

April 22, 2020

Dear Residents and Business Owners,

In November I first wrote about the status of Mendham Borough's affordable housing obligation. At that time, we were in the middle of a legal process and I was not authorized to elaborate on the details. Our legal obligation is now close to being finalized and I am eager to bring everyone up to speed and can now provide the details on a housing project that we were obligated to agree to as per the process that has been mandated by the courts. Before describing the project, it's important that I review some history and facts about affordable housing in New Jersey - so please read on.

Why are NJ communities dealing with affordable housing litigation?

In the 1970's there was a lawsuit and a subsequent NJ Supreme Court determination known as the Mount Laurel Doctrine. It stated that New Jersey's constitution mandates that each municipality has an ongoing obligation to provide affordable housing. For years, affordable housing rules and computation methods have been dormant in the Legislature and litigated in the courts. As a result, Mendham Borough, like every other municipality in the state, has paid professionals for years to represent us before the courts. This process has been a long, arduous, and costly one for every municipality, including Mendham Borough. The result is that each town must obtain certification in the form of a **Superior Court Order** verifying that the town is complying with its **specific obligation**. In the beginning of this year, Mendham Borough settled its obligation with the Court. Our settlement is detailed below. Why settle? First, resolving our obligation halts the endless outflow of costs. Secondly, the benefit of obtaining certification is that it protects our Borough from builders and courts ordering high-density development in any location they choose to meet an affordable housing obligation or shortfall.

What is Mendham Borough's obligation?

Like most municipalities, the Borough has been in court since 2015 attempting to obtain certification for the 2000 - 2025 compliance period, also known as the "third round." It should be noted that as we began this litigation, the Borough had produced a total of two affordable housing units since 2000. Now, nearing the end of this cycle, the courts, after extensive litigation Statewide, have arrived at a formula setting the Borough's affordable housing obligation for this third-round

period at **152 affordable housing units**, this represents the total number of affordable apartments, houses, townhomes or units we are mandated to accommodate. We currently are credited with a total of 38 units, many of which are within the MASH center.

What does this affordable housing obligation mean to the Borough?

To obtain the 152 affordable units as computed by the economic experts as well as the Special Master relied on by the courts, the Borough would have to have a developer construct at least **760** market rate units. That is roughly the equivalent of two of the Commons housing developments.

To give you an idea of some other neighboring community obligations, I share with you the following:

MUNICIPALITY	COMPUTED OBLIGATION	SHOVEL READY RDP	MINIMUM MARKET UNITS
MENDHAM BOROUGH	152	15	760
CHATHAM BOROUGH	264	36	1,320
CHESTER BOROUGH	111	66	555
LONG HILL TOWNSHIP	176	28	880
HARDING TOWNSHIP	177	56	885
MORRIS TOWNSHIP	616	400	3,080
MORRIS PLAINS BOROUGH	400	205	995

Question 2: What has the Borough done to achieve a settlement of this matter?

Answer 2: In the summer of 2019 a developer contacted the Fair Share Housing Center and approached them with a development project for the Racquet Club behind the Kings shopping center. The Fair Share Center brought this project to the Judge and Special Master presiding over our case. Since this was the only affordable housing project brought to the court for the Mendham Borough area, and in order to maintain immunity of the project, we were left with little choice but to enter into an agreement to rezone the parcel to accommodate residential housing. In accepting this project, which will satisfy the Borough’s obligation for the third-round period, it is spelled out as the following:

The project that the Borough has agreed to provide a zoning approval for is a residential development consisting of 75 units located behind the King's Shopping Center. Specifically, the four-story project will be built where the Racquet Club's east tennis building and pool are currently located. The first floor is scheduled to be parking with three floors of housing above. Out of the 75 units, 15 of these will be affordable housing units. As previously discussed, since the Borough Council has agreed to this project that the Court is asking us to approve, the developer will be required to go through the regular land use approval process. At this time it is unknown to us when that will occur.

The reason why the Borough supports this obligation is as follows:

1. This obligation of 15 units is one of the lowest realistic development projects and settlements within the County.
2. It is already an existing site and the Borough is offering no financial assistance or support for this project, as other towns have been compelled to do. In fact, the Borough will not provide any municipal services in the form of sanitation, snow removal or road maintenance to the project or residents.
3. It is the responsibility of the property owner to have public hearings and obtain necessary site plan approval by way of the Planning Board, like any other project. This agreement does not grant the approval to the Racquet Club to construct these units, just the **opportunity** to do so.

Question 3: How did the Borough reduce its obligation in such a significant manner?

Answer3: The Borough was able to reduce its obligation from 152 units to 15 by providing cogent support and evidence that the Borough's sanitary sewer capacity is near full capacity. In consideration of this reduced obligation, and the fact that there are no other developments or shovel-ready projects in the settlement, that an "overlay zone" will be placed on the Daytop property to allow for residential development if the Daytop site is ever redeveloped. Overlay zones have been required in most, if not all municipalities, and this in no way changes the current use or zoning. Even so, there will be an overlay zone on a property that is already developed and used for a religious and charitable purpose in the Borough.

Question 4: What is the process the Borough will go through to finalize this approval?

Answer 4: Borough Council will need to introduce and pass an ordinance zoning the specific areas for residential. The Planning Board will also have to approve a change to the Master Plan. Both of these processes will occur in sequence. Once that is completed the project goes back before the Court for the final approval. All meetings will be well advertised for community feedback.

While the Borough and Council may have its reservations and suggestions for ways to change the affordable housing process, we nonetheless are required to address the Borough's third round obligation with this settlement – and we have done so every step of the way.

By undertaking this settlement, the Borough has protected the character and aesthetics of our community and avoided the imposition of multiple new development and projects, focusing its efforts on the geographic center of our community as opposed to spreading development through multiple locations within the Borough. Obtaining a compliance order from the court protects the Borough from any court or developer forcing the construction of high-density affordable housing anywhere in the Borough and thus securing the ultimate benefit of reaching a settlement that addresses the Borough's obligations.

This is not the last you will hear about affordable housing and the potential for large scale development in Mendham Borough or any other municipality in New Jersey. As I mentioned previously, round three ends in 2025, which means round four will begin shortly thereafter. At this time we can't predict what additional numbers beyond the 152 Mendham Borough will be required to accommodate. What we do know is that we will continue to do everything in our power to preserve the beauty and economic success of our community.

Very truly yours,

Mayor Christine Serrano Glassner

Some past articles to give you a broader perspective:

https://www.nj.com/opinion/2019/04/the-affordable-housing-scam-crony-capitalism-has-found-a-home-in-new-jersey-mulshine.html?fbclid=IwAR1cM_QQcYbCI96VdjmkvLPUQax7xTmQMYTHOIV-F3P9AWoyXxUEVyYgZ0I

<https://www.politico.com/states/new-jersey/story/2017/01/in-monumental-ruling-supreme-court-rules-towns-must-account-for-gap-period-with-exceptions-108822>

<https://www.nytimes.com/2013/01/29/opinion/the-mount-laurel-doctrine.html>

<https://www.burlingtoncountytimes.com/74f88d02-ed7d-11e6-810c-738abf9c4bed.html>

<https://www.usrtoday.org/wp-content/uploads/2016/05/Questions-and-Answers-Regarding-One-Lake-Street.pdf>

https://www.nj.com/news/2018/07/affordable_housing_new_jersey_fair_share_housing_c.html