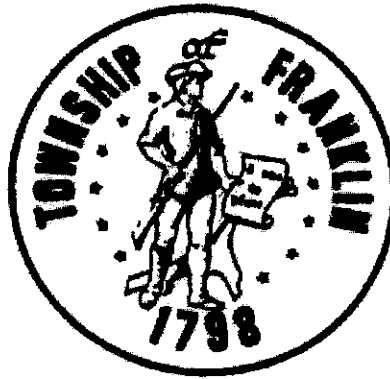


ADDENDUM VI

Amendment to AFFORDABLE HOUSING SPENDING PLAN



Township of Franklin
Somerset County, New Jersey

Dated:
September 13, 2007

Endorsed by Township Council:
September 18, 2007

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INTRODUCTION

On August 22, 2001, the Township submitted its "Affordable Housing Spending Plan" prepared by Coppola & Coppola Associates and dated July 2001 to the Council on Affordable Housing (COAH) for the purpose of receiving COAH's review and approval (herein after such plan is referred to as the "2001 Spending Plan"). The 2001 Spending Plan subsequently received COAH approval by resolution dated 12/4/01 signed by COAH's Executive Director.

This document constitutes an update of the 2001 Spending Plan and is added to that plan as Addendum VI.

The purpose of this update is to address the expenditure from the Township's Housing Trust Fund for the following projects that were not included in the 2001 Spending Plan: Churchill-Millstone - Block 129 ("Franklin Commons"); Oak-Pine; and Habitat for Humanity. This document also demonstrates the Township's ability to expend monies towards these projects. To that end, this update provides current Housing Trust Fund figures (which show that the Housing Trust Fund has grown significantly since submittal of the 2001 Spending Plan) and explains significant changes to the Township's affordable housing development fee ordinance.

These projects are included in the Township's Fair Share Plan submitted to COAH for the purpose of receiving Third Round Substantive Certification from COAH. Thus, these projects are intended to meet the Township's third round COAH obligation. However, since the Township has not received substantive certification of its third round Fair Share Plan, the Township was advised by COAH that it should seek COAH approval for amendment to its second round spending plan (i.e., the 2001 Spending Plan).

Changes to Development Fee Ordinance

At the time of the submittal of the 2001 Spending Plan, the Township's development fee ordinance required the payment of affordable housing development fees in association with major residential developments only. Senior housing and all non-residential development (e.g., retail, office and industrial uses) were exempt from the payment of such fees. The amount of the payment was equal to one-half on one percent (1/2%) of equalized assessed value, the maximum amount permitted at that time.

Since that time a number of amendments have significantly increased the types of development subject to the payment of such fees. For example, senior housing and non-residential development such as retail, office and industrial uses are now subject to the payment of affordable housing development fees. In addition, consistent with COAH rules,

the affordable housing development fee for residential projects has been increased from one-half of one percent (1/2%) to one percent (1%) and the development fee for non-residential development is two percent (2%) of the equalized assessed value. A summary of these ordinance amendments follows below. The Township's current Affordable Housing Development Fee Ordinance can be found in Appendix 1.

- Ordinance #3537 (effective 5/2/05) increased the affordable housing development fee for applicable residential projects from one-half of one percent (1/2%) to one percent (1%) of the equalized assessed value. Applicable residential developments have been assessed the 1% fee since the May 2nd effective date.
- Ordinance #3554 (effective 8/7/05) was a comprehensive overhaul of the Township's affordable housing development fee ordinance. The most notable change is that virtually all development within the Township is now subject to the payment of affordable housing development fees. This includes, with a few exceptions, all commercial and industrial development as well as elderly housing and other formerly exempt residential uses. The development fee for non-residential development is two percent (2%) of the equalized assessed value (in comparison to the 1% residential fee). Non-residential expansions (in addition to new construction) are subject to the fee as well. Exemptions include "municipal, religious, educational, public recreation and institutional" uses and smaller developments where the value or change of value is less than \$15,000 equalized assessed value.
- Ordinance #3583 (effective 1/2/06) amended a definition and made certain changes to the section pertaining to residential development fees.
- Ordinance #3708 – Section VI (effective 9/9/07) amended the development fee ordinance so as to remove the exemption for the construction of single-family dwellings.

The sum result of these amendments to the development fee ordinance is an increase in the current and expected future balance in the Housing Trust Fund.

Housing Trust Fund

Housing Trust Fund Balance

According to the Township Finance Department, the Township Housing Trust Fund stands at \$3,098,997.95 as of June 30, 2007. The Housing Trust Fund thus far is comprised entirely of development fees collected and interest generated by the fees. The fees are deposited in a separate interest-bearing account in Commerce Bank for the purposes of creating affordable housing.

The table below shows expenditure and deposits into the Township Housing Trust Fund over the last four years. The table demonstrates that the amount of money deposited into the Housing Trust Fund (about \$740,000, on average, per year) vastly exceeds that projected in the 2001 Spending Plan (which projected less than \$85,000 during a five year period between 2001 and 2006) and also exceeds \$350,000 per year projected for the Township's third round plan.

Housing Trust Fund

Cash Receipts	
7/1/06-6/30/07	\$529,332.93
7/1/05-6/30/06	\$1,386,103.41
7/1/04-6/30/05	\$685,047.04
7/1/03-6/30/04	\$361,871.83
Disbursements	
7/1/06-6/30/07	\$146,831.21
7/1/05-6/30/06	\$163,698.10
7/1/04-6/30/05	\$193,241.28
7/1/03-6/30/04	\$ 30,000.00

Source: Township Finance Department

Collection and Distribution of Funds

The section of the 2001 Spending Plan entitled "Administrative Mechanism to Collect and Distribute Funds" is revised as discussed below:

1. Item 1 under "Distribution of Development Fee Revenues" currently identifies the types of activities that may be funded using the Township's Housing Trust Fund. It states that these funds may be used for a wide range of activities that address the Township's COAH obligation including the following:
 - o New construction of affordable units;
 - o Purchase of land for low or moderate-income housing;
 - o Improvement of land to be used for low and moderate income housing;
 - o Extension and/or improvement of improvements of roads and infrastructure to low and moderate income housing units; and
 - o Assistance designed to render housing units to be more affordable.

This section of the 2001 Spending Plan is revised to specify the expenditure of funds from the Housing Trust Fund for the following affordable housing projects within the Township:

- *\$1 million dollars to the Churchill-Millstone - Block 129 ("Franklin Commons") Development.* The Churchill-Millstone area is part of the Township's Renaissance Redevelopment Area. RPM Development, L.L.C. has been selected as the designated redeveloper of the Churchill-Millstone (Block 129) site and surrounding area. The development contemplated on Block 129 (which is also known as "Franklin Commons") consists of sixty-six (66) non-age restricted rental units to be provided on the 2nd through 4th floors of the building. Retail would be provided on the ground floor. It is a 100-percent affordable non-age-restricted rental project.

- *\$1 million dollars to the Oak-Pine Development by Leewood.* The Oak Place – Pine Street area is located within the Renaissance 2000 Redevelopment Area along Route 27, north of Franklin Boulevard between Oak Place and Pine Street. Leewood Real Estate Group has been selected as the designated redeveloper for this area. The concept plans for this development contemplates roughly 250 dwelling units with roughly half of that total consisting of affordable units.

- *Less than \$125,000 for the Development of Township-Owned Lands for Affordable Housing.* The Township owns a number of properties in residential districts that could be developed for affordable housing. Because the Township has a good working relationship with Habitat for Humanity, the Fair Share Plan indicates that Habitat for Humanity has agreed to construct at least 11 dwelling units on Township-owned properties. In fact, Habitat currently plans to construct 13 total additional units in the Township. Township staff has reviewed the sites involved and has tentatively determined that public infrastructure improvements costs (e.g., roadway improvements, utility extension, etc.) may total up to \$125,000. When applications for development are submitted for these sites, however, the need for public improvements will be reviewed in greater detail. Township staff has indicated that it is quite possible that public infrastructure costs may be less than \$125,000. If Habitat for Humanity cannot construct all of the dwellings, alternative developers will be selected to build the dwellings.

The exact nature of these payments (form, performance targets, timing, etc.) shall be negotiated as part of the respective development agreements. However, consistent with the 2001 Spending Plan, the development agreements will require that such funds go towards one or more of the following:

- Purchase of land for low or moderate-income housing;

- Improvement of land to be used for low and moderate income housing;

- Extension and/or improvement of improvements of roads and infrastructure to low and moderate income housing units; and/or
 - Assistance designed to render housing units to be more affordable.
2. Item 4 under "Distribution of Development Fee Revenues" is revised to specify that no more than 20% of development fees collected *annually* during the course of substantive certification shall be expended on administration, consistent with COAH's 12/4/01 approving resolution and COAH rules.

Adequacy of Housing Trust Fund

As indicated above, the Township Housing Trust Fund currently stands at \$3,098,997.95. The Township expects the annual infusion into the Housing Trust Fund (which has averaged about \$740,000 per year over the last four years) to remain at or above the \$350,000 per year level indicated in the Township's 3rd Round Plan for at least the next few years due to:

- (1) The above-described changes in the Township's affordable housing development fee ordinance (which collects fees from development types that were previously exempt); and
- (2) The collection of development fees to be generated by approved and anticipated development projects expected to be constructed within the next few years including a number of retail shopping centers, a few warehouse and office developments and some market-rate residential projects.

With a current balance of \$3,098,997.95 in the Township's Housing Trust Fund and annual infusions into it expected to remain at or above the \$350,000 per year level for at least the next few years, the Township anticipates that the Housing Trust Fund can readily handle the expenditures anticipated by for these projects.

Appendix 1

ARTICLE XXXIII Affordable Housing Development Fees [Amended 4-12-2005 by Ord. No. 3537; 7-12-2005 by Ord. No. 3554]

§ 112-252. Statement of purpose.

In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. (the "Act"), and the State Constitution subject to Council on Affordable Housing ("COAH") developing rules. The purpose of this article is to establish standards for the collection, maintenance and expenditure of development fees pursuant to COAH's rules. Fees collected pursuant to this chapter shall be used for the sole purpose of providing low- and moderate-income housing. This chapter shall be interpreted within the framework of COAH's rules on development fees.

§ 112-253. Definitions.

For the purpose of this article, the following definitions shall apply:

AFFORDABLE — A sales price or rent within the means of a low- or moderate-income household as defined in N.J.S.A. 5:93-7.4 and any additional criteria established by COAH that would qualify the dwelling unit to count towards the Township's Fair Share Housing obligation.

COAH — The New Jersey Council on Affordable Housing.

DEVELOPMENT FEES— Money paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules.

EQUALIZED ASSESSED VALUE — The value of a property determined by the Municipal Tax Assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Municipal Tax Assessor.

INCLUSIONARY DEVELOPMENT — A development containing low- and moderate-income units. This term includes, but is not limited to, new construction, the conversion of a nonresidential structure to a residential structure and the creation of new low- and moderate-income units through the gut rehabilitation of a vacant residential structure.
[Amended 12-13-2005 by Ord. No. 3583]

SUBSTANTIVE CERTIFICATION — A determination by COAH approving a municipality's housing element and fair share plan in accordance with the provisions of the Act and the rules and criteria as set forth herein. A grant of substantive certification shall be valid for a period of 10 years in accordance with the terms and conditions contained therein.

TOWNSHIP — Franklin Township in Somerset County.

§ 112-254. Retention of certain fees.

Any fees collected or agreed to prior to December 13, 1990, shall be retained by the Township pursuant to COAH's rules regarding the retention of development fees.

§ 112-255. Residential development fees. [Amended 12-19-2005 by Ord. No. 3583]

- A. All developers of residential subdivisions and site plans shall pay a development fee of 1% of the equalized assessed value for each residential unit constructed and of any eligible residential activity pursuant to § 112-258 of this article. This mandatory fee shall be calculated as follows: $1.0\% \times \text{equalized assessed valuation} \times \text{number of units}$.
- B. If a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(5), then the additional residential units realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6% rather than the development fee of 1.0%. However, if the zoning on a site has changed during the two-year period preceding filing of the "d" variance application, the density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the "d" variance application.

§ 112-256. Nonresidential development fees.

- A. All nonresidential developers shall pay a mandatory development fee equal to 2.0% of the total equalized assessed valuation of the nonresidential development; provided, however, that no development fee shall be required where the total equalized assessed value of the development is less than \$15,000 as established by the Tax Assessor. This mandatory fee shall be calculated as follows: $2.0\% \times \text{total equalized assessed valuation}$.
- B. If a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6% rather than the development fee of 2.0%. However, if the zoning on a site has changed during the two-year period preceding filing of the "d" variance application, the density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the "d" variance application.

§ 112-257. Eligible exaction, ineligible exaction and exemptions.

- A. Affordable dwelling units as defined herein shall be exempt from paying development fees.
- B. Inclusionary developments, as defined, are exempt from development fees.
- C. Development that expands an nonresidential existing structure shall pay a development fee. The development fee shall be calculated based on the increase in the equalized assessed value of the improved structure.

- D. The expansion of a single-family dwelling shall be exempt from development fees.
- E. Developers that have received preliminary or final approval prior to the effective date of this article shall be exempt from paying a development fee unless the developer seeks a substantial change in the approval.
- F. Nonprofit and tax exempt organizations, such as houses of worship are exempt.

§ 112-258. Collection of fees.

- A. Fifty percent of the total mandatory development fee owed to Franklin Township, whether for residential or nonresidential development, shall be paid prior to the issuance of any building permit required in connection with the development, and shall be calculated as follows:
 - (1) For residential developments, the payment of 50% required prior to the issuance of any building permit shall be calculated using an estimated equalized valuation of each residential unit as determined by the Franklin Township Tax Assessor.
 - (2) For nonresidential developments, the payment of 50% required prior to the issuance of any building permit shall be calculated using an estimated total equalized assessed valuation of the nonresidential development as determined by the Franklin Township Tax Assessor.
- B. The remaining portion of the development fee shall be paid prior to the issuance of any certificate of occupancy for any development or any part thereof, whether residential or nonresidential, and shall be calculated using the actual assessed valuation of the development as determined by the Franklin Township Tax Assessor.
- C. Because the initial payment required prior to the issuance of a building permit is calculated using an estimated assessed valuation based on estimates for construction costs, the following adjustments are permitted to compensate for differences between the estimated assessed valuation and the actual assessed valuation: If the estimated assessed valuation used to calculate the initial payment of 50% was overestimated or underestimated, causing the actual assessed valuation to be less than or greater than the estimated assessed valuation used to calculate the initial payment of 50%, the developer's certificate of occupancy payment shall be equal to the difference between the actual assessed valuation and the initial payment of 50% as determined by the Franklin Township Tax Assessor.

§ 112-259. Housing Trust Fund.

- A. There is hereby created an interest-bearing Housing Trust Fund in an approved bank or other approved depository of the Township for the purpose of receiving development fees from residential and nonresidential developers. All development fees paid by

developers pursuant to this article shall be deposited in this fund. No money shall be expended from the Housing Trust Fund unless the expenditure conforms to a spending plan approved by COAH.

- B. If COAH determines that the Township is not in conformance with COAH's rules on development fees, COAH is authorized to direct the manner in which all development fees collected pursuant to this article shall be expended. Such authorization is pursuant to this article, COAH's rules on development fees, and the written authorization from the governing body to the approved bank or other approved depository of the Township in which the Housing Trust Fund is located.

§ 112-260. Use of funds.

- A. Money deposited in a Housing Trust Fund may be used for any activity approved by COAH for addressing the Township's low- and moderate-income housing obligation. Such activities may include, but are not necessarily limited to, housing rehabilitation; new construction; regional contribution agreements; the purchase of land for low- and moderate-income housing; extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income people; and administrative costs necessary to implement the Township's housing element. The expenditure of all money shall conform to a spending plan approved by COAH.
- B. At least 30% of the revenues collected from development fees pursuant to this article shall be devoted to rendering units more affordable unless exempt as per this article. Examples of such activities include, but are not limited to, down payment and closing costs assistance, low-interest loans, and rental assistance.
- C. No more than 20% of the revenues collected from development fees shall be expended on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities include personnel, consultant services, space costs, consumable supplies, and rental or purchase of equipment and directly associated with plan development or plan implementation.
- D. Development fee revenues shall not be expended to reimburse the Township for housing activities that preceded substantive certification.

§ 112-261. Contested fees.

Pursuant to N.J.A.C. 5:94-6.10, imposed and collected development fees that are challenged shall be placed in an interest-bearing escrow account by the municipality. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

§ 112-262. Expiration of ordinance.

This article shall expire if:

- A. COAH dismisses or denies the Township’s petition for substantive certification.
- B. COAH revokes substantive certification or its certification of this article.
- C. Substantive certification: expires prior to the Township filing an adopted housing element with COAH, petitioning for substantive certification or receiving COAH’s approval of this article.

§ 112-263. Land use types subject to development fees.

The following table identifies the land uses that are subject to or exempt from the imposition of development fees for affordable housing:

Use Type	Subject to Fees	Exempt from Fees
A. Agricultural (A, AC)	X	
B. Residential uses (A, CP, RR3, RR5, R-40, R-20, R-15, R-10, R-10B, R-10A, R-7, C-R, H, RC, NRPC)	X	
Single-family residential	X	
Condominium	X	
Duplex	X	
Townhouse duplex	X	
Townhouse	X	
Garden apartment	X	
Cluster residential	X	
Mobile home park	X	
Residential conversion	X	
Elderly housing	X	
Assisted living	X	
Group home	X	
Bed-and-breakfast	X	
C. Municipal, religious, educational, recreation and institutional (All)		X

D. Office use (ROL, OP)	X
E. Retail and consumer services (N-B, G-B, C-B)	X
F. Common carriers, utilities, and public service organizations (All)	X
G. Industrial uses (M-1, M-2, M-3)	X
H. Accessory uses (All)	X

Appendix 2

**Governing Body Resolution Requesting Review and Approval of
Second Round Spending Plan Amendment**

WHEREAS, Franklin Township in Somerset County, was granted second round substantive certification by the Council on Affordable Housing (COAH) on July 9, 1997; and

WHEREAS, the Governing Body of Franklin Township in Somerset County petitioned COAH for third round substantive certification on December 20, 2005; and

WHEREAS, on March 10, 1998, Franklin Township received COAH's approval of its development fee ordinance; and

WHEREAS, N.J.A.C. 5:94-6.2(c) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, on December 4, 2001, Franklin Township received COAH's approval of its spending plan; and

WHEREAS, N.J.A.C. 5:94-6.5 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on actual proposed and approved developments and historic development activity;
2. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
3. A description of the anticipated use of all development fees, payments in lieu of constructing affordable housing units on site, and/or funds from the sale of units with extinguished controls, pursuant to N.J.A.C. 5:94-6.12;
4. A schedule for the expenditure of all development fees, payments in lieu of constructing affordable units on site, and/or funds from the sale of units with extinguished controls;
5. A schedule for the creation or rehabilitation of housing units;
6. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions being responsible for public sector or non-profit construction of housing; and

7. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and

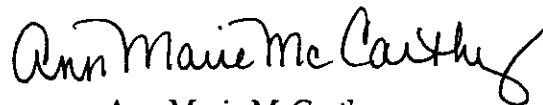
WHEREAS, Franklin Township has prepared an amendment to its spending plan consistent with N.J.A.C. 5:94-6.5.

NOW THEREFORE BE IT RESOLVED that the Governing Body of Franklin Township in Somerset County requests that COAH review and approve the amendment to its 2nd Round Spending Plan.

CERTIFICATION

I, Ann Marie McCarthy, Clerk of the Township of Franklin, in the County of Somerset, do hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Township Council at a regular meeting held on the 18th day of September 2007.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said Township this 19th day of September 2007.



Ann Marie McCarthy
Township Clerk