

January 12, 2023

Borough of Pennington  
Mayor and Council  
30 N. Main Street  
Pennington, NJ 08534



**Re: Affordable Housing Plan  
Compliance Mechanisms**

Dear Mayor and Council:

As most of you are aware, our office has been working on the Borough's affordable housing plan in earnest over the last few months. While this work was initially authorized in 2019, delays in assessing the landfill property meant we were unable to get a complete picture of vacant land within the Borough and finalize a potential compliance plan. Now that the landfill work has progressed sufficiently, we are able to complete the Borough's plan. Below is a summary of issues for consideration by Mayor and Council, which has been discussed with the affordable housing subcommittee.

**Pennington's Affordable Housing Obligation**

The first step in the process is to determine the Borough's affordable housing obligation, which will form the basis for potential settlement with Fair Share Housing Center (FSHC) or in the alternative, for seeking Court-approval of the Borough's plan without a settlement agreement. Either way an obligation must be determined. Below is a summary of various obligations as calculated by FSHC and Econsult Solutions Inc (ESI). Note that the ESI numbers provided were calculated by applying the methodology set forth by Judge Jacobsen in her decision related to West Windsor and Princeton. While that decision was binding only on these two municipalities, FSHC has accepted the Jacobsen numbers in many communities as the basis for settlement and it offers the best number for the Borough.

	Prior Round	Present Need (Rehab Obligation)	Gap Present Need (1999-2015)	Third Round (2015-2025)	Total (Prior + Gap Present + Third Round)
FSHC July 2015	52	50	N/A	203	255
FSHC July 2016	52	38	89	94	235
ESI Jacobsen 2018	52	70	72	62	186

**Vacant Land Adjustment**

Reviewing the above numbers, it is clear the Borough does not have the ability to meet even the lowest obligation noted as we have limited vacant land to support new development. In cases such as this, COAH's regulations permit the Borough to seek a "vacant land adjustment", a

process that results in identification of “Realistic Development Potential” (RDP), which is the portion of the affordable housing obligation that can presently be constructed, and “Unmet Need”, which is the portion that is deferred. We note the Borough received a vacant land adjustment as part of its Second Round substantive certification on June 5, 2002. Based on a Second Round Obligation of 52 units, RDP was 20 units and Unmet Need 32 units.

Our office has conducted updated analysis of vacant land and determined there are currently only two properties large enough to generate RDP, the Senior Center (Block 701, Lots 5, 6, 7 and 8) and land adjacent to the landfill on Broemel Place (Block 206, Lot 4). Both properties are owned by the Borough. While the landfill under normal circumstances would generate RDP, the environmental constraints present in combination with remediation that would need to occur all but eliminate residential development potential, and we are better off not including this property in calculation of RDP. Considering the two vacant properties noted, the Borough’s RDP is 7 units. As the Senior Center is currently operating, there would be a basis to remove it from the analysis, which would reduce RDP to 1 unit, but given recent progress on the new Senior Center, it may be best to include it.

Once RDP is determined, this is subtracted from the obligation and the remainder is classified as Unmet Need. In the Borough’s case, assuming a RDP of 7 units would result in Unmet Need of 179 units considering the entire obligation, comprised of both the Second and Third Round Obligations as determined by the Jacobsen methodology.

To address RDP as part of our compliance plan, the Borough is required to rezone properties to permit as-of-right inclusionary development with a minimum affordable housing setaside of 15% for rental projects and 20% for for-sale projects. Our suggestion would be to rezone the Senior Center site (number 5 on the attached map) to permit townhome and stacked townhome single family units at a density that would result in construction of a total of 46 units, with 7 of those units being affordable, thus addressing RDP. Allowing stacked townhomes provides the developer the ability to construct one bedroom units on the ground floor with a two or three bedroom unit above while maintaining a townhome appearance. An additional mechanism to address RDP is the group home previously proposed on Block 206, Lot 4, which the Borough could subsidize through affordable housing trust funds, potentially donating the property to a group home provider.

To address Unmet Need, the Borough is required to identify areas where overlay zoning can be implemented to permit inclusionary development. Given the magnitude of Unmet Need, there is no expectation that we identify overlay opportunities to address the entire obligation, but rather a few that make sense. To that end, we met with the affordable housing subcommittee and identified the following areas to focus on, which are shown on the attached map and identified by the number indicated below.

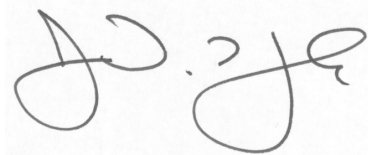
1. Block 201, Lots 1, 2 and 9 – West Franklin Avenue. These three properties total 4.78 acres and are currently occupied by 3 single family homes. The site is split between the R-100 Residence and O-B Office Building Zones. All three properties or the rear portions

of these properties could be rezoned. If the rear portions were rezoned the total acreage available is approximately 2.5.

2. Block 201, Lot 6 – Route 31 and West Delaware Avenue. This property totals 2.36 acres and is currently occupied by the Wells Fargo bank and other office uses. In speaking with the property owner, he currently has an offer from Chase Bank and will likely sell, and the purchase price is such that residential development would not be competitive.
3. Block 601, Lot 2.01 – 65 S. Main Street. This property totals 3.8 acres and is currently occupied by Howe Commons, which contains 5 office buildings totaling 32,000 square feet of floor area. In speaking with the owner, there is interest in discussing the possibility of residential at the site, but they feel conversion of existing office may be difficult from a code perspective. As the rear of the site fronts on Queens Lane, perhaps a portion of the site could be redeveloped with residential buildings.
4. Block 205, Lots 2, 4, 5 and 6 – Brookside Avenue. These properties total 3.7 acres and are currently occupied by single family dwellings and various nonresidential uses. Lewis Brook runs along and through the properties, which likely impacts development potential.

At this point, the only input our office needs to complete the Fair Share Plan is related to zoning for RDP and Unmet Need and whether we want to continue the proposal for the group home on Block 206, Lot 4. We will attend the Council meeting on January 17th to discuss this correspondence and the process going forward. We have included the current draft of the Housing Element, which is complete. Should you have any questions in the meantime, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Kyle', is written over a light blue rectangular background.

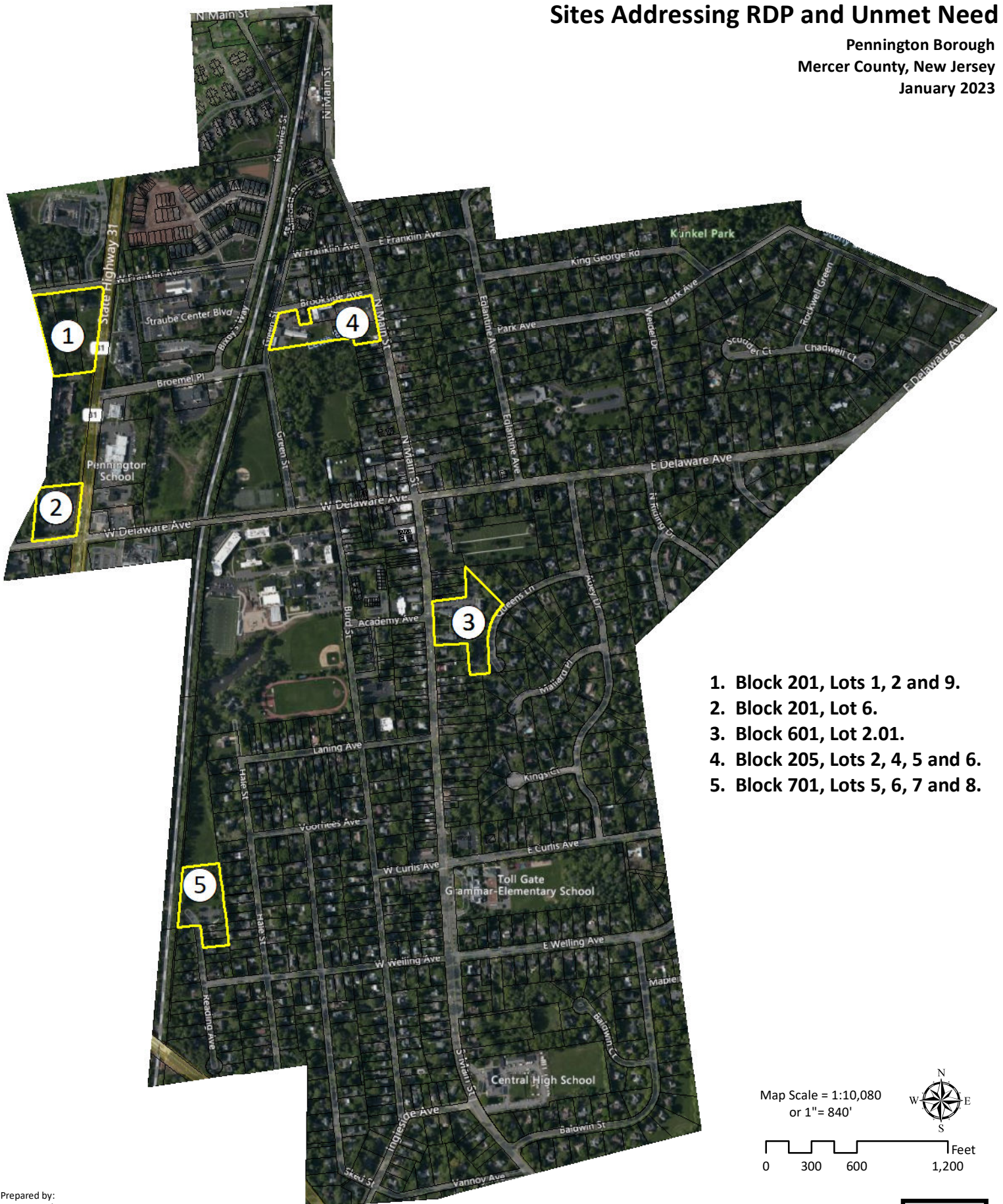
James T. Kyle, PP/AICP  
Borough Planner

#### Attachments

Cc: Betty Sterling, Borough Clerk  
Walter Bliss, Esq., Borough Attorney  
Ed Schmierer, Esq., Planning Board Attorney

# Sites Addressing RDP and Unmet Need

Pennington Borough  
Mercer County, New Jersey  
January 2023



1. Block 201, Lots 1, 2 and 9.
2. Block 201, Lot 6.
3. Block 601, Lot 2.01.
4. Block 205, Lots 2, 4, 5 and 6.
5. Block 701, Lots 5, 6, 7 and 8.

Map Scale = 1:10,080  
or 1" = 840'

0 300 600 1,200 Feet



Map Prepared by:  
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Data Sources:  
NJ Office of Information Technology, Office of  
Geographic Information Systems



POLICY  
PLANNING  
DESIGN