

Third Round Midpoint Review Report: Status of Affordable Housing Plan Mechanisms

**Township of Clinton
Hunterdon County**

July 1, 2020

Prepared by Burgis Associates, Inc.

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County of Hunterdon**

Midpoint Review Report – July 1, 2020

Purpose

The Township of Clinton is required to comply with the statutory midpoint review requirements of the Fair Housing Act (“FHA”) and specifically N.J.S.A. 52:27D-313, which provides in relevant part: “[t]he Council shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public.” Pursuant to the Settlement Agreement between Fair Share Housing Center (“FSHC”) and Clinton Township (hereinafter the “Settlement Agreement”), that review requires the Township to post on its website on July 1, 2020, with a copy to FSHC, and an opportunity for comment, a status report regarding its compliance mechanisms and whether or not unbuilt sites/unfulfilled mechanisms continue to present a realistic opportunity. The Settlement Agreement also contemplates review of unmet need/deferred mechanisms, though the realistic opportunity for the construction of those mechanisms during the compliance period is not applicable.

Relevant Background

On July 2, 2015, Clinton Township filed a declaratory judgment action, seeking a determination of its Round Three affordable housing obligations and approval of its proposed Housing Element and Fair Share Plan to satisfy such obligations and, thereby, obtain a Judgment of Compliance and Repose from the Court, pursuant to the March 2015 New Jersey Supreme Court decision, In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”). The Court appointed a Special Master, Michael Bolan, P.P., A.I.C.P., as is customary in Mount Laurel matters. The Special Master assisted the Township in reaching a settlement agreement with FSHC, a non-profit organization dedicated to protecting the rights of low and moderate-income households in New Jersey. The Settlement Agreement was entered into on February 5, 2018, and the settlement was approved by the Court via an Order entered on April 3, 2018, after a properly noticed Fairness Hearing was held. The Township obtained a Judgment of Compliance and Repose (“JOR”) approving the Township’s Housing Element and Fair Share Plan on January 9, 2019, after a properly noticed Compliance Hearing was held, which secured immunity for the Township from all Mount Laurel lawsuits, including but not limited to, Builders Remedy lawsuits, until July 2, 2025. The Township has satisfied a number of the conditions stipulated in its JOR as detailed below.

The Court approved Settlement Agreement, established the Township’s Third Round Fair Share obligations as follows:

- Rehabilitation Obligation: 10
- Prior Round Obligation (1987-1999): 335
- Third Round Gap and Prospective Need Obligation (1999-2025): 337

Rehabilitation Program(s) Update

The Township has a 10-unit Rehabilitation Obligation. The Township is in the process of working with Hunterdon County and/or establishing its own rehabilitation program to satisfy its Rehabilitation Obligation in accordance with N.J.A.C. 5:93-5.2.

Review of Plan Mechanisms

The realistic opportunity standard applies to all fair share plan compliance mechanisms for all municipalities.

Clinton Township has a Court approved Prior Round (1999-2025) Obligation of 335 units and Third Round (1999-2025) obligation of 337 units that are addressed in the Settlement Agreement as follows:

Prior Round Obligation

The status of the Township's satisfaction of its 335-unit Prior Round Obligation is as follows:

- Existing Group Home (Block 4.03 Lot 40): The property located at 4 Wayside Lane is developed with a five-bedroom group home operated by Venice Avenue Community Residence, Inc. The site is currently occupied as such.
- Credits Without Controls. In accordance with N.J.A.C. 5:93-3.2, Clinton Township received 13 affordable housing credits to satisfy a portion of its Prior Round Obligation.
- Regional Contribution Agreement (RCA): Clinton Township received 108 affordable housing credits for its participation in a RCA with the City of New Brunswick with payments to the City totaling \$2,265,000 completed in August 2002.
- Village Green at Annandale (Block 49 Lot 25): The Village Green at Annandale mixed-use development consisting of 4 affordable housing units is developed and occupied.
- The Mews Senior Housing (Block 47 Lot 3): The Mews is a 221-unit inclusionary development consisting of 35 senior restricted affordable housing units. The site is developed and occupied.

- CRC Longview Group Homes (Block 10 Lots 1 & 9.01): The developer, CRC, received preliminary subdivision approval in 2009 to create a 15-lot major subdivision requiring the applicant to purchase 4 qualified group home bedrooms. Though the subdivision has yet to be developed, the group home component remains a realistic opportunity for the creation of affordable housing.
- Annandale Village, LLC (Fox/Seals Redevelopment) (Block 53 Lot 3): The site received preliminary site plan approval in 2018 for a mixed-use project consisting of 12 multifamily units, one of which is a dedicated low and moderate-income unit. It is anticipated that the developer will submit their final site plan application to the Planning Board in 2020. Water and sewer utilities have been secured for the development.
- Beaver Brook Homestead 100% Affordable Development (Block 60.03 Lot 26): The 66-unit 100% affordable family rental development is developed and occupied as of 2019.
- Marookian Site 100% Affordable Development (Block 82 Lots 4 & 4.03): 26 of the total 84 units of the Marookian project will satisfy a portion of the Township's Prior Round Obligation. The Clinton Township Planning Board granted preliminary site plan approval for the project in 2018. The developer, Pirhl, will submit an application to NJHMFA's 9% Low Income Housing Tax Credit program in 2020 with awards anticipated to be granted in 2020. Upon the awarding of the LIHTC funding, a final site plan application will be submitted to the Planning Board. Water and sewer utilities have been secured for the site.
- Seventy-three (73) rental bonus credits.

Prospective Round Obligation

The status of the Township's satisfaction of its 337-unit Prospective Round Obligation is as follows:

- Marookian Site 100% Affordable Development (Block 82 Lots 4 & 4.03): 58 of the total 84 units of the Marookian project will satisfy a portion of the Township's Prior Round Obligation. The Clinton Township Planning Board granted preliminary site plan approval for the project in 2018. The developer, Pirhl, will submit an application to NJHMFA's 9% Low Income Housing Tax Credit program in 2020 with awards anticipated to be granted in 2020. Upon the awarding of the LIHTC funding, a final site plan application will be submitted to the Planning Board. Water and sewer utilities have been secured for the site.

- LeCompte Site 100% Affordable Development (Block 29 Lot 4): The 89-unit 100% affordable development remains a durational adjustment site. To date, sewerage capacity has been secured to accommodate the development. The developer, CIS, is in the process of obtaining the necessary water capacity to service the development. Given the site's proximity to existing utilities it remains a realistic compliance mechanism.
- Headley Farm Estate (Block 46 Lots 33 & 33.01): The 400-unit inclusionary development consisting of 104 low and moderate-income units remains a durational adjustment site. The developer, CRC, is in the process of evaluating the various alternatives to provide water and sewer to the site. Given the site's proximity to existing utilities it remains a realistic compliance mechanism.
- 108 Alton Place (Block 79.07 Lot 1): The Alton Place inclusionary development consisting of 28 low and moderate-income units remains a durational adjustment site as the developer has yet to secure the necessary sewer and water capacity to accommodate the development. Given the site's proximity to existing utilities it remains a realistic compliance mechanism.
- Fifty-eight (58) bonus credits.

Unmet Need

As Clinton Township's fair share plan satisfies its Prior and Third Round Obligations in full, the Township does not have an unmet need to address.

Very Low-Income Analysis

The Beaver Brook Homestead development consists of 9 very low-income units and the 4 Wayside Lane Group Home consists of 5 very low-income units. The undeveloped plan compliance mechanisms will generate an additional 41 units of designated very low-income housing yielding a total of 50 such units.

Conclusion

The Township's plan implementation continues to create a realistic opportunity where that standard is applicable. The circumstances regarding the availability of water and sewerage capacity have not changed since the execution of the Settlement Agreement and as such, several sites remain subject the court approved durational adjustment as noted above.

Any interested party may submit comments to the Township of Clinton Clerk, with a copy of the comments to Fair Share Housing Center, regarding the Township's mid-point status report as set forth above and whether any unbuilt sites no longer present a realistic opportunity for affordable housing and should be replaced. Any interested party may also, by motion practice, request a hearing before the Court regarding the aforesaid issues.