floor and 10 apartments on the upper floors and 20 townhomes. Per the Resolution, there are three two-bedroom units and one three-bedroom unit and a 0.5 unit payment-in-lieu is required.	N/A	Approved development, townhomes under construction. The affordable mixed-use building is not yet under construction.		1

## THIRD ROUND OBLIGATION REVIEW

Frenchtown will satisfy its 52-unit Third Round Obligation through nine mechanisms. As per the 2017 Settlement Agreement, the Borough's 3-unit Rehabilitation Obligation will be satisfied through three new construction units. Therefore, a total of 55 new construction credits are proposed to satisfy the Borough's Rehabilitation Obligation and Third Round Obligation. The tables on the following pages summarize the mechanisms and their current status.

THIRD ROUND OBLIGATION MECHANISMS						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Shale Cliff	B52, L9	On June 24, 2009, Oasis Realty, LLC received approval via Resolution No. 2009-21 to construct an inclusionary mixed-use development containing retail and office space and 10 residential units, including two affordable units.	N/A	Shale Cliff is allocated 2 family affordable rental units in the 2017 Settlement Agreement. The Borough was notified in the Fall of 2019 that the owner is abandoning the approval.		0
River Mills	Proposed B34, L 1.01	A mixed-use inclusionary development originally approved in 2006. The site has received various approvals since 2006. A May 2019 approval granted a Minor Subdivision and a February 2019 approval granted Amended Preliminary and Final Site Plan. The latest approval includes a mixed-use building with retail on the ground floor and 10 apartments on the upper floors and 20 townhomes. Per the Resolution, there are three two-bedroom units and one three-bedroom unit and a 0.5 unit payment-in-lieu is required.	N/A	Approved development, townhomes under construction. The affordable mixed-use building is not yet under construction.		3

THIRD ROUND OBLIGATION MECHANISMS (continued)

Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
DeSapio Senior Apartments	B4, L1	An inclusionary age-restricted development. There are 3 age-restricted affordable units, 2 units reserved for low income households and 1 unit reserved for a moderate income household.	N/A	Occupied in 2007 with 30-year deed restrictions.	3	
Redevelopment of Properties South of Ceramics Plant*	B11, L1; B18, L1; B20, L1	On September 12, 2017, the Council adopted Ordinance No. 797 creating the R-8B Inclusionary Residential Zone, which permits multi-family residential development at a maximum density of 14 units per acre. The Ordinance requires 15% of rental units and 20% of for-sale unit to be reserved for affordable housing.	Y	No application has been filed that has triggered the Ordinance.		4 - 5
Ceramics Plant/ Country Classics	B3, L1 & 2; B10, L1	Following the Settlement Agreement, the Borough rezoned the parcels R-8A, Inclusionary Residential, consistent with the Settlement Agreement. However, it became clear that the powers of Redevelopment were necessary to bring the site to fruition. The Borough Council designated the parcels an Area in Need of Redevelopment via Resolution No. 2014-96 in the Fall of 2014. Thereafter, in August of 2019, Ordinance #833 was adopted, which created the Eighth Street Redevelopment Zone with the same density and set-aside provisions required by the Settlement Agreement.	Y	Country Classics at Frenchtown, LLC was designated the redeveloper of the property on August 7, 2019. The developer submitted an application in the Fall of 2019. On January 22, 2020, the Board memorialized Resolution No. 2020-09, which approved the application to construct 111 units, including 17 affordable family rental units. Construction is expected to commence this year.		17

\* Note that Block 10, Lot 1 is now part of the Ceramics Plan/Country Classics Development



THIRD ROUND OBLIGATION MECHANISMS (continued)

Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Rezoning of Church and Day Care Center Lots	B37, L11 & 16	On September 12, 2017, the Council adopted Ordinance No. 797 creating the R-8D Inclusionary Residential Zone, which permits multi-family residential development at a maximum density of 16 units per acre. The Ordinance requires 15% of rental units and 20% of for-sale units to be reserved for affordable housing.	Y	No application has been filed that has triggered the Ordinance.		2
Rezoning of Upper Eighth Street and Milford Road	B12, L5	On September 12, 2017, the Council adopted Ordinance No. 797 creating the R-8C Inclusionary Residential Zone, which permits attached single-family dwellings at a maximum density of 12 units per acre. The Ordinance requires 15% of rental units and 20% of for-sale units to be reserved for affordable housing.	Y	On October 24, 2018, the Planning Board memorialized Resolution No. 2018-14, which approved 8th Street Associates, LLC to construct three duplexes for a total of six units.		1
Expansion of R-3 Multi-Family Residential Zone	B52, L32.01, 33, 34, 35, 36, 36.01, 36.02, 36.03	On September 12, 2017, the Council adopted Ordinance No. 797, which amended the R-3 Multi-Family Residential Zone to permit inclusionary multi-family development at a maximum density of 16 units per gross tract acre.	Y	No application has been filed that has triggered the Ordinance.		8

THIRD ROUND OBLIGATION MECHANISMS (continued)						
Development	Block & Lot	Description	Ordinance Adopted (Y/N)	Status	Existing Affordable Units	Proposed Affordable Units
Rezoning of Block 48, Lot 7	B48, L7	On September 12, 2017, the Council adopted Ordinance No. 797 creating the R-8E Inclusionary Residential Zone, which permits attached single-family dwellings and multi-family residential development at a maximum density of 18 units per acre. The Ordinance requires 15% of rental units and 20% of for-sale units to be reserved for affordable housing.	Y	No application has been filed that has triggered the Ordinance.		3 - 4
Oasis Realty, LLC Development	B17, L5 & 6; B52, L9	Oasis Realty, LLC submitted an application in the Fall of 2019 to construct five apartments above two existing one-story commercial buildings on Lots 5 & 6. The application also includes the construction of one affordable apartment on Block 52, Lot 9 (former Shale Cliff site). It should be noted that this mechanism was not included in the Borough's Settlement Agreement or Housing Element and Fair Share Plan.	N/A	There have been 2 public hearings to date. The Applicant is gathering additional information to respond to Board questions and will return at a future date to present the remainder of the application.		1

## REHABILITATION

As indicated above, Frenchtown's three-unit Rehabilitation Obligation will be satisfied by three new construction units. This is reflected in Paragraph 4 of the 2017 Settlement Agreement.

## VERY-LOW INCOME ANALYSIS

Paragraph 8 of the 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 Borough’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
Redevelopment of Properties South of Ceramics Plant	4 - 5	0 - 1		0% - 20%	Rezoned via Ordinance No. 797, which created the R-8B Zone. Awaiting applications.
Ceramics Plant/ Country Classics	17	3		17.6%	Approved in 2020, construction is expected to commence this year.
Rezoning of Church and Day Care Center Lots	2	1		50%	Rezoned via Ordinance No. 797, which created the R-8D Zone. Awaiting applications.
Rezoning of Upper Eighth Street and Milford Road	1	0		0.0%	Rezoned via Ordinance No. 797, which created the R-8C Zone . Development approved in 2018.
Expansion of R-3 Multi-Family Residential Zone	8	2		25%	Rezoned via Ordinance No. 797, which amended the R-3 Zone regulations. Awaiting applications.
Rezoning of Block 48, Lot 7	3 - 4	0		0%	Rezoned via Ordinance No. 797, which created the R-8E Zone. Awaiting applications.
Oasis Realty, LLC Development	1	0		0%	Application is pending before Board.

## CONCLUSION

As per Paragraph 7 2017 Settlement Agreement, the Borough was required to provide a realistic opportunity for the development affordable housing through the adoption of inclusionary zoning:

- Ceramics Plant site (Block 3, Lots 1 and 2 and Block 10, Lot 1)
  - The Eighth Street Redevelopment Zone was adopted on August 7, 2019 via Ordinance #833.
- Lot 1 in Block 11, 18 and 20 to the south – by converting existing overlay zoning to as of right zoning, modifying density permitted in Blocks 11, 18 and 20;
  - The properties were rezoned to the R-8B Inclusionary Residential Zone via Ordinance No. 797 on September 12, 2017.

- Block 12, Lot 5;
  - The property was rezoned to the R-8C Inclusionary Residential Zone via Ordinance No. 797 on September 12, 2017.
- Block 48, Lot 7;
  - The property was rezoned to the R-8E Inclusionary Residential Zone via Ordinance No. 797 on September 12, 2017.
- Block 37, Lots 11 and 16; and
  - The properties were rezoned to the R-8D Inclusionary Residential Zone via Ordinance No. 797 on September 12, 2017.
- Expansion of R-3 Multi-Family Zone to encompass Block 52, Lots 32.01, 33, 34, 35, 36, 36.01, 36.02, & 36.03.
  - The R-3 Multi-Family Zone was amended to include the properties via Ordinance No. 797 on September 12, 2017.

As demonstrated by the tables above, Frenchtown has adopted a Redevelopment Plan for the former Ceramics Plants site and Block 10, Lot 1, as well as the necessary ordinances for the remaining properties. Therefore, the Borough has created the realistic opportunity that is required by statute. Furthermore, a development application for Block 17, Lots 5 and 6 and Block 52, Lot 9, that would provide one affordable unit is pending before the Planning Board.

In conclusion, Frenchtown's plan implementation continues to create a realistic opportunity where that standard is applicable, and the Borough has implemented its Third Round mechanisms, which continue to be constitutionally sufficient.