



BOROUGH OF FRANKLIN LAKES PRESS RELEASE

Borough of Franklin Lakes Enters Into Settlement Agreement With Fair Share Housing Center to Comply With Its Affordable Housing Obligation Under The Fair Housing Act

At their meeting on Tuesday, October 2, the Mayor and Council of the Borough of Franklin Lakes approved a Settlement Agreement (“the Agreement”) with the Fair Share Housing Center, a nonprofit housing advocacy group, which, if certain conditions are met, would resolve the Borough’s long-standing affordable housing litigation and provide immunity from further affordable housing lawsuits through 2025. The Agreement is the first important step towards gaining court approval of the Borough’s affordable housing plan.

The Agreement and the Borough’s affordable housing plan establish the Borough’s affordable housing obligation at 1,067 affordable housing units. However, because the Borough does not have sufficient vacant and developable land to meet this affordable housing obligation, the Agreement provides for a “vacant land adjustment,” adjusting the Borough’s “realistic development potential” to 340 affordable units. The Borough already has credits for 253 of the 340 affordable units based on units that have been built.

In summary, the Agreement provides that the 340 affordable unit realistic development potential is met by the Borough as follows:

- 253 credits - existing units and credits at four developments within the Borough (Mill Pond, Colonial Pointe, The Reserve and Franklin Lakes Supportive Housing) and units transferred to Garfield by agreement in 2002;
- 16 credits - 52 unit development known as “Franklin Manor” to be developed at 793 Franklin Avenue (adjacent to Susquehanna Avenue) which includes 8 affordable rental units and 8 “bonus credits”;
- 11 credits - 88 unit Sunrise Assisted Living facility to be developed at 724 Franklin Avenue (adjacent to Twinbrook Nursery) which includes 11 affordable beds; and
- 60 credits - 55 affordable rental units to developed on McCoy Road (adjacent to the Franklin Lakes Supportive Housing) and 5 “bonus credits.”

To address the Borough's 727 unit "unmet need," (the difference between the total obligation of 1,067 and the realistic development potential of 340), the Agreement contemplates overlay zoning in certain commercial and industrial districts, and not in any residential districts. Overlay zoning means that, in these areas, if they were to be redeveloped, they could be developed with multi-family residential units, at densities of 10 to 18 units per acre, depending on the commercial or industrial district.

The Settlement Agreement is the first step in implementing the settlement of the Borough's affordable housing litigation. Next steps include:

- Approval of Settlement Agreements with Sunrise Assisted Living (724 Franklin Avenue) and Franklin Manor (793 Franklin Avenue);
- Adoption of ordinances implementing the settlement with Franklin Manor and establishing overlay zones (after referral to the Planning Board and a public hearing before the Mayor and Council);
- Approval of the Settlement Agreement at a "fairness hearing" before the Superior Court;
- Adoption of an amended Housing Element and Fair Share Plan by the Planning Board, after a public hearing; and,
- Approval by the Superior Court of the Housing Element and Fair Share Plan, following a "compliance hearing."

If approved by the Court, the Borough would be granted a "judgment of repose," which would include a determination by the Court that the Borough had met its constitutional obligation to provide for its fair share of affordable housing and would provide the Borough with immunity from lawsuits by developers seeking to develop property at higher densities than permitted by the Borough's zoning.

"We feel that this affordable housing plan is the best possible resolution of prolonged litigation and the constant threat of additional lawsuits. With this settlement, we control our destiny and are protected. Our over-arching goal was, and will be going forward, to preserve existing zoning in our residential neighborhoods. We have achieved that." Mayor Frank Bivona commented. He added, "While the Borough understands the need for affordable housing and is committed to addressing such needs, the 'Mount Laurel' doctrine places undue pressure on towns to fill unrealistic goals set by arcane formulas and regulations which leads to overdevelopment. It puts the power in the hands of developers and lawyers. New Jersey legislators have failed to develop simple needs-based regional rules which support affordable housing development and are based on sound municipal planning. This lack of action by the legislature has forced towns to settle or have their future decided by a judge."

Given the complexity and potential impact on residents that this affordable housing plan and Settlement Agreement would have on the community if approved by the Court and implemented, Mayor Frank Bivona has scheduled a "Meet the Mayor" discussion dedicated to this topic, which will be held on Thursday, October 18, at 7:00 pm, in the Council Chambers at Borough Hall. Mayor Bivona will explain the elements of the Agreement and respond to questions from the public. All members of the public are welcome to attend.