

# **AFFORDABLE HOUSING TOWN HALL #1**

**CITY OF LAMBERTVILLE**

**FEBRUARY 21, 2022**



# EMILY R. GOLDMAN, PP, AICP



- **Senior Associate, Clarke Caton Hintz**
- **Licensed Professional Planner since 2009**
- **Moved to Lambertville in 2005; bought a house in 2012**
- **Served on City Commissions**
  - **Shade Tree Commission 2006 - 2018**
  - **Environmental Commission 2008 - 2012**
  - **Environmental Commission Rep on Planning Board 2009 - 2012**
- **Appointed Lambertville City Planner in 2013**
- **Worked/working with 12 municipalities on affordable housing**
- **Assisted the Court-Appointed Special Masters in my office on affordable housing matters in 18 municipalities over eight counties**

# AGENDA

- 1. WHY AFFORDABLE HOUSING?**
- 2. WHAT IS AFFORDABLE HOUSING?**
- 3. SOME TERMINOLOGY (OK, LOTS OF TERMINOLOGY)**
- 4. BRIEF HISTORY OF AFFORDABLE HOUSING IN NEW JERSEY**
- 5. “MOUNT LAUREL IV” DECISION**
- 6. LAMBERTVILLE’S AFFORDABLE HOUSING OBLIGATION**
- 7. WHAT IS A VACANT LAND ANALYSIS?**
- 8. LAMBERTVILLE’S AFFORDABLE HOUSING TIMELINE SINCE 2015**
- 9. KEY FACTS**
- 10. NEXT STEPS**

# WHY AFFORDABLE HOUSING?

- **Property ownership, whether you're a homeowner or a landlord, is an investment**
- **Increases in investment value depend on demand being greater than supply, to drive prices up (Economics 101). This includes rents as well as home prices**
- **Some people cannot afford to participate in the property investment market, but they still need a place to live**
- **In order to preserve investment opportunities for those who want them and still house everybody, we also need housing that is outside the investment market**
- **In New Jersey, the courts have ruled that every municipality has an obligation to provide its "fair share" of this housing**

# WHAT IS AFFORDABLE HOUSING?

- **AFFORDABLE HOUSING** is housing where the sales or rent price are within the means of a low or moderate income household.
- **LOW INCOME** means 50 percent or less of the median gross household income for households of the same size within the housing region in which the household is located
- **MODERATE INCOME** means more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the household is located

	1-person	2-person	3-person	4-person
Median Income	\$86,240	\$98,560	\$110,880	\$123,200
Moderate Income (80% of Median)	\$68,992	\$78,848	\$88,704	\$98,560
Low Income (50% of Median)	\$43,120	\$49,280	\$55,440	\$61,600
Very Low Income (30% of Median)	\$25,872	\$29,568	\$33,264	\$36,960

# SOME TERMINOLOGY

- **ACCESSORY APARTMENTS:** a second dwelling on the same property as a principal dwelling. Can be an apartment in the house, or in a separate building
- **AREA IN NEED OF REDEVELOPMENT:** A legal designation, that must be approved by the governing body, designating an area that has not redeveloped through private investment as eligible for various special considerations
  - Can include “condemnation,” or the taking of private property by the municipality to facilitate the redevelopment. The property owner is paid fair market value
  - Related: area in need of rehabilitation. Tools not as extensive

# SOME MORE TERMINOLOGY

- **BUILDER'S REMEDY:** a court award to a developer who proves a municipality is not providing its fair share of affordable housing, that lets the developer build more than otherwise allowed if affordable units are included
- **DEED RESTRICTION:** a legal attachment to a deed that restricts its use to affordable housing for a set period of time
- **DEVELOPMENT FEE:** a fee charged on the assessed value of all new development
  - Fees go into a separate trust account to fund affordable housing. Hence, in general, no taxpayer dollars pay for affordable housing

# EVEN MORE TERMINOLOGY

- **FAIR SHARE HOUSING CENTER (FSHC):** a public-interest organization that advocates for housing for lower-income households.
  - Court has approved FSHC as interested party to negotiate with municipalities in determining affordable housing obligations
  - Negotiations with FSHC result in a settlement agreement detailing the obligation. Agreement must be approved by the court
- **HOUSING ELEMENT AND FAIR SHARE PLAN:** the document that encodes a municipality's housing element of its master plan and its plan to meet its affordable housing obligation
  - Must be adopted by the planning board, endorsed by the governing body, and approved by the court

# ***STILL MORE TERMINOLOGY***

- **INCLUSIONARY ZONING:** zoning that requires residential development to include both market-rate and affordable housing
  - The number of affordable units is typically 15% of the total number if they are rental units, and 20% of the total number if they are for-sale units
- **INCLUSIONARY OVERLAY ZONING:** zoning that a property owner may take advantage of but is not required to use
  - Typically includes greater benefit than the underlying zoning, in return for which it requires production of affordable housing
- **MANDATORY SET-ASIDE ORDINANCE:** required of municipalities with a vacant land adjustment (see below), an ordinance that requires some affordable units to be produced as part of any new development that meets certain criteria

# THE LAST OF THE TERMINOLOGY!

- **REALISTIC DEVELOPMENT POTENTIAL (RDP):** means the portion of the affordable housing obligation that can realistically be addressed with inclusionary development, as determined through a vacant land adjustment
- **REGIONAL CONTRIBUTION AGREEMENTS (RCAS):** agreements for affordable housing trust funds to be paid by one municipality to another to transfer part of the paying municipality's affordable housing obligation. Credit for the affordable units created goes to the paying municipality
- **RENTAL BONUSES:** allow municipalities to claim double credit for affordable rental units, rather than for-sale, units, up to 25% of the municipality's total obligation
  - Encourages the provision of rental housing, more easily affordable to lower-income households
- **UNMET NEED:** means the difference between the affordable housing obligation and the RDP

# HISTORY OF AFFORDABLE HOUSING IN NJ

- **1975 “MOUNT LAUREL I” NEW JERSEY SUPREME COURT DECISION**
  - **Constitutional obligation to provide opportunity for affordable housing within developing municipalities**
- **1983 “MOUNT LAUREL II” NEW JERSEY SUPREME COURT DECISION**
  - **Extended the obligation to all municipalities**
  - **Gave developers the opportunity, under appropriate circumstances, to secure a builder’s remedy in the event of a successful lawsuit**
  - **1985: Fair Housing Act passed in response to Court decision**
  - **Fair Housing Act created the Council on Affordable Housing (COAH)**
  - **COAH wrote rules for production of affordable housing, determined municipal obligations, and oversaw compliance**

# HISTORY OF AFFORDABLE HOUSING IN NJ

- **THIRD ROUND RULES (2004 THROUGH 2018)**

- Implemented a “growth share” approach that linked the production of affordable housing to future residential and non-residential development within a municipality.
- Municipalities were then required to provide the opportunity of:
  - One (1) affordable unit for every eight (8) market-rate housing units developed; and,
  - One (1) affordable unit for every 25 jobs created.
- The New Jersey Appellate Court invalidated key elements of the first version of the Third Round rules on January 25, 2007 and ordered COAH to propose and adopt amendments to the rules.
- COAH issued amended rules on June 2, 2008 that still implemented the “growth share” approach but revised its ratios to require:
  - One (1) affordable housing unit for every four (4) market-rate housing units developed; and,
  - One (1) affordable housing unit for every 16 jobs created

# HISTORY OF AFFORDABLE HOUSING IN NJ

- **2008 FAIR HOUSING ACT AMENDMENTS AND NEW JERSEY ECONOMIC STIMULUS ACT**
  - **Established a mandatory statewide 2.5% nonresidential development fee**
  - **Eliminated regional contribution agreements; now all municipalities had to satisfy their obligations locally**
  - **Added a requirement that 13% of all affordable housing units be restricted to very low-income households (earning 30% or less of median income)**
- **2010 APPELLATE COURT DECISION**
  - **Invalidated the “Growth Share” Methodology to determine municipal obligations**
  - **To be credited, required municipally sponsored or 100% affordable housing sites to show site control, site suitability including availability of sewer service, and a proposed source of funding**

# 2015 “MOUNT LAUREL IV” COURT DECISION

- Court transferred responsibility for reviewing and approving affordable housing plans from COAH to designated Mount Laurel trial judges
- Established process whereby municipalities could petition Superior Court in a Declaratory Judgment (DJ) action seeking approval of their proposed means of addressing their affordable housing obligations
- Municipalities could file motions for temporary immunity from builder’s remedy lawsuits while they went through the DJ process
- The Supreme Court found that the “gap period,” defined as the period between the end of the Second Round in 1999 and 2015, generates an affordable housing obligation.

# LAMBERTVILLE'S OBLIGATION

- **Present Need (Rehabilitation): 1 unit**
- **Prior Round Obligation: 0 units**
- **Third Round Obligation [“gap period” + prospective need] = 137 units\***

**\*Obligation calculated pursuant to report prepared by David Kinsey with a 30% reduction negotiated as part of the Settlement Agreement with Fair Share Housing Center.**

# WHAT IS A VACANT LAND ADJUSTMENT?

- **A process by which a municipality petitions to have its affordable housing obligation reduced because it doesn't have enough developable land to build all the affordable units it is supposed to**
  - **Requires analysis of all vacant parcels of land larger than a certain size, and a determination of whether they are developable**
  - **For each lot with developable acreage, the acreage is multiplied by the number of housing units per acre that can reasonably be developed in the area of the lot**
  - **That number of units is multiplied by 20%, to estimate how many affordable units the lot would produce. Sometimes this is a fraction of a unit**
  - **The number of affordable units for all the lots is totaled**
  - **Result is a two-part obligation: a realistic development potential (RDP), which the municipality must provide, and an unmet need obligation, which the municipality must try to provide**

# VACANT LAND ADJUSTMENT EXAMPLE

- **Total municipal affordable housing obligation: 200 units**
- **Vacant land analysis: 35 developable parcels totaling 30 developable acres**
- **30 acres x 6 dwelling units per acre x 20% = 36 units**
- **Municipality's realistic development potential is 36 units. The municipality must provide these units**
- **Municipality's unmet need obligation is  $(200-36)=164$  units. The municipality must try to provide as many of these units as possible**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **7/8/15: Submitted its petition for declaratory judgment**
- **10/7/15: Designated the Lambertville High School site as a Non-Condemnation Redevelopment Area**
- **9/28/16: Presented its Vacant Land Analysis to the Court-appointed Special Master (which was approved as part of the initial Settlement Agreement with FSHC)**
- **3/10/17: Received NJDEP approval of a Wastewater Management Plan Amendment to include the Lambertville High School site in the City's sewer service area**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **June 2017 – April 2018: Settlement discussions with owner of Lambertville High School site. The City attended mediation sessions with the Court-Appointed Special Court Master and Academy Hill on December 5, 2017, December 13, 2017, February 28, 2018, and April 19, 2018.**
- **4/19/18: City determines condemnation is “cleanest” way to proceed with the Lambertville High School site**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **5/22/18: City executes settlement agreement with Fair Share Housing Center. Full Third Round obligation = 137 units**
  - **Realistic Development Potential (RDP) = 88**
  - **Unmet Need = 49**
- **6/19/18: Lambertville High School Site designated as a condemnation redevelopment area**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **8/1/18: Academy Hill files its first of many lawsuits pertaining to the condemnation redevelopment designation against the City\***
- **9/13/18: Fairness Hearing on the Settlement Agreement with Fair Share Housing Center**
- **10/11/18: Court Order approving the Settlement Agreement with Fair Share Housing Center**
- **11/5/18: First Reading of the following ordinances:**
  - **Affordable Housing Ordinance, including a mandatory set-aside ordinance**
  - **Condemnation Redevelopment Plan for the Lambertville High School site**
  - **Overlay zoning ordinance that included the Burd, Corboy, Trenton Cracker Factory and Closson sites**

\*Note Academy Hill filed its first lawsuit against the City in 1998

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **11/7/18: Planning Board adopts the Housing Element and Fair Share Plan and determines the affordable housing ordinance, overlay ordinances, and Lambertville High School redevelopment plan are consistent with the City's master plan**
- **11/28/18: City Council adopts the Affordable housing ordinance and the Lambertville high school redevelopment plan; rescinds the overlay ordinance over opposition to inclusion of the Closson site**
- **12/5/18: City Council endorses the 2018 Third Round Housing Element and Fair Share Plan**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **3/21/19: First Reading of revised overlay zone ordinance for Burd, Corboy and Trenton Cracker Factory sites, with Closson site removed**
- **4/18/19: City Council adopts revised overlay zone ordinance for Burd, Corboy and Trenton Cracker Factory sites**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **February 2019 – December 2019: City in discussions with the following property owners for potential overlay zones, rehabilitation designations, or redevelopment designations:**
  - YMAC Site
  - Finkle's Warehouse site
  - CVS site
  - Autoparts site
- **4/12/19: City Council designates the YMAC as a rehabilitation area**
- **8/21/19: Finkle's requests its property to be removed from potential overlay zoning**
- **8/22/19: First reading of overlay zone ordinance for the Autoparts site**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **9/19/19: Overlay zone ordinance for the Autoparts site rescinded**
- **9/23/19: YMAC Site developer no longer going to pursue redevelopment plan, which would have required production of some affordable units**
- **October 2019: Owners of CVS site no longer interested in redevelopment discussions**
- **2/4/20: City Council executes amended Settlement Agreement with Fair Share Housing Center**
  - **Removes condemnation aspect of Lambertville High School Redevelopment project**
  - **Replaces the Closson Site Overlay with the Police Site Redevelopment and a five-unit accessory apartment program as additional realistic opportunities to address the City's unmet need.**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

Compliance Mechanisms	Affordable Units	Bonuses	RDP = 88
<b>Special-Needs Housing</b>			
Little Haven Group Home (rentals, 11 of 18 bedrooms)	11	-	11
<b>100% Affordable Housing (all completed, non-RCA funded)</b>			
Habitat for Humanity (for-sale units)	4	-	4
Heritage Village (age-restricted rentals, 22 of 37 units)	22	-	22
Munice Accessory Apartment (family rental)	1	-	1
<b>Inclusionary Zoning</b>			
Lambertville High School site (family rentals, 139 total units with 20% set-aside resulting in 28 affordable units)	28	22	50
<b>TOTAL</b>	<b>66</b>	<b>22</b>	<b>88</b>

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

City of Lambertville's Third Round Unmet Need Compliance Mechanisms	Unmet Need = 49
Adopted Affordable Housing Development Fee Ordinance and Spending Plan	√
Little Haven Group Home (7 of 18)	7
Heritage Village Affordable Age-Restricted Rentals (12 of 37)	12
Lily Street Unit (Family Rental)	1
IO-1 Inclusionary Multifamily Overlay Zone (Burd Farmstead / Corboy Lot) Requires an affordable housing set-aside as part of any development subject to public sewer being made available to each parcel.	√
IO-2 Inclusionary Adaptive Reuse Overlay Zone (Trenton Cracker Factory) Requires the rehabilitation of a vacant nonresidential building into apartments with an affordable housing set-aside.	√
Police Site Redevelopment Requires at least twenty-three (23) multifamily rental apartments with a twenty percent (20%) affordable housing set-aside.	√
Proposed Accessory Apartment Program	√
Mandatory Set-Aside Ordinance	√

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **2/13/20: First Reading of ordinance to amend the Lambertville High School redevelopment plan to a non-condemnation redevelopment plan**
- **3/4/20: Planning Board adopts 2020 Amended Third Round Housing Element and Fair Share Plan**
- **4/23/20: City Council adopts amended Lambertville High School non-condemnation redevelopment plan**
- **5/7/20: City hosts an affordable housing information session**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **5/12/20: Fairness and Preliminary Compliance Hearing on Amended Settlement Agreement with Fair Share Housing Center**
- **6/10/20: City Council endorses the 2020 Amended Third Round Housing Element and Fair Share Plan**
- **6/23/20: Court approves the amended settlement agreement and grants a conditional judgment of repose, keeping the city immune from builder's remedy lawsuits**
- **7/1/20: Mid-Point Review, required by statute, posted to the City's website**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **7/23/20: City Council designates the police station site as a non-condemnation redevelopment area**
- **8/27/20: Zoning Board approves an accessory apartment project on South Main Street**
- **9/26/20: City hosts design vetting session for the police redevelopment site**
- **12/17/20: City Council adopts the Police Station Redevelopment Plan**
- **1/29/21: City posts its annual unit and trust fund monitoring report to its website**

# LAMBERTVILLE'S AFFORDABLE HOUSING TIMELINE SINCE 2015

- **2/4/21: City issues RFP for Police Site Redevelopment**
- **4/22/21: City re-issues RFP for Police Site Redevelopment**
- **6/1/21: City designates Kalian Companies as redeveloper of the police site**
- **12/16/21: City adopts an amendment to the mandatory set-aside ordinance that requires an affordable housing set-aside to any project that results in 5 units or more with a minimum density of 6 units per acre between Route 29 and the River.**
- **12/16/21: City voted down the resolution approving redevelopment agreement with Kalian Companies and tabled the ordinance for a payment in lieu of taxes (PILOT) for the redevelopment of the Police Station site. In order for the City to move forward with this project, the City would have to designate a new redeveloper for the site and negotiate new agreements.**

# KEY FACTS

- **Since 2015, the City has only created two (2) affordable units.**
- **The Settlement Agreement had to be amended to replace the Closson Overlay.**
- **The removal of the condemnation aspect from the Academy Hill site transferred the Court-required timeframe for adopting a redevelopment agreement to the Police Site.**
- **The City is out of compliance with its Amended Settlement Agreement.**
- **The City now has to amend its Settlement Agreement for the third time.**

# NEXT STEPS

- **Update the City's Affordable Housing website so it is more user-friendly**
- **Identify new affordable housing compliance mechanisms to meet the City's obligation**
- **Negotiate an amended settlement agreement with Fair Share Housing Center**
- **Adopt an Amended Housing Element Fair Share Plan**
- **Adopt ordinances, as necessary, to implement new compliance mechanisms**

# THANK YOU!

**Join us at the next Town Hall Meeting on March 3, 2022 at 7 PM via Zoom to learn about the various compliance mechanisms available to the City to meet its affordable housing obligation. Residents will be able to provide feedback as to which methods they believe should be utilized moving forward.**