

**September 24, 2008**  
***Planning Board Worksession***  
**Discussion of Potential COAH Developments**  
**Dr. Theodore Chase, Jr., Chair**

- Before we get started, I want to provide a little bit of history and perspective on the COAH issue as it affects Franklin, to describe the Township's efforts to minimize the impact to Franklin, and to make clear the purpose of tonight's meeting. As you probably know, COAH, the Council On Affordable Housing, is a state body set up by the legislature to direct municipalities in providing affordable housing in a more orderly fashion than through lawsuits by builders. In the 1980s and 1990s it issued two directives, referred to as the first and second rounds, giving municipalities numbers of affordable units they must produce, by allowing developers to build larger developments with affordable units among the market-rate units. Franklin Township met these requirements largely through the large apartment and townhouse developments down Route 27.
- In January 2005 COAH published its third round requirements, which were based on the concept of "growth share", that the more new residential *and* non-residential construction a municipality allowed to be built, the more affordable housing it would have to provide. The Township submitted a "Third Round" affordable housing plan to COAH in December 2005, which plan proposed to meet the Township's affordable housing obligation in effect at that time. There were differences between the Planning Board and the Council about some aspects of the plan; these aspects have since been removed from the original plan. Due to litigation pending on COAH's "Third Round" rules, COAH never acted on our plan. It only approved three plans in the state.
- On January 25, 2007, an Appellate Division decision overturned a number of COAH's "Third Round" rules. This required COAH to prepare new rules.
- In response to the Court's decision and in response to thousands of comments provided, COAH is now on its third version of the "Third Round" rules. These rules require that the Township (and hundreds of other municipalities) to prepare and submit a new affordable housing plan by December 31, 2008.
- These new rules have increased the Township's affordable housing obligation above what it was in 2005. This is obviously of considerable concern to the Township (as it is with municipalities across the State).

- In addition to the COAH rules, on July 17, 2008, Governor Corzine signed into law a comprehensive affordable housing reform bill (known as “A-500” or the “Roberts Bill”), which made several key changes to State’s Fair Housing Act including the following:
  - It requires that 13% of our obligation be affordable to very-low income households
  - It bans the use of Regional Contribution Agreements (RCAs) by which communities could pay other towns to take a portion of their obligation.
  - It requires all non-residential developments to pay a 2.5% development fee, which the township will use to meet aspects of the COAH rules, such as renovation of substandard low-income housing. Franklin requires new residential developments, except those with affordable units, to pay a 1.5% fee.
- It should be noted that:
  - The Township is participating in the lawsuit filed by the New Jersey League of Municipalities against many aspects of the COAH rules;
  - I, and the Township Planner Mark Healey, have combed through the second and third versions of the “Third Round” rules as well as the comments on the second version and COAH’s responses, which amounted to hundreds of pages, and have submitted dozens of pages of comments to COAH. Some of these comments have resulted in rule changes that help Franklin.
- Despite these efforts and despite the general uncertainty surrounding COAH, the Township must still prepare and submit a plan prior to December 31, 2008. If the Township does not prepare and submit a plan by then it will expose itself to builder’s remedy lawsuits, by which builders could sue to build a project anywhere in the township, irrespective of the township’s Master Plan and zoning.
- In order that we prepare a plan that minimizes the impact to Franklin, the Township has hired a consultant, Jim Bell of GroupMelvinDesign, who is expert in COAH matters. He will help us make sure that we submit a plan that meets the COAH rules, but which also ensures that our obligation is not a unit more than it should be and which maximizes every last credit we are entitled to.
- We also asked Mr. Bell’s firm to investigate whether the Township would be eligible for a decrease in our obligation as part of a “growth share adjustment” (an analysis which in part evaluates available vacant land). Mr. Bell’s assessment indicated that Franklin will not be able to justify a “growth share adjustment” following the COAH-prescribed methodology.

- On August 6th, Mr. Bell provided the Township with his initial assessment of where we stand with respect to our COAH obligation.
- In summary, Mr. Bell found that our net “Third Round” growth share obligation is 1,008 after factoring in a 137 unit surplus from our prior round obligation (which reduces our net “Third Round” obligation by 137 units).
- After factoring in “Third Round” affordable developments that have already been built, are under construction, have received development approvals, or that have the necessary zoning already in place, Mr. Bell estimates that we still need to provide an additional 150 COAH units. He also recommends that we go somewhat over to create a “cushion” of excess units in case of any additional future requirements by COAH, or in case they question any of the credits we submit.
- COAH’s rules limit the number of senior affordable units to no more than 25% of our obligation. Mr. Bell found that we are 65 units under the 25% senior cap. In order to minimize impacts to Franklin, the Planning Board will seek to maximize the number of senior units up to the 25% cap.
- Another way to minimize impact is to maximize the amount of bonus credits (we get extra credits for location in a redevelopment area and for family rental units). However, COAH limits bonus credits to no more than 25% of our obligation. Mr. Bell found that we are 99 units under the 25% bonus unit cap. The Planning Board will seek to maximize the number of bonus credits.
- Many of the affordable projects that we have approved are 100% affordable. This means that we are minimizing the effect on the township, by not building 400 market rate units to get 100 affordable units.
- Now to the purpose of tonight's meeting.
- Over the last few months a number of developers have approached the Township seeking to be included in the affordable housing plan. The Planning Board instructed Township planning and zoning staff to meet with each interested developer and for Township staff to prepare a summary of the proposed development as it was described to them. One developer prepared a report on his own. These reports were provided to the Planning Board and the Township Council.

- Six plans, from four developers, were presented to the Planning Board in some detail at our August 20 work session. Two more were presented last week. The developers were asked to provide, by last Friday, additional material concerning the mix of different types of units and their financial standing.
- No decisions have been made with respect to any of the proposed developments. In fact, tonight is the first time that the Board will discuss the proposals with a view to deciding which to include in the Fair Share Plan.
- Tonight The Board will discuss the merits of each proposal, to make a determination as to which proposal or proposals to include in the affordable housing plan (since we will must certainly not need them all, not all of them will be included), and to discuss necessary modifications to proposals prior to inclusion in affordable housing plan. Mr. Healey will prepare a summary of the Board's discussion and provide it to the Township Council. The Council will discuss this at their October 14 meeting. Mr. Healey will attend this meeting and prepare a summary of the Council's comments.
- Based upon Planning Board direction, taking Council's comments into account, our consultant Jim Bell will prepare a draft plan and present this to the Council. The Council will review this draft and make comments.
- A final plan will then be prepared by the consultant (and made available to the public). The Planning Board will conduct a public hearing and adopt a final plan. This will be forwarded to the Council, which must adopt a resolution directed to COAH, requesting substantive certification. The resolution and plan will be submitted to COAH before the December 31 deadline.
- I want to suggest to the Board a procedure. First, each member of the Board will say whatever they feel about the proposals. I will ask each member of the Board to rank the proposals, from most desirable to least. The sum of these will give us a rank ordered list, and we will then discuss how far down this list to go in our recommendation.