

FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

Borough of New Providence
Union County, New Jersey

May 23, 2025

Adopted by the Planning Board on June 3, 2025

Prepared By:



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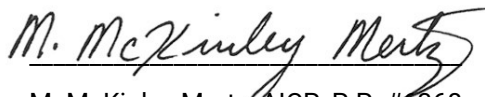
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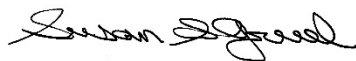
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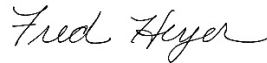
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- 2019 settlement agreement with Linde attached, listed as “Exhibit B”

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Appendix C: Borough of New Providence Final Third Round Judgement of Compliance and Repose, dated August 25, 2020

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- Land Capacity Analysis for the Borough of New Providence attached

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EXECUTIVE SUMMARY

The following Fourth Round Housing Element and Fair Share Plan has been prepared for the Borough of New Providence in the County of Union in accordance with the Fair Housing Act as most recently amended (P.L.2024, c.2).

The Borough of New Providence is a 3.67 square mile developed community located in northeast New Jersey in the County of Union. The Borough is surrounded by Summit to the north, Berkeley Heights to the east and south, and Chatham Township to the west in Morris County. The Passaic River also borders New Providence on its northwestern edge.

The Borough of New Providence can be characterized mainly as a residential community that supports a vibrant business community with retailers, restaurants, and professional offices. Sections of parkland and open space surround the Passaic River. According to the State Development and Redevelopment Plan (SDRP), the Borough is predominantly located in the Metropolitan Planning Area 1, with a small section of natural areas.

According to the 2020 Census, New Providence Borough's population was 13,650, which represents an increase of 12.2% from 2010. In 2020, the Borough's median age was 42.8 years, representing a 4.4% increase from the median age of 41.0 years in 2010. The Borough's average household size in 2020 was 2.58 persons, which was less than the average at the County level (2.81 persons).

The housing stock of the Borough is predominantly single-family detached dwelling units. Approximately 40% of the housing stock was built during the 1950s and 1960s, making these dwellings over sixty years old. According to the guidelines originally established by COAH, the Borough is located in Housing Region 2, a region that consists of Essex, Morris, Union, and Warren counties. Based on the 2025 Regional Income Limits (released by Affordable Housing Professionals of New Jersey on May 5, 2025), the median income in Region 2 for a four-person household is \$135,300, the moderate-income is \$108,240, the low-income is \$67,650, and the very-low-income level is \$40,590.

Affordable housing obligations in New Jersey are divided into "housing rounds," as will be discussed in detail later in this Plan. Each municipality in New Jersey has a constitutional obligation to provide their fair share of the calculated regional need for affordable housing within the respective housing round. These obligations to construct new affordable housing are known as the "Prospective Need" obligation. Municipalities also have an obligation to rehabilitate units that are deemed substandard, pursuant to the criteria of the Fair Housing Act. This obligation is known as the Present Need, or Rehabilitation Share. The housings rounds are as follows: Prior Round (1987-1999), Third Round (1999-2025), and Fourth Round (2025-2035).

The Borough of New Providence has participated in each of the three housing rounds. In the Third Round, the Borough entered into a Settlement Agreement with Fair Share Housing Center to establish the Borough's Third Round affordable housing obligation. The subsequent compliance efforts were approved by the Court in a Judgement of Compliance and Repose, dated August 25, 2020, confirming the Borough satisfied its Third Round obligations.

The Borough was able to fully meet its Prior Round and Third Round obligations through credit-worthy units that are existing, under construction, or proposed as well as rental bonus credits. Additional mechanisms adopted by the Borough include overlay zoning with a mandatory affordable set-aside.

The Borough has a Fourth Round obligation as follows:

Rehabilitation Share: 20

Prospective Need: 201

The 201-unit Prospective Need obligation will be addressed through extensions of affordability controls and increased density of an existing affordable housing zone.

INTRODUCTION

The need to provide a realistic opportunity for the construction of affordable housing in New Jersey, the country's most densely populated state, has been recognized for decades. In the case of Southern Burlington County NAACP v. the Township of Mount Laurel 67 N.J. 151 (1975), (commonly known as Mount Laurel I), the New Jersey Supreme Court established the doctrine that developing municipalities have a constitutional obligation to create a realistic opportunity for their fair share of low and moderate income housing.

In Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158, 456 A.2d 390 (1983), decided on January 20, 1983 (commonly known as Mount Laurel II), the Supreme Court responded to the response of municipalities to Mount Laurel II. It sought to "put steel" into the doctrine by making it far easier for developers to secure a builder's remedy. The builder's remedy created an incentive to developers to sue non-compliant municipalities and force them to comply. Mount Laurel II also created the Judgment of Repose to incentivize municipalities to comply. A Judgment of Repose protected municipalities from anyone who would sue it and claim entitlement to a builder's remedy or other relief based upon the claim that the municipality was noncompliant.

In the wake of Mount Laurel II, developers sued municipalities seeking builder's remedies. The wave of builder's remedy lawsuits created the impetus for legislation to protect municipalities from builder's remedies. A decision by Judge Serpentelli, one of three judges appointed by Chief Justice Wilentz to implement Mount Laurel II, increased the need for a legislative cure. More specifically, in 1984, Judge Serpentelli issued the AMG decision which established a formula for any developer to determine the fair share obligation of any municipality.

The pressure of builder's remedy suits, combined with the ease in determining the fair share of any municipality through the AMG formula, culminated in the enactment of the New Jersey Fair Housing Act in 1985. The Fair Housing Act (FHA) is found at N.J.S.A. 52:270-301, et seq. The FHA established the Council on Affordable Housing (COAH) as an administrative alternative to builder's remedy lawsuits and the concomitant jurisdiction of the courts. COAH was given the responsibility of dividing the state into housing regions, determining regional and municipal fair share affordable housing obligations, and adopting regulations that would establish the guidelines and approaches that municipalities may use in addressing their affordable housing need.

In 2008, the Legislature amended the FHA to add requirements for very low-income housing. Very low-income households are those in which the gross household income is 30% or less than the region's median household income. Low-income households are those with incomes no greater than 50% of the region's median household income. Moderate-income households are those with incomes no greater than 80% and

no less than 50% of the region's median household income. Each is adjusted for household size and is in relation to the median gross income of the housing region in which the municipality is located.

FIRST AND SECOND ROUNDS

The First and Second Rounds under COAH are collectively referred to as the "Prior Round." The Prior Round obligation is the cumulative 1987-1999 fair share obligation. The First Round consists of the six-year period between 1987 and 1993 for which COAH first established a formula for determining municipal affordable housing obligations (N.J.A.C. 5:92-1 *et seq.*). Then in 1994, COAH established amended regulations (N.J.A.C. 5:93-1.1 *et seq.*) and produced additional municipal affordable housing obligations for the years 1993 to 1999. This second round of obligations is known as the Second Round. When COAH adopted regulations for Round 2, it made the Round 1 and 2 obligations cumulative for both periods.

THIRD ROUND

Housing rounds were originally established by the Fair Housing Act as six-year periods, but in 2001 the Legislature extended the rounds to 10-year periods. This should have meant that the Third Round ran from 1999 to 2009. However, COAH didn't establish new rules for the Third Round until the end of 2004 (N.J.A.C. 5:94-1 and 95-1 *et seq.*). The Third Round time period was therefore extended to 2014. The Third Round rules established a new method for calculating a municipality's affordable housing obligation, known as "growth share." This method required municipalities to project future residential and non-residential development and then derive their obligation from that growth.

After the New Jersey Appellate Court invalidated several components of the Third Round rules, COAH released revised rules in 2008. The Third Round was once again extended to 2018 to provide municipalities with the time to apply the amended rules and establish mechanisms to meet their obligations. The revised third round rules, like the initial third round rules established the obligations based on a growth share approach.

On October 8, 2010, in response to numerous legal challenges to the second iteration of COAH's third round regulations, the Appellate Division ruled that COAH could not allocate obligations through a "growth share" formula and directed COAH to use similar methods to those used in the First and Second Rounds.

COAH proposed third round regulations a third time in 2014 using a formula similar to the ones it had used in the first and second rounds. However, when COAH had a meeting to consider adopting these rules on October 20, 2014, it deadlocked and then failed to make any efforts to break the deadlock.

On March 10, 2015, the New Jersey Supreme Court decided In re Adoption of N.J.A.C. 5:96 & 5:97 by the N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), wherein it responded to COAH's failure to adopt defensible rules for Round 3. This decision changed the landscape by which municipalities are required to comply with their constitutional obligation to provide their fair share of affordable housing.

The Supreme Court held that since COAH was no longer functioning, trial courts were to resume their role as the forum of first instance for evaluating municipal compliance with Mount Laurel obligations. The decision also established a transitional process for municipalities to seek temporary immunity and ultimately a Judgment of Compliance and Repose (“JOR”) from a court, which was the “judicial equivalent” of Substantive Certification from COAH.

On January 18, 2017, the Supreme Court decided In Re Declaratory Judgment Actions Filed by Various Municipalities, County of Ocean, Pursuant To The Supreme Court’s Decision In In re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel V”), which held that need having accrued during the Gap Period (1999-2015) had to be addressed and was part of the Present Need. The Supreme Court held that there is an obligation with respect to that period for households that came into existence during that gap period that are eligible for affordable housing, that are presently (as of 2015) in need of affordable housing, and that are not already counted in the traditional present need.

As the methodology and obligations from the Gap and Prospective Need had not been fully adjudicated at that time, various trial judges issued opinions on the appropriate methodology and 354 municipalities reportedly settled with Fair Share Housing Center wherein they negotiated the obligations for Round 3.

Municipal obligations were therefore broken down in Round Three Housing Element and Fair Share Plans as Present Need/Rehabilitation, Prior Round (1987-1999), and Third Round and Gap Period (1999-2015). Municipalities that received their Final Judgement of Compliance and Repose had immunity from builders’ remedy lawsuits through the end of the Third Round, June 30, 2025.

FOURTH ROUND

On March 18, 2024, the affordable housing legislation known jointly as Senate Bill S50 and Assembly Bill A4 passed both houses of the legislature. Governor Murphy signed the bill (P.L.2024, c.2) into law on March 20, 2024, establishing a new methodology for determining municipalities’ affordable housing obligations for the Fourth Round and beyond. The new legislation, which comprehensively amends the FHA, overhauled the process that municipalities undertake to establish and plan for their constitutionally mandated affordable housing obligation. Most notably, this legislation formally abolished COAH while transferring its functions to the New Jersey Department of Community Affairs (DCA) and Housing Mortgage and Finance Agency (HMFA). As a result, the legislation codified the method for calculating regional and municipal affordable housing needs and returned most of the process from the Courts to state administrative departments.

The amended FHA called on the DCA to issue a non-binding report on the new Present Need Obligation (commonly referred to as the rehab obligation) and the Prospective Need for Round 4 and subsequent rounds. The amended FHA required the DCA to base its analysis of the obligations for each municipality based upon the standards set forth in the amended FHA. Accordingly, on October 18, 2024, the DCA

released a report outlining the Fourth Round (2025-2035) Fair Share methodology and its calculations of low- and moderate-income obligations for each of the State's municipalities. The amended FHA gave municipalities until January 31, 2025, to review the obligation reported by the DCA and perform their own analysis of their obligation based on the methodology in the legislation and previously established by the Courts. If any municipality wished to commit to an obligation different from the one reported by the DCA, the amended FHA required the municipality to adopt a resolution by January 31, 2025 committing to the number that it contended was the appropriate obligation. If a municipality wished to commit to the numbers that the DCA reported, the amended FHA required the municipality to adopt a resolution committing to the DCA numbers.

The amended FHA required any municipality that wished to participate in the new process that the Act created to file a declaratory relief action within 48 hours of adopting the resolution committing to the numbers the municipality deemed appropriate.

The amended FHA gave any interested party who wished to oppose the numbers to which any municipality committed to file an Answer by February 28, 2025 which included a particularized objection to the numbers to which the municipality committed.

The amended FHA gave "the program" until March 31, 2025 to try to resolve any disputes over the fair share numbers to which a municipality committed through an "Affordable Housing Dispute Resolution Program". The program is a new entity created by the amended FHA. It is staffed with seven current or retired judges and the judges have the authority to use adjudicators to assist it in mediating disputes over the obligations of municipalities.

The amended FHA gives municipalities until June 30, 2025 to file a Housing Element and Fair Share Plan and related documents showing how the municipality will comply with its obligations. The Fourth Round Plans will follow the same general format as they have with certain updates to their requirements dealing with various types of housing and the bonus credit calculation system. Notably, HE/FSPs are required to be consistent with the State Development and Redevelopment Plan (SDRP), which has yet to be adopted. (A draft SDRP was released in late 2024). As part of the HE/FSP, municipalities shall include an assessment of the degree to which the municipality has met its fair share obligation from the prior rounds of affordable housing (i.e. First, Second, and Third Rounds).

BOROUGH OF NEW PROVIDENCE'S HISTORY OF AFFORDABLE HOUSING

The Borough of New Providence has a long history of participation and compliance with COAH. The Borough received First Round certification on September 18, 1989. New Providence participated in the Second Round and petitioned COAH for substantive certification on July 7, 1997, and received their substantive certification on August 5, 1998, with an extended certification date of May 11, 2005. The Borough's Second Round certification expired on December 20, 2005.

New Providence continued its participation into COAH's Third Round. On December 15, 2008, New Providence's Planning Board adopted a Round 3 Housing Element and Fair Share Plan ("2008 Plan"), and on December 30, 2008, the Borough petitioned COAH for substantive certification. The Borough then adopted an amended Round 3 Housing Element and Fair Share Plan on June 1, 2010 ("2010 Plan") under the revised COAH Third Round methodology, and again petitioned COAH for substantive certification on July 16, 2010. New Providence was deemed complete on October 4, 2010. The Borough, however, did not receive Third Round substantive certification as a large majority of COAH's third round regulations were invalidated by the Appellate Division on October 10, 2010.

In response to Mount Laurel IV, the Borough filed its complaint for a Declaratory Judgement on July 7, 2015 (Docket No. UNN-L-2442-15). A settlement agreement with the Fair Share Housing Center ("FSHC") was executed on December 13, 2016 ("Settlement Agreement", see Appendix A).

A Fairness Hearing was held on January 13, 2017, and in an Order dated January 30, 2017, the Court approved the settlement agreement. The Borough adopted a Housing Element and Fair Share Plan on March 7, 2017, effectuating the Court-approved settlement agreement.

Subsequent to the Fairness Hearing and prior to a Compliance Hearing, the Borough began negotiations with Linde North America Inc. ("Linde") on August 21, 2017, who objected to the December 13, 2016 Settlement Agreement with Fair Share Housing Center. The Borough and Linde's successor, Murray Hill, LLC, entered into an agreement that was signed by the Borough on April 1, 2019 and by Murray Hill, LLC on March 29, 2019 (Exhibit B of Appendix A). The Borough also entered into negotiations with C R Bard Inc., now Beckton Dickinson ("BD"), to formulate an agreement on appropriate zoning for Block 210 Lot 32 on the Borough's tax maps to provide a realistic opportunity for affordable housing. The Borough entered into an amended agreement with FSHC, incorporating the agreed upon negotiations with both Linde and BD (Appendix A). The amended agreement was signed by the Borough on April 1, 2019, FSHC on March 29, 2019, by Linde on April 1, 2019, and by BD on April 1, 2019 (hereafter both agreements are collectively referred as the "2019 agreements"). The 2019 agreements supersede the 2016 agreement with FSHC.

A second Fairness Hearing was held on April 5, 2019, and in an Order by the Honorable Karen Cassidy, A.J.S.C., dated April 8, 2019 (Appendix B), the two new settlement agreements were deemed fair and that they adequately protect the interests of low- and moderate-income persons within New Providence's

housing region. Subsequently, the Borough's Planning Board adopted an amended Housing Element and Fair Share Plan on July 9, 2019.

A Conditional Judgment of Compliance and Repose for the Borough was granted on November 13, 2019, and the Final Judgment of Compliance and Repose was granted on August 25, 2020 (Appendix C).

New Providence Borough continues to take steps to satisfy its affordable housing obligation. On January 28, 2025, in accordance with the requirements established by the amended FHA and described above, the Borough adopted Resolution #2025-58 (Appendix D). This resolution established a 198-unit Fourth Round Prospective Need obligation for the Borough, a 12-unit reduction from the 210-unit obligation calculated by the DCA. The reduced number was generated based on the results of a Land Capacity Analysis prepared by this office and attached to Resolution #2025-58. The adoption of Resolution #2025-58 guaranteed protection from builders' remedy suits through June 30, 2025. Further, on January 30, 2025, in accordance with the standards established by the amended FHA and described above, the Borough filed a Complaint (Docket No. UNN-L-000413-25) seeking the entry of a declaratory judgment.

The Borough's calculated Fourth Round Prospective Need obligation of 198 was challenged by the New Jersey Builders' Association on February 27, 2025. The Borough of New Providence and the Builder's Association appeared before the Affordable Housing Dispute Resolution Program and negotiated a Prospective Need number agreeable to all parties. On April 14, 2025, the Court issued a Decision and Order establishing the Borough's Present Need obligation of 20 units and its Prospective Need obligation of 201 units (Appendix E).

This Fourth Round HEFSP sets forth mechanisms to address the Borough's affordable housing obligations and has been prepared in accordance with the Fair Housing Act as most recently amended (P.L.2024, c.2).

PLANNING FOR AFFORDABLE HOUSING

Pursuant to both the FHA (N.J.S.A. 52:27D-310, et seq.) and the Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-28), municipalities in New Jersey are required to include a housing element in their master plans. The principal purpose of the housing element is to describe the specific, intended methods that a municipality plans to use in order to meet its low- and moderate-income housing needs. Further, the housing element is meant to demonstrate the existing zoning or planned zoning changes that will allow for the provision of adequate capacity to accommodate household and employment growth projections, to achieve the goal of access to affordable housing for present and future populations. The statutorily required contents of the housing element are:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate-income households and substandard housing capable of being rehabilitated;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);
- f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance

of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and

- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

PART 1: HOUSING ELEMENT

DEMOGRAPHIC CHARACTERISTICS

Population

Table 1 below depicts the population trends experienced in New Providence Borough, Union County, and the State of New Jersey in the 93-year period between 1930 and 2023. In 2023, there were 13,577 residents in New Providence Borough, which indicates a decrease of 73 people (-0.5%) from 2020. New Providence Borough experienced steady population growth between 1930 and 1970, and a decrease of approximately 17.8% between 1970 and 1990. The Borough's population began to increase again between 1990 and 2020.

Overall, the Borough has seen a growth of 11,659 residents during this time frame, reflecting a 607.9% increase in its population. Proportionally speaking, the Borough's most significant period of growth occurred in the decade between 1950 and 1960 when the Borough saw a 203% increase in its population. These trends are reflected at the County and State level, as well, which saw a similarly significant increase in population throughout the 1950s. While population growth has been steady during this time period in Union County and the State of New Jersey as a whole, the Borough's overall growth (607.9%) has proportionally exceeded that of the County (87.6%) by nearly 7 times and the State (129.2%) by nearly 4.7 times.

Table 1: Population Trends, 1930-2023 New Providence Borough, Union County, and New Jersey									
Year	New Providence Borough			Union County			New Jersey		
	Population	Change		Population	Change		Population	Change	
		Number	Percent		Number	Percent		Number	Percent
1930	1,918	-	-	305,209	-	-	4,041,334	-	-
1940	2,374	456	23.8%	328,344	23,135	7.6%	4,160,165	118,831	2.9%
1950	3,380	1,006	42.4%	398,138	69,794	21.3%	4,835,329	675,164	16.2%
1960	10,243	6,863	203.0%	504,255	106,117	26.7%	6,066,782	1,231,453	25.5%
1970	13,796	3,553	34.7%	543,116	38,861	7.7%	7,171,112	1,104,330	18.2%
1980	12,426	-1,370	-9.9%	504,094	-39,022	-7.2%	7,365,011	193,899	2.7%
1990	11,439	-987	-7.9%	493,819	-10,275	-2.0%	7,730,188	365,177	5.0%
2000	11,907	468	4.1%	522,541	28,722	5.8%	8,414,350	684,162	8.9%
2010	12,171	264	2.2%	536,499	13,958	2.7%	8,791,894	377,544	4.5%
2020	13,650	1,479	12.2%	575,345	38,846	7.2%	9,288,994	497,100	5.7%
2023	13,577	-73	-0.5%	572,549	-2,796	-0.5%	9,261,699	-27,295	-0.3%
Total Change	-	11,659	607.9%	-	267,340	87.6%	-	5,220,365	129.2%

Source: U.S. Census Bureau, Decennial Census and 2023: ACS 5-Year Estimates Table S0101

Population Composition by Age

The median age of the residents in New Providence Borough in 2020 was 42.8 years, which shows a 4.4% increase from the 2010 median age of 41.0 years. Analysis of age group characteristics provides insight into the actual changes in population. This comparison is helpful in determining the impact these changes have on housing needs, community facilities, and services for the municipality. As detailed in Table 2 below, the entire composition of New Providence Borough experienced notable shifts in the years between 2010 and 2020. The most significant shift occurred in the population aged 65 and over, which collectively saw a 749-person (44.2%) increase. Simultaneously, the Borough experienced a significant decrease in its population under 5 years old (-18.5%). This data suggests that a larger portion of the Borough residents are transitioning into the senior citizen age range.

Table 2: Population by Age, 2010 to 2020 New Providence Borough						
Population	2010		2020		Change (2010 to 2020)	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	875	7.2%	713	5.2%	-162	-18.5%
5 to 14	1,892	15.5%	2108	15.4%	216	11.4%
15 to 24	1,156	9.5%	1,573	11.5%	417	36.1%
25 to 34	1,066	8.8%	1020	7.5%	-46	-4.3%
35 to 44	1,888	15.5%	1842	13.5%	-46	-2.4%
45 to 54	2,178	17.9%	2039	14.9%	-139	-6.4%
55 to 64	1,423	11.7%	1,913	14.0%	490	34.4%
65 and over	1,693	13.9%	2,442	17.9%	749	44.2%
Total population	12,171	100.00%	13,650	100.00%	1479	12.2%
Median Age	41.0		42.8		1.8	4.4%

Source: U.S. Census Bureau, Decennial Census, Tables DP1, P12 and P13

Union County experienced population fluctuation as well. The County saw the greatest shift of over 24% of its population aged 55 to 64, and similarly to the Borough, experienced a significant increase (21.2%) in its 65 and over population. The County experienced rather significant decreases in its population aged below 5 years (-5.9%) and aged 45 to 54 (-4.4%), directly mirroring shifting age trends occurring in the Borough. This data is displayed in Table 3 below.

Table 3: Population by Age, 2010 to 2020 Union County						
Population	2010		2020		Change (2010 to 2020)	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	35,783	6.7%	33,661	5.9%	-2,122	-5.9%
5 to 14	72,589	13.5%	76,853	13.4%	4,264	5.9%
15 to 24	68,765	12.8%	74,214	12.9%	5,449	7.9%
25 to 34	69,279	12.9%	73,519	12.8%	4,240	6.1%
35 to 44	78,418	14.6%	79,963	13.9%	1,545	2.0%
45 to 54	83,409	15.5%	79,764	13.9%	-3,645	-4.4%
55 to 64	60,495	11.3%	75,226	13.1%	14,731	24.4%
65 and over	67,761	12.6%	82,145	14.3%	14,384	21.2%
Total population	536,499	100.0%	575,345	100.0%	38,846	7.2%
Median Age	38.0		38.7		0.7	1.8%

Source: U.S. Census Bureau, Decennial Census, Tables DP1, P12 and P13

Households

A household is defined as one or more persons, either related or not, living together in a housing unit. In 2020 there was a total of 5,071 households in New Providence Borough. Over half of the Borough's households comprised two or less people. In fact, two-person households were the most common household size at both the Borough (26.3%) and County (26.5%) levels, followed by one-person households. The average household size of the Borough in 2020 was 2.58, which was slightly lower than that of the County's average of 2.81.

Table 4: Household Size of Occupied Housing Units, 2020 New Providence Borough and Union County				
	New Providence Borough		Union County	
	Number	Percent	Number	Percent
1-person household	1250	24.6%	46,394	23.2%
2-person household	1332	26.3%	53,184	26.5%
3-person household	839	16.5%	36,586	18.3%
4-person household	1091	21.5%	35,561	17.7%
5-person household	406	8.0%	17,011	8.5%
6-person household	110	2.2%	7,021	3.5%
7-or-more-person household	43	0.8%	4,615	2.3%
Total Households	5,071	100.0%	200,372	100.0%
Average Household Size	2.58		2.81	

Source: US Census Bureau 2020, Tables H9 and B25010

Three quarters of the households in the Borough in 2020 were family households. Further, around 67.2% of family households were married-couple families, which approximately half of these families had children. In providing more detail of American households, the 2020 Census includes the sub-groups of non-traditional households: Other family and Non-family households. "Other Family" households accounted for 7.8% of all households, broken down into 5.9% female householders with no spouse or partner present and 2.0% male householders with no spouse or partner present. "Non-Family" households are defined as those that consist of a householder living alone or sharing the home exclusively with people to whom they are not related. The remaining 25% of households in the Borough are non-family households. Of these households, the number of female householders exceeded that of male householders, at 17% and 8%, respectively.

Table 5: Household Size and Type, 2023		
New Providence Borough		
	Total	Percent
Total Households	5,201	100%
Family Households	3,902	75.0%
Married couple family	3,494	67.2%
With children	1,727	33.2%
Without children	1,767	34.0%
Other Family	408	7.8%
Male householder, no spouse	102	2.0%
With children	68	1.3%
Without children	34	0.7%
Female householder, no spouse	306	5.9%
With children	174	3.3%
Without children	132	2.5%
Nonfamily household	1,319	25%
Male householder	414	8.0%
Living alone	394	7.6%
Not living alone	20	0.4%
With children	0	0.0%
Female householder	905	17%
Living alone	836	16%
Not living alone	69	1.0%
With children	0	0.0%

Source: 2023 ACS 5-Year B11005 and B11010

Income

As measured in 2023, New Providence Borough had a significantly higher median household income compared to Union County and the State of New Jersey. The median income in New Providence Borough was \$162,877, which was roughly \$62,760 greater than that of the County and \$61,827 greater than that of the State. The per capita income in New Providence Borough also exceeded that of the County and State. This data is outlined in Table 6 below.

Table 6: Per Capita and Household Income, 2023 New Providence Borough, Union County, and New Jersey		
	Per Capita Income	Median Household Income
New Providence Borough	\$86,023	\$162,877
Union County	\$51,850	\$100,117
New Jersey	\$52,583	\$101,050

Source: 2023 ACS 5-year Estimates, Tables S1901 and B19301

In 2023, nearly 90% percent of all households in the Borough earned an income of \$50,000 or more, as compared to roughly 72% of households in the County. The income range that accounted for the most Borough households was the \$200,000 or more bracket, which comprised nearly 39% of households in New Providence; this was also the case across Union County as a whole, but at a lower percentage of 21.4%. The second largest income bracket in the Borough was \$100,000 to \$149,999, comprising 17.4% of households. At the County level, this same income bracket accounted for a slightly lesser 17.2% of households. This suggests that the Borough's household income distribution is slightly skewed toward these higher income brackets as compared to the County, which may at least partially help explain the stark difference between the median income reported at the Borough (\$162,877) and County (\$100,117) levels.

Table 7: Household Income, 2023 New Providence Borough and Union County				
	New Providence Borough		Union County	
	Number¹	Percent	Number¹	Percent
Less than \$10,000	39	0.7%	5,927	2.9%
\$10,000 to \$14,999	96	1.8%	4,745	2.4%
\$15,000 to \$24,999	158	3.0%	9,788	4.9%
\$25,000 to \$34,999	124	2.4%	10,781	5.3%
\$35,000 to \$49,999	120	2.3%	16,999	8.4%
\$50,000 to \$74,999	404	7.8%	27,512	13.6%
\$75,000 to \$99,999	567	10.9%	24,989	12.4%
\$100,000 to \$149,999	906	17.4%	34,710	17.2%
\$150,000 to \$199,999	785	15.1%	23,149	11.5%
\$200,000 or more	2,002	38.5%	43,063	21.4%
Total Households	5,201	100.0%	201,663	100.0%
Median Household Income	\$162,877		\$100,117	

Source: 2023 ACS 5-Year Estimates, Table B19001

¹Due to the data being estimates, the number in each row does not add up with the "total" row.

Poverty Status

Of the 13,492 people in New Providence Borough for which poverty status was determined, 285 (2.1%) individuals lived in poverty in 2023; this was considerably lower than the County's poverty rate of 8.9%. Of New Providence Borough's population that fell below the poverty level in 2023, slightly more than half were between the ages of 18 to 64; this trend was mirrored at the County level as well. Proportionally the Borough had a significantly lower percentages of children living in poverty than in the County (13% and 30.9%, respectively), but the Borough's population living in poverty over the age of 65 (35.8%) was significantly higher than that of the County (14.9%). This data is presented in Table 8 below.

Table 8: Poverty Status, 2023 New Providence Borough and Union County						
	New Providence Borough			Union County		
	Number	% of Total Persons	% of Persons In Poverty	Number	% of Total Persons	% of Persons In Poverty
Total persons	13,492	100.0%	-	566,136	100.0%	-
Total persons below poverty level	285	2.1%	100.0%	50,508	8.9%	100.0%
Under 18	37	0.3%	13.0%	15,599	2.8%	30.9%
18 to 64	146	1.1%	51.2%	27,393	4.8%	54.2%
65 and over	102	0.8%	35.8%	7,516	1.3%	35.8%

Source: 2023 American Community Survey 5-Year Estimate, Table S1701

Household Costs

Tables 9 and 10 below show the expenditures for housing as a percentage of household income for those who own and rent in New Providence Borough and Union County. In 2023, a majority of Borough residents lived in homes they owned, which was the same at the County level as well. General affordability standards set a limit at 30% of gross income to be allocated for owner-occupied housing costs and 28% of gross income to be allocated for renter-occupied housing costs. Approximately 20.6% of Borough residents who owned the units they occupied spent 30% or more of their household income on housing, as compared to 34.6% of Borough residents who rented the units they occupied. These figures were on par with those of the County.

Table 9: Selected Monthly Owner Costs as a Percentage of Household Income, 2023 New Providence Borough and Union County				
	New Providence Borough		Union County	
	Number	Percent	Number	Percent
Total Owner-Occupied Housing Units	3,932	100.0%	121,379	100.0%
Less than 20.0%	2,340	59.5%	59,154	48.7%
20.0 to 24.9%	539	13.7%	14,130	11.6%
25.0 to 29.9%	217	5.5%	9,835	8.1%
30.0 to 34.9%	109	2.8%	7,639	6.3%
35.0% or more	698	17.8%	29,584	24.4%
Not computed	29	0.7%	1,037	0.9%

Source: 2023 American Community 5-Year Estimates, Table DP04

Table 10: Gross Rent as a Percentage of Household Income, 2023 New Providence Borough and Union County				
	New Providence Borough		Union County	
	Number	Percent	Number	Percent
Total Renter-Occupied Housing Units	1,269	100.00%	85,475	100.00%
Less than 10.0%	122	9.6%	3,126	3.7%
10.0 to 14.9%	128	10.1%	6,598	7.7%
15.0 to 19.9%	272	21.4%	9,387	11.0%
20.0 to 24.9%	206	16.2%	11,596	13.6%
25.0 to 29.9%	102	8.0%	9,951	11.6%
30.0 to 34.9%	82	6.5%	7,243	8.5%
35.0 to 39.9%	48	3.8%	6,086	7.1%
40.0 to 49.9%	49	3.9%	8,358	9.8%
50.0% or more	246	19.4%	19,992	23.4%
Not computed	14	1.1%	3,138	3.7%

Source: 2023 American Community 5-Year Estimates, Table B25070

EXISTING HOUSING CONDITIONS

Housing Unit Data

Nearly three quarters of New Providence's housing stock is comprised of structures built prior to the year 1980. In 2023, New Providence Borough had a total of 5,201 occupied housing units, roughly 71.5% of which were owner-occupied and 23.1% of which were renter-occupied. The Borough experienced housing booms between 1950 and 1970, during which approximately 50.8% of the Borough's housing structures were constructed. According to 2018-2023 American Community Survey Estimates, the Borough saw the largest increase in housing units between 2010 and 2019 since the 1960s. The median year of construction for the housing stock in New Providence Borough is 1963. This data is outlined in Tables 11 and 12 below.

Table 11: Housing Data, 2023 New Providence Borough			
	Number	% of Total Housing Units	% of Occupied Housing Units
Total Housing Units	5,500	100.0%	-
Occupied Housing Units	5,201	94.6%	100.0%
Owner Occupied	3,932	71.5%	75.6%
Renter Occupied	1,269	23.1%	24.4%
Vacant Housing Units	299	5.4%	-

Source: 2023 American Community Survey 5-Year Estimates, Table DP04

Table 12: Year Structure Built, 2020 New Providence Borough		
	Number	Percent
Total Housing Units	5,500	100.00%
Built 1939 or earlier	585	10.6%
Built 1940 to 1949	177	3.2%
Built 1950 to 1959	1586	28.8%
Built 1960 to 1969	1208	22.0%
Built 1970 to 1979	554	10.1%
Built 1980 to 1989	259	4.7%
Built 1990 to 1999	191	3.5%
Built 2000 to 2009	265	4.8%
Built 2010 to 2013	657	11.9%
Built 2014 or later	18	0.3%
Median Year Structure Built	1963	

Source: 2015-2020 American Community Survey 5-Year Estimates

According to the 2023 Census, New Providence Borough has a high occupancy rate, with very few of their housing units vacant. Of the Borough's 5,500 housing units, 5,201 (94.6%) were occupied and only 299 (5.4%) were vacant. Nearly three-quarters (73.6%) of vacant units could be attributed to "For Sale Only," "Sold, not occupied," and "Other Vacant" categories, with "For Seasonal, Recreational or Occasional Use" making up another 15.4%, and "For Rent/Rented Not Occupied" accounting for the remaining 11%. This data is represented in Table 13 below.

Table 13: Housing Occupancy, 2023 New Providence Borough			
	Total	% of Total Housing Units	% of Vacant Housing Units
Total Housing Units	5,500	100.0%	-
Occupied	5,201	94.6%	-
Vacant Housing Units	299	5.4%	100.0%
For Rent/Rented Not Occupied	33	0.6%	11.0%
For Sale Only	73	1.3%	24.4%
Sold, not occupied	64	1.2%	21.4%
For Seasonal, Recreational or Occasional Use	46	0.8%	15.4%
For migrant workers	0	0.0%	0.0%
Other Vacant	83	1.5%	27.8%

Source: ACS 5-Year DP04 and B25004

Housing Type and Size

In 2023, single-family detached housing made up the vast majority of the Borough's housing stock at 65.6%. Multifamily buildings with 20 or more units were the next most common housing type, representing 13.7% of the Borough's housing stock. The median number of rooms within housing structures in the Borough was 6.9, with nearly 74% of housing units having a minimum of 8 rooms and less than 7% of housing units having 2 or less rooms.

Table 14: Housing Type and Size, 2023 New Providence Borough		
Units in Structure	Total	Percent
1, detached	3,608	65.6%
1, attached	178	3.2%
2	221	4.0%
3 or 4	202	3.7%
5 to 9	260	4.7%
10 to 19	277	5.0%
20 or more	754	13.7%
Mobile home	0	0.0%
Boat, RV, van, etc.	0	0.0%
Total Housing Units	5,500	100%
Rooms	Total	Percent
1 room	180	3.3%
2 rooms	188	3.4%
3 rooms	443	8.1%
4 rooms	521	9.5%
5 rooms	433	7.9%
6 rooms	644	11.7%
7 rooms	830	15.1%
8 rooms	819	14.9%
9 or more rooms	1442	26.2%
Total Housing Units	5,500	100%
Median number of rooms	6.9	

Source: 2015-2020 American Community Survey 5-Year Estimates

Housing Growth and Projections

In terms of residential growth, the issuance of building permits serves as one of the indicators that help to determine housing needs in a given municipality. Table 15 below illustrates the number of building permits that were issued over the 10-year period between January 2014 through November 2024, when the Borough issued building permits authorizing the development of 833 housing units. Within this time frame, the busiest years for building permits occurred between 2014 and 2015, and again between 2023 and November 2024, where roughly 72% of the ten-year stock was constructed. The vast majority of the permits issued during this time frame were for multifamily structures (717 permits), while 116 permits were issued for single- and two-family homes. No permits were issued for mixed-use structures.

Further, throughout the same 10-year period, New Providence issued permits authorizing the demolition of 53 units, which averages to approximately 4.8 units per year. The average demolition rate is approximately 6.3% of the abovementioned development rate (i.e., a home net increase of around 93.7%). If the demolition rate were to remain relatively constant over the next approximately 13-year period, an additional 53 residential units could be expected to be demolished between January 2025 and the end of 2035, resulting in a projected net increase (i.e., constructed units - demolished units) of 780 units.

Table 15: Housing Units Authorized by Building Permits, 2014-2024				
New Providence Borough				
Year	1 & 2 Family	Multi Family	Mixed-Use	Total
2014	12	241	0	253
2015	5	113	0	118
2016	4	0	0	4
2017	7	171	0	178
2018	8	0	0	8
2019	17	0	0	17
2020	7	0	0	7
2021	16	0	0	16
2022	8	0	0	8
2023	17	100	0	117
2024	15	92	0	107
Total 2014-2024*	116	717	0	833
10-Year Average				75.7
10-Year Permit Projection (2025-2035)				833

Source: State of New Jersey Department of Community Affairs Building Permits: Yearly Summary Data

*Note: 2024 Data includes January-November

Table 16: Housing Units Demolished by Building Permits, 2014-2024 New Providence Borough				
Year	1 & 2 Family	Multi Family	Mixed-Use	Total
2014	0	0	0	0
2015	5	0	0	5
2016	0	0	0	0
2017	1	0	0	1
2018	7	0	0	7
2019	3	0	0	3
2020	6	0	0	6
2021	8	0	0	8
2022	6	0	0	6
2023	10	0	0	10
2024*	7	0	0	7
Total 2014-2024	53	0	0	53
10-Year Average				4.8
10-Year Demolition Projection (2025-2035)				53

Source: State of New Jersey Department of Community Affairs Building Permits: Yearly Summary Data

*Note: 2024 Data includes January-November

Housing Values and Contract Rents

According to the 2018-2023 American Community Survey, approximately 89% of the owner-occupied housing stock in New Providence Borough in 2023 was valued at over \$500,000, as compared to 47.8% of the County's housing stock. In addition, the Borough's median home value (\$734,300) exceeded that of the County (\$488,800) by an estimated \$245,500. This data is outlined in Table 17 below.

Table 17: Value for Owner-Occupied Housing Units, 2023 New Providence Borough and Union County				
	New Providence Borough		Union County	
	Number	Percent	Number	Percent
Total	3,932	100.0%	116,188	100.0%
Less than \$50,000	20	0.5%	2,057	1.8%
\$50,000 to \$99,999	12	0.3%	602	0.5%
\$100,000 to \$149,999	17	0.4%	916	0.8%
\$150,000 to \$199,999	0	0.0%	1,978	1.7%
\$200,000 to \$299,999	190	4.8%	12,384	10.7%
\$300,000 to \$499,999	200	5.1%	42,690	36.7%
\$500,000 to \$999,999	2,880	73.2%	45,444	39.1%
\$1,00,000 and greater	613	15.6%	10,117	8.7%
Median Value	\$734,300		\$488,800	

Source: 2023 American Community Survey 5-Year Estimates, Tables B25075 and B25077

As shown on Table 18 below, it is estimated that 58.7% of owner-occupied units in the Borough were financed by a primary mortgage, contract to purchase, or similar debt. Of these units, approximately 9.2% had either a second mortgage or home equity loan.

There were more owner-occupied housing units with a mortgage at the County level; more specifically, 67.5% of such units had a primary mortgage, while 32.5% of units did not. Of those units in the County tied to a primary mortgage, 84.5% did not have any additional lines of credit associated with the unit, while 10.2% were associated with a home equity loan, 1.2% were associated with a second mortgage, and 0.1% were associated with both a second mortgage and a home equity loan.

**Table 18: Mortgage Status
New Providence Borough and Union County, 2023 Estimates**

	New Providence Borough			Union County		
	Number	% of Total Units	% of Mortgage Units	Number	% of Total Units	% of Mortgage Units
Total Owner-Occupied Units	3,932	100.00%	-	116,188	100.00%	-
Owner-Occupied Housing Units with a Mortgage	2,308	58.7%	100.0%	78,390	67.5%	100.00%
With either a second mortgage or home equity loan	212	5.4%	9.2%	8,992	7.7%	11.5%
Second mortgage only	0	0.0%	0.0%	926	0.8%	1.2%
Home equity loan only	212	5.4%	9.2%	7,965	6.9%	10.2%
Both second mortgage and home equity loan	0	0.0%	0.0%	101	0.1%	0.1%
No second mortgage and no home equity loan	1,873	47.6%	81.2%	66,272	57.0%	84.5%
Owner-Occupied Housing units without a Mortgage	1,624	41.3%	-	37,798	32.5%	-

Source: 2023 American Community Survey 5-Year Estimates, Table B25081

As shown in Table 19 below, the median contract rent in New Providence in 2020 was \$1,885, which was roughly \$282 higher than the County median rent of \$1,603. Within the Borough, the highest percentage of renters paid between \$1,500 to \$1,999 for monthly rent (46%), followed by \$3,000 or more (13.9%), and \$2,000 to \$2,499 (13.2%). Overall, nearly 71% of renters in the Borough paid between \$1,500 and \$2,999 for monthly rent in 2023, compared to nearly half (44.9%) at the County level. There was a significantly higher occurrence of renters paying less than \$1,500 for rent in Union County (49.7%). This data suggests that rent in the Borough is not as affordable as it is throughout the County as a whole.

Table 19: Contract Rent, 2023 New Providence Borough and Union County				
	New Providence Borough		Union County	
	Number	Percent	Number	Percent
Total Renter-Occupied Units	1,269	100.0%	85,475	100.0%
Less than \$500	0	0.0%	4432	5.2%
\$500 to \$999	110	8.7%	8747	10.2%
\$1,000 to \$1,499	68	5.4%	29,336	34.3%
\$1,500 to \$1,999	584	46.0%	23,541	27.5%
\$2,000 to \$2,499	168	13.2%	11,359	13.3%
\$2,500 to \$2,999	148	11.7%	3,516	4.1%
\$3,000 or More	177	13.9%	2491	2.9%
No Rent Paid	14	1.1%	2,053	2.4%
Median Contract Rent	\$1,885		\$1,603	

Source: 2023 American Community Survey 5-Year Estimates, Table B25056 and B25058

Housing Conditions

Table 20 below details the conditions of the Borough's housing stock in 2023. Overcrowding and age, plumbing, and kitchen facilities are used to determine housing deficiency. In 2023, nearly 90% of the Borough's housing stock relied on utility gas for heating, followed by electricity (9.2%). A total of 40 (0.8%) occupied housing units experienced overcrowding (more than one person per room). Throughout the Borough, there were 93 units (1.7%) occupied housing units that lacked complete plumbing or kitchen facilities, and no units lacked telephone service.

Table 20: Housing Conditions, 2023 New Providence Borough		
	Number	Percent
House Heating Fuel-Occupied Housing Units		
Total	5,201	100.0%
Utility gas	4,555	87.6%
Bottled, tank, or LP gas	66	1.3%
Electricity	480	9.2%
Fuel oil, kerosene, etc.	0	0.0%
Coal or coke	0	0.0%
Wood	0	0.0%
Solar energy	63	1.2%
Other fuel	0	0.0%
No fuel used	37	0.7%
Occupants per Room – Occupied Housing Units		
Total	5,201	100.0%
1.00 or Less	5,161	99.2%
1.01 to 1.50	14	0.3%
1.51 or More	26	0.5%
Facilities – Total Units		
Total	5,500	100.0%
Lacking complete plumbing facilities	27	0.5%
Lacking complete kitchen facilities	66	1.2%
Telephone Service – Occupied Housing Units		
Total	5,201	100.0%
No Service	0	0.0%

Source: 2015-2020 American Community Survey 5-Year Estimates

EMPLOYMENT DATA

Tables 21, 22, and 23 below detail the changes in employment between the years 2010 and 2023 in New Providence Borough, Union County, and New Jersey, respectively. Throughout this thirteen-year period, the Borough saw an overall 4.7% decrease in its unemployment rate; although the Borough experienced a 3.4% spike in unemployment between 2019 and 2020 due to the COVID-19 pandemic, it has rebounded to a considerably lower unemployment rate in recent years. This overall trend is mirrored at both the County and State level as well, although in comparison the Borough has consistently exhibited a lower unemployment rate throughout this time period. In 2023, the Borough's unemployment rate was 3.1%, which was 1.6% lower than the County (4.7%) and 1.3% lower than the State (4.4%).

Table 21: Employment and Residential Labor Force, 2010 to 2023 New Providence Borough				
Year	Labor Force	Employment	Unemployment	Unemployment Rate
2010	6,094	5,619	475	7.8%
2011	5,939	5,543	395	6.7%
2012	6,049	5,671	378	6.2%
2013	5,966	5,659	307	5.1%
2014	5,968	5,707	261	4.4%
2015	5,986	5,750	236	3.9%
2016	6,114	5,909	205	3.4%
2017	6,486	6,292	194	3.0%
2018	6,623	6,453	170	2.6%
2019	6,818	6,668	150	2.2%
2020	6,748	6,371	377	5.6%
2021	6,830	6,548	282	4.1%
2022	7,039	6,857	182	2.6%
2023	7,182	6,958	224	3.1%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates, Municipal Historical Annual Data, 2010-2023

Table 22: Employment and Residential Labor Force, 2010 to 2023 Union County				
Year	Labor Force	Employment	Unemployment	Unemployment Rate
2010	279,774	252,736	27,038	9.7%
2011	280,715	253,991	26,724	9.5%
2012	282,805	255,997	26,808	9.5%
2013	280,666	256,703	23,963	8.5%
2014	278,482	259,193	19,289	6.9%
2015	278,129	261,549	16,580	6.0%
2016	276,832	262,656	14,176	5.1%
2017	285,325	272,078	13,247	4.6%
2018	284,314	272,527	11,787	4.1%
2019	288,833	278,482	10,351	3.6%
2020	285,280	258,049	27,231	9.5%
2021	285,153	265,193	19,960	7.0%
2022	289,422	277,712	11,710	4.0%
2023	295,774	281,793	13,981	4.7%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates, County Historical Annual Data, 2010-2023

Table 23: Employment and Residential Labor Force, 2010 to 2023				
New Jersey				
Year	Labor Force	Employment	Unemployment	Unemployment Rate
2010	4,559,800	4,119,000	440,800	9.7%
2011	4,561,800	4,134,700	427,100	9.4%
2012	4,576,300	4,147,200	429,100	9.4%
2013	4,528,000	4,147,700	380,400	8.4%
2014	4,493,900	4,191,300	302,600	6.7%
2015	4,494,600	4,237,900	256,700	5.7%
2016	4,492,800	4,271,200	221,600	4.9%
2017	4,615,000	4,406,200	208,800	4.5%
2018	4,604,800	4,420,700	184,100	4.0%
2019	4,686,300	4,524,300	162,000	3.5%
2020	4,650,300	4,212,400	437,900	9.4%
2021	4,666,100	4,357,200	308,900	6.6%
2022	4,739,800	4,564,100	175,700	3.7%
2023	4,829,671	4,615,722	213,949	4.4%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates, State Historical Annual Data, 2010-2023

Employment Status

It is estimated that nearly 61% of New Providence Borough's population over the age of 16 was in the labor force in 2023, which was slightly lower than the County's rate of 69.1%. Of the Borough's labor force, 100% of workers were civilians and a vast majority (96.7%) were employed. At the County level, 100% of workers were civilians and 93.6% of the labor force were employed, indicating that the Borough and County exhibited similar trends. This data is shown in Table 24 below.

Table 24: Employment, 2023						
New Providence Borough and Union County						
	New Providence Borough			Union County		
	Number	% of 16+ Population	% of Labor Force	Number	% of 16+ Population	% of Labor Force
Population 16 years and over	10,605	100.0%	-	452,925	100.0%	-
In labor force	6,455	60.9%	100.0%	313,076	69.1%	100.0%
Civilian Labor Force	6,455	60.9%	100.0%	312,930	69.1%	100.0%
Employed	6,239	58.8%	96.7%	293,183	64.7%	93.6%
Unemployed	216	2.0%	3.3%	19,747	4.4%	6.3%
Armed Forces	0	0.0%	0.0%	146	0.0%	0.0%
Not in labor force	4,150	39.1%	-	139,849	30.9%	-

Source: 2015-2020 American Community Survey 5-Year Estimates

Class of Worker and Occupation

According to the 2018-2023 American Community Survey Estimates, the majority of workers (79.3%) living in New Providence Borough were a part of the private wage and salary worker group. This group includes people who work for wages, salary, commission, and tips for a private for-profit employer or a private not-

for-profit, tax-exempt or charitable organization. The next largest category was local government workers (9.7%), followed by those who were self-employed or an unpaid family worker (4.7%). This data is outlined in Table 25 below.

Table 25: Class of Worker, 2023 New Providence Borough		
	Number	Percent
Employed Civilian Population 16 Years and Over	6,239	100.0%
Private Wage and Salary Worker	4,945	79.3%
Local Government Worker	606	9.7%
State Government Worker	169	2.7%
Federal Government Worker	226	3.6%
Self-Employed Worker or Unpaid Family Worker	293	4.7%

Source: 2023 American Community Survey 5-Year Estimates, Table S2408

The occupational breakdown shown in Table 26 below includes only private wage and salary workers. Borough residents who worked within the private wage field were concentrated heavily in Management, Business, Science, and Arts occupations as well as Sales and Office occupations. Collectively, the two fields accounted for nearly 83% of the entire resident workforce over the age of 16.

Table 26: Resident Employment by Occupation, 2023 New Providence Borough		
	Number	Percent
Employed Civilian Population 16 Years and Over	6,239	100.0%
Management, business, science and arts occupations	4,065	65.2%
Service occupations	496	7.9%
Sales and office occupations	1,091	17.5%
Natural resources, construction and maintenance occupations	303	4.9%
Production Transportation and material moving occupations	284	4.6%

Source: 2023 American Community Survey 5-Year Estimates, Table DP03

As portrayed in Table 27, the industry that employed the greatest number of New Providence Borough residents in 2023 was the Professional, scientific, and management, and administrative and waste management services sector, which accounted for 24.9% of the Borough's resident workforce. The second most common industry during this time was the Educational Services, and Health Care and Social Assistance sector, which accounted for 20.2% of jobs occupied by Borough residents.

Table 27: Employment by Industry, 2023 New Providence Borough		
Industry	Number	Percent
Employed Civilian Population 16 Years and Over	6,239	100.00%
Agriculture, forestry, fishing and hunting, mining	12	0.2%
Construction	267	4.3%
Manufacturing	595	9.5%
Wholesale Trade	184	2.9%
Retail Trade	326	5.2%
Transportation and Warehousing, and Utilities	245	3.9%
Information	212	3.4%
Finance and insurance, and real estate and rental and leasing	835	13.4%
Professional, scientific, and management, and administrative and waste management services	1556	24.9%
Educational services, and health care and social assistance	1263	20.2%
Arts, entertainment, and recreation, and accommodation and food services	407	6.5%
Other Services, except public administration	149	2.4%
Public administration	188	3.0%

Source: 2023 American Community Survey 5-Year Estimates, Table DP03

Commuting to Work

In 2023, it is estimated that 58.6% of the employed population that did not work from home commuted up to 35 minutes to their place of work. Over 20% of the Borough's workers commuted longer than an hour to get to work. A majority (55.7%) of the Borough's working population drove alone as their primary means of travel to work. Roughly 12% of workers utilized public transportation, while the remaining 5.1% of commuters carpooled or utilized a taxicab, motorcycle, bike, or other means of transportation. After the COVID-19 pandemic, working from home became much more popular. This is reflected in the Borough's estimated 27.3% of workers who worked at home in 2023. This data is outlined in Tables 28 and 29 below.

Table 28: Travel Time to Work, 2023 New Providence Borough		
	Number	Percent
Workers who did not work at home	4,434	100.0%
Less than 5 minutes	146	3.3%
5 to 9 minutes	510	11.5%
10 to 14 minutes	373	8.4%
15 to 19 minutes	606	13.7%
20 to 24 minutes	240	5.4%
25 to 29 minutes	345	7.8%
30 to 34 minutes	380	8.6%
35 to 39 minutes	285	6.4%
40 to 44 minutes	318	7.2%
45 to 59 minutes	337	7.6%
60 to 89 minutes	461	10.4%
90 or more minutes	433	9.8%
Mean Travel Time to Work (minutes)	34.2	

Source: 2015-2020 American Community Survey 5-Year Estimates

Table 29: Means of Travel to Work, 2023 New Providence Borough		
	Number	Percent
Workers 16 years and over	6,098	100.0%
Car, truck, van - Drove Alone	3,398	55.7%
Car, truck, van - Carpooled	208	3.4%
Public Transportation	723	11.9%
Walked	71	1.2%
Taxicab, Motorcycle, Bike, or Other	34	0.6%
Worked at home	1,664	27.3%

Source: 2015-2020 American Community Survey 5-Year Estimates

Covered Employment

There is currently very limited information available on actual job opportunities within municipalities. The Department of Labor and Workforce Development collects information on covered employment, which is employment and wage data for private employees covered by unemployment insurance. The following table provides a snapshot of private employers located within New Providence. The first table reflects the number of jobs covered by private employment insurance from 2013 through 2023.

According to data from the New Jersey Department of Labor and Workforce Development, the highest number of covered jobs in New Providence between 2013 and 2023 was in 2013 when 8,203 jobs were covered by unemployment insurance. Private employment has remained relatively steady in New Providence since 2013, with its largest loss occurring between 2019 and 2020 (-8.9%), and largest gain occurring between 2021 and 2022 (5.8%). New Providence Borough experienced a loss of 35 jobs in 2023, representing an decrease of 0.5 percent from 2022.

Table 30: Private Wage Covered Employment 2013 - 2023			
New Providence Borough			
Year	Number of Jobs	# Change	% Change
2013	8,203	-	-
2014	7,840	-363	-4.4%
2015	7,930	90	1.1%
2016	7,820	-110	-1.4%
2017	7,755	-65	-0.8%
2018	7,542	-213	-2.7%
2019	7,557	15	0.2%
2020	6,883	-674	-8.9%
2021	6,742	-141	-2.1%
2022	7,131	389	5.8%
2023	7,096	-35	-0.5%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates

In-Borough Establishments and Employees by Industry: 2023

Table 31 below depicts the average annual number of establishments and employees by industry sector that exist within the Borough, as reported in the Quarterly Census of Employment and Wages (QCEW) published by the New Jersey Department of Labor and Workforce Development (NJDLWD). The QCEW provides a quarterly accounting of employment, establishments, and wages throughout the State of New Jersey, and accounts for over 95% of available jobs in the state. The annual municipal reports group data according to the North American Industry Classification System (NAICS). The QCEW considers an establishment to be a single economic unit, which is located at one physical location and engaged in one type of economic activity. The NJDLWD specifies that establishments differ from firms or companies in the sense that the latter can have multiple establishments.

In 2023, the Borough had an annual average of 383 establishments employing an average of 7,096 persons in the private sector. In the private sector, the annual averages were broken out as follows: local government totals had an average of 7 units employing an average of 654 people. The healthcare and social services (Health/Social) sector was the Borough's predominant private sector, accounting for approximately 15.9% of the private establishments in New Providence Borough and 17.8% of the Borough's private in-place employment.

Table 31: Average Number of Establishments and Employees by Industry, 2023 New Providence Borough			
Industry ID and Description		2023 Average¹	
		Units	Employment
11	Agriculture	-	-
23	Construction	21	69
31	Manufacturing	-	-
42	Wholesale Trade	16	169
44	Retail Trade	27	284
48	Transp/Warehousing	5	7
	Information	-	-
52	Finance/Insurance	26	129
53	Real Estate	-	-
54	Professional/Technical	58	1,001
56	Admin/Waste Remediation	-	-
61	Education	-	-
62	Health/Social	61	1,267
71	Arts/Entertainment	14	199
72	Accommodations/Food	25	380
81	Other Services	39	235
	Unclassifieds	9	11
	Private Sector Totals	83	907
	Local Government Totals	7	467

Source: NJ Dept. of Labor & Workforce Development Labor Force, Quarterly Census of Employment and Wages (QCEW), Municipal Report by Sector (NAICS Based), 2022

¹ Data has been suppressed (-) for industries with few units or where one employer is a significant percentage of employment or wages of the industry.

Probable Future Employment Opportunities

The North Jersey Transportation Planning Authority (NJTPA) completes regional forecasts for the New York/New Jersey metropolitan area every four years for population, households, and employment. The most recent report was released in 2021, documenting projections between 2015 and 2050. The 2021 report predicts that the Borough's population (0.5%), households (0.4%), and employment (0.3%) will see steady annualized growth through 2050. It is estimated that the population will see an overall 17.1% increase, while households will increase by 16.2% and employment will increase by 10.6%.

Table 32: Population and Employment Projections, 2015 to 2050 New Providence Borough					
Category	2015	2050 (Projected)	Annualized Percent Change	Overall Projected Change	
				Number	Percent
Population	12,404	14,529	0.50%	2,125	17.1%
Households	4,439	5,156	0.40%	717	16.2%
Employment	8,111	8,969	0.30%	858	10.6%

Source: NJTPA Municipal Forecasts, dated 9/13/2021

PART 2: FAIR SHARE PLAN

INTRODUCTION

The following Fair Share Plan ("Plan") details the Borough of New Providence's Prior Round (1987-1999), Third Round (1999-2025), and Fourth Round (2025-2035) Prospective Need obligations, as well as the Borough's Fourth Round Present Need. This Plan proposes mechanisms by which the Borough can realistically provide opportunities for affordable housing for those moderate-, low-, and very low- income households.

New Providence Borough Obligation	
Fourth Round Rehabilitation Share	20
Prior Round Prospective Need Obligation (1987-1999)	135
Third Round Prospective Need Obligation (1999-2025)	316
Fourth Round Prospective Need Obligation (2025-2035)	201

CURRENT STANDARDS

The amended Fair Housing Act includes a number of changes associated with the application of various categories of credits. The below walks through the current standards applicable to the Borough's Fourth Round obligation.

Age-Restricted Housing

A municipality may not satisfy more than 30% of the affordable units, exclusive of bonus credits, to address its prospective need affordable housing through the creation of age-restricted housing.

Transitional Housing

Transitional housing units, which will be affordable for persons of low- and moderate-income, were not previously categorized by the Fair Housing Act as a standalone housing type. The amended legislation includes such transitional housing units as a new category which may be included in the HEFSP and credited towards the fulfillment of a municipality's fair share obligations. This is limited to a maximum of 10% of the municipality's obligations, however.

Veterans Housing

Up to 50% of the affordable units in any particular project may be prioritized for low- and moderate-income veterans.

Families with Children

A minimum of 50% of a municipality's actual affordable housing units, exclusive of bonus credits, must be made available to families with children.

Rental Units

A minimum of 25% of a municipality's actual affordable housing units, exclusive of bonus credits, shall be satisfied through rental units. At least half of that number shall be available to families with children.

Very-Low Income Requirement

At least 13% of the housing units made available for occupancy by low-income and moderate-income houses shall be reserved for low-income households earning 30% or less of the median income pursuant to the Fair Share Housing Act, N.J.S.A. 52:27D-301, et seq. Half of the very low-income units will be made available to families with children.

Low/Moderate Income Split

At least 50% of the units addressing the Borough's obligation shall be affordable to very-low income and low-income households, and the remaining may be affordable to moderate-income households.

Affordability Controls

Newly created rental units shall remain affordable to low-and moderate-income households for a period of not less than 40 years, 30 years for for-sale units, and 30 years for housing units for which affordability controls are extended for a new term of affordability, provided that the minimum extension term may be limited to no less than 20 years as long as the original and extended terms, in combination, total at least 60 years.

Affirmative Marketing

The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law, to include the community and regional organizations identified in the agreement as well as the posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

Uniform Housing Affordability Controls (UHAC)

All affordable units created through the provisions of this Plan shall be developed in conformance with the Uniform Housing Affordability Controls (UHAC) pursuant to N.J.A.C. 5:80-26.1 et seq. as amended.

Unit Adaptability

All new construction units shall be adaptable in conformance with P.L.2005, c.250/N.J.S.A. 52:27D-311a and -311b and all other applicable laws.

Bonus Credits

Bonus credits shall not exceed 25% of a municipality's prospective need obligation, nor shall a municipality receive more than one type of bonus credit for any one unit. Bonus credits may be granted on the following schedule:

Unit Type	Unit Credit	Bonus Credit
Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24).	1	1
Each low- or moderate-income ownership unit created in partnership sponsorship with a non-profit housing developer.	1	0.5
Each unit of low- or moderate-income housing located within a one-half mile radius, or one-mile radius for projects located in a Garden State Growth Zone, as defined in section 2 of P.L.2011, c.149 (C.34:1B-243), surrounding a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations. ¹	1	0.5
A unit of age-restricted housing, provided that a bonus credit for age-restricted housing shall not be applied to more than 10 percent of the units of age-restricted housing constructed in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency in a municipality that count towards the municipality's affordable housing obligation for any single 10-year round of affordable housing obligations.	1	0.5
A unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space.	1	0.5
Each existing low- or moderate-income rental housing unit for which affordability controls are extended for a new term of affordability, in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency, and the municipality contributes funding towards the costs necessary for this preservation.	1	0.5
Each unit of low- or moderate-income housing in a 100 percent affordable housing project for which the municipality contributes toward the costs of the project. ²	1	1
Each unit of very low-income housing for families above the 13 percent of units required to be reserved for very low-income housing pursuant to section 7 of P.L.2008, c.46 (C.52:27D-329.1).	1	0.5
Each unit of low- or moderate-income housing created by transforming an existing rental or ownership unit from a market rate unit to an affordable housing unit. ³	1	1

¹ The distance from the bus, rail, or ferry station to a housing unit shall be measured from the closest point on the outer perimeter of the station, including any associated park-and-ride lot, to the closest point of the housing project property.

² This contribution may consist of: (a) real property donations that enable siting and construction of the project or (b) contributions from the municipal affordable housing trust fund in support of the project, if the contribution consists of no less than three percent of the project cost.

³ A municipality may only rely on this bonus credit as part of its fair share plan and housing element if the municipality demonstrates that a commitment to follow through with this market to affordable agreement has been made and: (a) this agreement has been signed by the property owner; or (b) the municipality has obtained ownership of the property.

NEW PROVIDENCE BOROUGH AFFORDABLE HOUSING OBLIGATIONS

The Borough's affordable housing obligations are as follows:

New Providence Borough Obligation	
Fourth Round Rehabilitation Share	20
Prior Round Prospective Need Obligation (1987-1999)	135
Third Round Prospective Need Obligation (1999-2025)	316
Fourth Round (2025-2035) Prospective Need Obligation	201

REVIEW OF PREVIOUS ROUND COMPLIANCE

As part of any Housing Element and Fair Share Plan, a municipality shall include an assessment of the degree to which the municipality has met its fair share obligation from the previous rounds of affordable housing obligations as established by prior court approval or approval by COAH and determine to what extent this obligation is unfulfilled or whether the municipality has credits in excess of its previous round obligations. If a previous round obligation remains unfulfilled, or a municipality never received an approval from the court or COAH for any previous round, the municipality shall address such unfulfilled previous round obligation in its Housing Element and Fair Share Plan.

In addressing previous round obligations, the municipality shall retain any sites that, in furtherance of the previous round obligation, are the subject of a contractual agreement with a developer, or for which the developer has filed a complete application seeking subdivision or site plan approval prior to the date by which the Housing Element and Fair Share Plan are required to be submitted, and shall demonstrate how any sites that were not built in the previous rounds continue to present a realistic opportunity.

Prior Round Compliance 1987-1999

The Borough had a Prior Round obligation of 135 units. Per the court-approved Third Round settlement agreement and the Borough's Third Round JOR, New Providence has met their Prior Round obligation through the following mechanisms:

Existing Inclusionary Developments

The Villages at New Providence

The Villages at New Providence (the "Villages") was constructed near the intersection of Spring Street and Floral Drive and includes Lot 7 of Block 340. A total of 10 affordable family rental units were constructed on the site in July of 1992 including five (5) low-income units and five (5) moderate-income units. Of the low-income units, one (1) unit is a one-bedroom unit, three (3) are two-bedroom units, and one (1) is a three-bedroom unit. The moderate-income units adopt the same bedroom distribution as the low-income units.

A Developer's Agreement for the property was executed on August 21, 1989, and the initial deed was filed on December 1, 1986. The 20-year affordability controls for the development began on the respective dates

of occupancy for each unit. For nine (9) of the ten total units, certificates of occupancy were issued on July 31, 1992; for the tenth unit, located at 67 Spring Floral Drive, a certificate was issued on August 14, 1992.

After the affordability controls expired, during a seven (7) year period between August 2012 to August of 2019, five affordable units were turned over and leased as market-rate units. The five remaining affordable units included three (3) low-income units (a one-bedroom unit, a two-bedroom unit, and a three-bedroom unit) and two (2) moderate-income units (a one-bedroom unit and a three-bedroom unit). The Villages received formal notice of the expiration of affordability controls on August 21, 2019, on behalf of the Borough.

As of the writing of this Plan, only two (2) of the 10 original units within the Villages remain affordable. These remaining units are for low-income tenants; one is a one-bedroom unit (Unit #56) and the other is a two-bedroom unit (Unit #63).

All 10 units were applied to the Borough's Prior Round obligation, in addition to 10 rental bonus credits. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Southgate at Murray Hill

Southgate at Murray Hill is located at 43 Southgate Road and includes Lot 2 of Block 341. The site was developed in November of 1995 with an inclusionary development, which includes two (2) for-sale units for families of low- and moderate- income. Certificates of occupancy were issued soon after. One of the affordable units, Unit 9, is a two-bedroom unit, and the other, Unit 10, is a one-bedroom unit. Affordability controls on the site began on November 2, 1994, and were set to expire 30 years from the deed date (i.e., November 2, 2024).

Both units were applied to the Borough's Prior Round obligation. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

New Providence Borough adopted Resolution #2023-211 on July 18, 2023, which extended the affordability control period for the site an additional 30 years from the November 2, 2024, expiration date. See further discussion in the Fourth Round Prospective Need Obligation section of this Plan.

Patriot Village

Patriot Village is an inclusionary development located at 53 Division Avenue and includes Lots 26 & 27 of Block 121. The site's four (4) affordable family rental units were completed in early 2006, with certificates of occupancy issued for each unit on March 10, 2006. Two (2) of the units are restricted to low-income households, and the other two (2) units are restricted to moderate-income households. Of the low-income

units, one unit includes one (1) bedroom, and the other includes three (3) bedrooms. Both moderate-income units are two-bedroom units.

The developer's agreement for the property, signed on August 30, 2004, established affordability controls for the site. The 20-year affordability controls commenced on March 10, 2006, when the certificates of occupancy were issued. Affordability controls for Patriot Village will expire on March 10, 2026.

All four units were applied toward the Borough's Prior Round obligation, in addition to four (4) rental bonus credits. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Spring Gardens

Spring Gardens is located at 851 Springfield Avenue and includes Lot 22.01 (f/k/a Lot 24) of Block 103. The site's six (6) affordable family rental units include one (1) one-bedroom unit, four (4) two-bedroom units, and one (1) three-bedroom unit. The 30-year affordability controls began with the units' respective commencement dates: for the 1-bedroom unit (Unit F/201): June 20, 2008; and for the remaining 5 units (Units C/102, C1/111, H/208, H1/2009, and J/207): August 23, 2008. The units were completed in 2008, with certificates of occupancy issued soon after.

All six units were applied toward the Borough's Prior Round obligation, in addition to six (6) rental bonus credits. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Stonefields at New Providence

Stonefields at New Providence is located at 50 Union Avenue and includes Lot 27.02 (f/k/a Lot 27) of Block 192. The site includes two (2) low-income family for-sale units, Unit 2 and Unit 3. Unit 2 is a two-bedroom unit and Unit 3 is a three-bedroom unit. Affordability controls on the site began on the date of the Master Deed for the property: October 17, 2011. These controls will expire 30 years from this deed date. A new construction deed for Unit 2 was made on July 26, 2012, and on August 8, 2012, for Unit 3. The units were occupied soon after these agreements were made.

Both units were applied toward the Borough's Prior Round obligation. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Riverbend

Riverbend is an inclusionary development located on Riverbend Court and includes Lots 17.06, 17.07, 17.17, & 17.18 of Block 234 (f/k/a Lots 15, 17, 27, 19, and 20). The site's four (4) affordable family for-sale units includes the following bedroom breakdown: Unit #6: low-income, two-bedroom unit; Unit #7: moderate-

income, three-bedroom unit; Unit #17: low-income, two-bedroom unit; and Unit #18: low-income, two-bedroom unit.

The sale dates for each of the units are as follows: Unit #6: May 5, 2017; Unit #7: October 17, 2018; Unit #17: January 31, 2022; and Unit #18: September 16, 2021. Certificates of occupancy were issued for each unit soon after the sale dates.

The Master Deed for the property, dated April 2, 2015, established that affordability controls on the site would begin upon the sale date of each respective lot. These controls are to expire 30 years from each respective sale date.

All four units were applied toward the Borough's Prior Round obligation. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Murray Hill Farms

Murray Hill Farms is located at 1-27 Timothy Field Road and includes Lots 1.01-1.13 of Block 376. The site was developed in September of 1994 with an inclusionary development, which includes 13 for-sale units for families of low- (seven (7) units total) and moderate- income (six (6) units total). Certificates of occupancy were issued soon after. Of the low-income units, two (2) units are one-bedroom units, four (4) are two-bedroom units, and one (1) is a three-bedroom unit. Of the moderate-income units, two (2) units are one-bedroom units, three (3) are two-bedroom units, and one (1) is a three-bedroom unit.

Affordability controls on the site began between April and October of 1994, and were set to expire 30 years from the deed date (i.e., 2024).

All 13 units were applied toward the Borough's Prior Round obligation. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Providence Borough adopted Resolution #2023-210 on July 18, 2023, which extended the affordability control period for the site an additional 30 years from the 2024 expiration dates. See further discussion in the Fourth Round Prospective Need Obligation section of this Plan.

Existing Alternative Living Arrangements

Community Access I and II

Community Access I and II are two (2) alternative living arrangements constructed adjacent to each other, located at 1180 and 1176 Springfield Avenue (Lots 6 and 7 of Block 151, respectively). Both sites include six (6) very-low-income bedrooms, granting the Borough credits for 12 very-low-income rental units. Certificates of occupancy were issued for both group homes on January 30, 1998. This date began the

affordability controls on both sites as licensed group homes. These controls will not expire, but a yearly license renewal is required by the State Department of Human Services.

All 12 units were applied toward the Borough's Prior Round obligation, in addition to six (6) rental bonus credits. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Union County Arc II

Union County Arc II is an alternative living arrangement located at 182 Runnymede Parkway and includes Lot 17 of Block 34. The site includes three (3) very-low-income bedrooms for the five (5) tenants. The facility was financed through the U.S. Department of Housing and Urban Development (HUD) 811 Program, which supports the creation of multifamily housing for very low-income persons with disabilities. According to the HUD website, units that are financed through the HUD 811 Program must remain affordable for very-low-income persons with disabilities for at least 40 years. The units were completed in September 1996, with certificates of occupancy issued soon after. In addition to the 40-year deed restriction, yearly licenses under the State Department of Human Services have been renewed annually for the facility since 2019.

All three units were applied toward the Borough's Prior Round obligation. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Union County Arc I

Union County Arc I is an alternative living arrangement located at 4 Possum Way and includes Lot 19 of Block 380. The site includes four (4) very-low-income bedrooms (i.e., 1 bedroom for each of the four tenants). The units were completed in November 2002, with certificates of occupancy issued soon after. Financing for the facility was provided by the State's Division of Developmental Disabilities (DDD). Yearly licenses under the State Department of Human Services have been renewed on a yearly basis since 2019.

All four units were applied toward the Borough's Prior Round obligation, in addition to four (4) rental bonus credits. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Arc of Union County

Arc of Union County is an alternative living arrangement located at 905 Springfield Avenue and includes Lot 24 of Block 102. The site includes three (3) very-low-income bedrooms for the five (5) tenants, which were completed in February of 2009 and occupied soon after. Financing for the facility was provided by the State's Division of Developmental Disabilities (DDD). Yearly licenses under the State Department of Human Services have been renewed on a yearly basis since 2019.

All three units were applied toward the Borough's Prior Round obligation. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Community Action Independent Living

Community Action Independent Living is located at 1141 Springfield Avenue and includes Lot 43 of Block 63. The alternate living arrangement includes four (4) very-low-income rental units (i.e., 1 bedroom for each of the four tenants). The units were completed in June of 1992, and a certificate of occupancy was issued on June 9, 1992.

All four units were applied toward the Borough's Prior Round obligation, in addition to three (3) rental bonus credits. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Existing 100% Affordable Age-Restricted

Elizabeth Barabash Manor

Elizabeth Barabash Manor (the "Manor") is located at 101 Academy Street and includes Lot 14 of Block 50. The site includes 22 affordable, age-restricted units. All units within the development are one-bedroom units. The formal Agreement of Lease, made on June 7, 1994, noted that the property's affordability controls were to expire after 30 years (March 1, 1995, to February 28, 2025). The units were completed in 1997, with certificates of occupancy issued soon after. Renovations to the site and an extension of the property's deed restriction are further outlined below.

The land of Elizabeth Barabash Manor is owned by the Borough, while the building is owned by an entity called the Church Coalition for New Providence Affordable Housing Corporation ("Church Coalition"). In February 2023, the Manor defaulted on their loan from Citizens Bank in the amount of \$436,893.40. It came to the Borough's attention that the Manor was not able to pay back their loan to Citizens Bank, and that the use restriction would expire prior to the end of the Third Round. The Borough therefore determined it was in the best interest of New Providence and the residents of Elizabeth Barabash Manor to utilize Trust Fund monies to satisfy the mortgage and extend the deed restriction for a minimum of 30 additional years, thereby ensuring the units remain affordable for the region's senior population.

The Borough allocated \$550,000 from their Trust Fund to satisfy the mortgage and account for any additional fees, costs, or interest that have accrued. The Borough's Spending Plan was amended to account for this expenditure. This amended Spending Plan and the expenditure for Elizabeth Barabash Manor was approved by the Court on March 28, 2024. In 2024, the accomplished renovations included rehabilitating the roof and adding new refrigerators, stoves, and range hoods in each apartment, funded by the Borough's Affordable Housing Trust Fund. Also in 2024, the facility's mortgage was paid off, and the Borough received

grant money toward the replacement of the facility's elevator. New Providence is currently in the process of bidding the new elevator.

All 22 units were applied toward the Borough's Prior Round obligation. All associated documentation can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

Providence Borough adopted Ordinance 2025-03 on February 25, 2025, which extended the affordability control period for the site an additional 30 years from the February 28, 2025 lease expiration date. See further discussion in the Fourth Round Prospective Need Obligation section of this Plan.

Existing Inclusionary Zoning

Block 310 & Block 311

The Block 310 & Block 311 sites are located at 550 South Street (Lot 2 of Block 310), 450 Mountain Avenue (Lot 3 of Block 311), and 425 Mountain Avenue (Lot 1 of Block 310). Both sites are located within the A2: Affordable Housing District (10 units/acre with a mandatory 20% affordable housing set-aside). Once developed, the sites are intended to produce a total of 10 affordable units. As of the writing of this Plan, there have been no construction approvals for either site.

A total of nine (9) credits were applied toward the Borough's Prior Round obligation.

The sites are appropriate for multi-family low- and moderate-income housing as they are available, approvable, developable, and suitable:

- *Available:* The sites have no easements or title issues preventing their development.
- *Suitable:* The sites are adjacent to compatible land uses, as established residential neighborhoods are located along South Street, Mountain Avenue, and Glenside Road. Their development is consistent with the goals and strategies outlined in the State Plan, as they are located within the Metropolitan Planning Area (PA 1). Further, the sites have direct street access (Block 310 is located on the corner of South Street and Mountain Avenue and Block 311 is on the corner of Glenside Road and Mountain Avenue), offering more direct access to employment and service establishments.
- *Developable:* The sites fall within a drinking water purveyor service area, and within a sewer service area. The sites are not constrained by wetlands or any special flood hazard areas.
- *Approvable:* The sites are within the A-2 Affordable Housing Zone, which permits inclusionary development at 10 units per acre with a mandatory 20% affordable set-aside.

Assessment of the Degree to which New Providence has met its Prior Round Obligation

As demonstrated above, New Providence has fully satisfied its Prior Round obligation with credit-worthy mechanisms that were previously approved by COAH and/or a Court of competent jurisdiction. The units are constructed, occupied, and subject to the appropriate use controls, with the exception of the

inclusionary zoning at Blocks 310 and 311. The Borough recognizes these sites have yet to develop. See further discussion under the Fourth Round Obligation section of this plan.

Summary of New Providence's Prior Round of 135	
Prior Round Credits:	
<i>Our House (very low, rental)</i>	4
Existing Inclusionary Development:	
<i>The Villages at New Providence (rental)</i>	10
<i>Patriot Village (rental)</i>	4
<i>Spring Gardens (rental)</i>	6
<i>Stonefields at New Providence</i>	2
<i>Riverbend</i>	4
<i>Southgate at Murray Hill</i>	2
<i>Murray Hill Farms</i>	13
Existing 100% Affordable Age-Restricted	
<i>Elizabeth Barabash (rental)</i>	22
Existing Alternative Living Arrangements (very- low rental):	
<i>Community Action Independent Living</i>	4
<i>Union County Arc I</i>	4
<i>Union County Arc II</i>	3
<i>Community Access I</i>	6
<i>Community Access II</i>	6
<i>Arc of Union County</i>	3
Existing Inclusionary Zoning	
<i>Blocks 310 and 311</i>	9
Total Units	102
Rental Bonus Credits	
<i>The Villages at New Providence</i>	10
<i>Patriot Village</i>	4
<i>Spring Gardens</i>	6
<i>Community Action Independent Living</i>	3
<i>Union County Arc I</i>	4
<i>Community Access I</i>	6
Total Rental Bonus Credits	33
TOTAL PRIOR ROUND	135

Third Round Compliance

The Borough had a Third Round obligation of 316 units. As part of their Third Round compliance process, the Borough prepared a Vacant Land Adjustment in 2015 (“the 2015 VLA”) due to its lack of vacant and developable land. An updated VLA was prepared based on negotiations with C. R. Bard Inc., which established a Realistic Development Potential (RDP) of 52 units and an Unmet Need of 264 units. This updated VLA was approved by Court via the Borough’s Final Third Round JOR.

Addressing the Third Round RDP

Per the Court-approved Third Round settlement agreement and the Borough’s Third Round JOR, New Providence met its Third Round RDP of 52 through the following mechanisms:

Block 310 & Block 311

One (1) credit from the existing non-age-restricted inclusionary zoning for Blocks 310 and 311 was applied toward the Borough’s Third Round RDP obligation. As of the writing of this Plan, no application approvals have been made for either site.

Bard/“Beckton Dickinson” Site (A4 Affordable Housing Zone)

A new site for non-age-restricted inclusionary development was proposed during the Third Round, located at 111 Spring Street (Lot 32 of Block 210) and known as the Bard/Beckton Dickinson (i.e. “BD”) site. The L-shaped property fronts on Central Avenue to the north, wraps around Block 210 Lot 21 to the east, and fronts on both Spring Street (to the east) and Commerce Drive to the south. The property is approximately 31 acres and is constrained on its western side by the floodway of the Mercet River.

The Borough and BD negotiated an agreement regarding the residential development that can reasonably be accommodated by the lot. BD was party to the final settlement agreement that included FSHC and Linde (now Murray Hill, LLC) that was signed by the Borough and BD on April 1, 2019. The settlement agreement stipulated that 192 units would be developed on the site through multi-family and townhouse development with 20% of the units set-aside for family, rental affordable housing. With this density and set-aside, a minimum of 38 affordable units would be created. The 38 units that will be created from the proposed site was applied to the Borough’s Third Round RDP. All associated documentation can be found in the appendix of the Borough’s most recent Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

The site was rezoned to the newly created A4 Affordable Housing Zone via Ordinance 2019-06 on September 9, 2019. The new zone was approved as a component of the Borough’s Third Round Final JOR.

The development of the Bard/“Beckton Dickinson” site was approved by the Planning Board on December 14, 2021, memorialized in Resolution #2022-04, and amended site plan approval was granted on October

22, 2022, memorized in Resolution #2022-10 (Appendix F). Affordability controls on the site are to begin with occupancy and expire 30 years after occupancy.

As of the writing of this Plan, construction permits have been issued and work toward the site development has begun. The anticipated full occupancy for the site is January 2026. Community Grants Planning & Housing (CGP&H) are the designated Administrative Agents for this development, which will now be formally called "Providence Place." The affirmative marketing for the affordable units at Providence Place began on or about May 20, 2025, with a lottery scheduled for late July 2025. Per the affirmative marketing materials (found in Appendix F), the bedroom and income breakdowns are as follows:

One Bedroom	Two Bedroom	Three Bedroom
1 Very Low	3 Very Low	1 Very Low
2 Low	9 Low	4 Low
3 Moderate	11 Moderate	4 Moderate

Third Round RDP Compliance Summary

New Providence's Third Round RDP of 52	
Existing Non Age-Restricted Inclusionary Zoning: <i>Blocks 310 and 311</i>	1
Proposed Non Age-Restricted Inclusionary Zoning <i>Bard Site (rental)</i>	38
Total Units	39
Rental Bonus Credits <i>Bard Site</i>	13
Total Bonus Credits	13
THIRD ROUND RDP COMPLIANCE TOTAL	52

Addressing the Third Round Unmet Need

According to the FSHC Settlement Agreement, the Borough had an unmet need of 264 units. The Borough addressed a significant portion of its unmet need of 264 by utilizing the following overlay zoning mechanisms:

AHO Affordable Housing Overlay – "AHO"

To address the Third Round Unmet Need, the Borough enacted an amendment to the zoning code for the area located northwest of the Murray Hill train station to create the AHO Affordable Housing Overlay Zone ("AHO"). This area is composed of:

- Block 210: Lots 21, 23, 33
- Block 221: Lots 2.01 and 6

- Block 340: Lots 4, 6 and 8

The proposed AHO includes a total of 50 acres of unconstrained developable land. The properties within this overlay are permitted to continue the use of the property as permitted in the underlying zone (TBI-2 Zone) or can be redeveloped with residential and non-age-restricted affordable housing components. The permitted residential densities within this overlay range from 9.5 units per acre to 17 units per acre with a mandatory 20% affordable set-aside. At the proposed densities, the AHO could support approximately 622 units, of which 127 would be family affordable.

The eight (8) lots were rezoned via Ordinance 2019-06 on September 9, 2019 . The new overlay zone was approved as a component of the Borough's Third Round Final JOR.

The Borough is confident in the ability of the AHO to produce affordable housing units. While it can take some time for rezoning to initiate change, due to factors such as changes in market demand and existing leases, a development application for 121 Chanlon Road (Block 221, Lot 6) was filed in early 2025. The site plan application submitted to the Planning Board proposes 83 market rate and 21 affordable units. The proposed density is in conformance with the AHO standards. A public hearing for this application has been scheduled for July 1, 2025.

AH-ARO Affordable Housing Age-Restricted Overlay – "AH-ARO"

A second overlay district was created in the area adjacent to the Murray Hill train station. The Borough adopted a zoning amendment via Ordinance 2019-06 dated September 9, 2019, creating the AH-ARO Affordable Housing Age Restricted Overlay Zone ("AH-ARO") that consists of Block 221 Lot 5. The property within the AH-ARO is permitted to continue to the use of the property as permitted in the underlying zone (TBI-2 Zone) or be redeveloped with residential and age-restricted affordable housing components at a density of 14 units per acre. A 20% affordable set-aside is required. The AH-ARO could support 98 total units, of which 20 would be age-restricted affordable units. The new overlay zone was approved as a component of the Borough's Third Round Final JOR.

This site was recently purchased by the same developer as 121 Chanlon, and the Borough expects to see new development with an affordable housing component here in the coming years.

PACO Planned Adult Community Overlay Zone – "PACO"

To create additional age-restricted affordable housing opportunities, the Borough adopted an overlay zone over Block 370 Lot 1, creating the PACO Planned Adult Community Overlay Zone ("PACO"). As with the AHO and AH-ARO, the property within the PACO is permitted to continue to use the property as permitted in the underlying zone (TBI-1 Zone) or be redeveloped with residential and age-restricted affordable housing

components. The property is permitted to develop 297 total units, of which 59 will be affordable, age-restricted dwellings.

This property was the subject of the objection filed by Linde North America, Inc. on August 21, 2017, and ultimately was a component of the final settlement agreement with FSHC.

The Borough anticipates seeing the site redeveloped in accordance with the PACO zoning requirements in the coming years. The previous tenant of the property, Linde North America, Inc., has vacated the building and premises. The Borough has had initial conversations with the contract purchaser of the site, who intends to develop the site in a manner consistent with the PACO zoning, and through a design substantially consistent with the concept plan included in the Court-approved settlement agreement. The Borough expects to see a site plan application in front of the Planning Board sometime during the remainder of 2025.

Third Round Unmet Need Compliance Summary

New Providence's Third Round Unmet Need of 264	
Age-Restricted Overlay Zoning (AH-ARO + PACO)	
AH-ARO: 630 Central Ave. (Block 221 Lot 5)	20
PACO: Linde (100 Mountain Ave.)	59
Non-Age-Restricted Overlay Zoning (AHO)	
41 Spring Street (Block 210 Lot 21)	29
165 Spring Street (Block 210 Lot 23)	5
48 Commerce Drive (Block 210 Lot 33)	8
98 Floral Ave. (Block 340 Lot 4)	7
150 Floral Ave. (Block 340 Lot 6)	17
140 Spring Street (Block 340 Lot 8)	10
700 Central Ave. (Block 221 Lot 2.01)	30
121 Chanlon Rd (Block 221 Lot 6)	21
Total Units	206*

*Pursuant to the 2019 settlement agreement, the Borough will claim bonus credits as the units are constructed.

Assessment of the Degree to which New Providence has met its Third Round Obligation

As demonstrated above, New Providence has fully satisfied its Third Round obligation with credit-worthy mechanisms that were previously approved by COAH and/or a Court of competent jurisdiction. The Bard site (now known as Providence Place) is under construction and the affirmative marketing process for the 38 affordable units has begun. There is a site plan application scheduled to be heard before the Planning Board for 121 Chanlon Road (Block 221 Lot 6), one of the lots situated within the AHO Affordable Housing Overlay Zone, to construct an inclusionary development. The lot within the AH-ARO Affordable Housing Age-Restricted Overlay Zone was recently purchased by the same developers as 121 Chanlon Road; such developers have already approached the Borough about developing this site with inclusionary development.

Finally, the same developer as the Bard site has purchased 100 Mountain Avenue and approached the Borough about inclusionary development within the PACO district.

The affordable housing rezoning and overlay zones are in the process of being actively redevelopment to produce affordable housing in accordance with the Third Round JOR, proving that the mechanisms put in place are working in the way they were designed. Given the time it can take for rezoning to take effect, considering such factors as existing leases and market demands, the rate of redevelopment occurring in the Borough's Third Round affordable housing districts is impressive.

Summary of New Providence's Third Round of 316	
Summary of Third Round RDP of 52	
Non Age-Restricted Inclusionary Zoning (A2 Zone) <i>Blocks 310 and 311</i>	1
Non Age-Restricted Inclusionary Zoning (A4 Zone) <i>Bard Site (rental)</i>	38
Total Units	39
Rental Bonus Credits <i>Bard Site</i>	13
Total Bonus Credits	13
THIRD ROUND RDP COMPLIANCE TOTAL	52
Summary of Third Round Unmet Need of 264	
Age-Restricted Overlay Zoning (AH-ARO + PACO)	
<i>AH-ARO: 630 Central Ave. (Block 221 Lot 5)</i>	20
<i>PACO: Linde (100 Mountain Ave.)</i>	59
Non Age-Restricted Affordable Housing Overlay Zoning (AHO)	
<i>41 Spring Street (Block 210 Lot 21)</i>	29
<i>165 Spring Street (Block 210 Lot 23)</i>	5
<i>48 Commerce Drive (Block 210 Lot 33)</i>	8
<i>98 Floral Ave. (Block 340 Lot 4)</i>	7
<i>150 Floral Ave. (Block 340 Lot 6)</i>	17
<i>140 Spring Street (Block 340 Lot 8)</i>	10
<i>700 Central Ave. (Block 221 Lot 2.01)</i>	30
<i>121 Chanlon Rd (Block 221 Lot 6)</i>	21
Total Units	206*

*Pursuant to the 2019 settlement agreement, the Borough will claim bonus credits as the units are constructed.

FOURTH ROUND OBLIGATION

The amended FHA called on the DCA to issue a non-binding report on the new Present Need Obligation (commonly referred to as the rehabilitation obligation) and the Prospective Need for Round 4 and subsequent rounds. The amended FHA requires the DCA to base its analysis of the obligations for each municipality based upon the standards set forth in the amended FHA.

On October 18, 2024, the New Jersey Department of Community Affairs (“DCA”) released a report outlining the Fourth Round (2025-2035) Fair Share methodology and its calculations of present need and prospective need low- and moderate-income obligations for each of the State’s municipalities. The obligations were calculated in alignment with the formulas and criteria found in P.L.2024, c.2. The DCA calculated a Present Need obligation for the Borough of 20 units, and a Perspective Need obligation of 210 units.

The amended Fair Housing Act affirms that the DCA report is not binding on any municipality and that “a municipality shall determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in sections 6 and 7 of P.L.2024, c.2...by resolution...”

On January 28, 2025, the Borough Council adopted a binding resolution (Resolution 2025-58, see Appendix D) accepting a number different than that of the DCA based on an analysis of the Borough’s Land Use Capacity performed by Heyer, Gruel & Associates. Such analysis was attached to Resolution 2025-58 as an exhibit. Resolution 2025-28 accepted a Rehabilitation obligation of 20 units, and a Perspective Need of 198 units. Following the adoption of Resolution 2025-28, New Providence filed a declaratory judgment complaint (Docket No. UNN-L-000413-25) with the affordable housing dispute resolution program.

This reduced Fourth Round Prospective Need obligation of 198 was challenged by the New Jersey Builders’ Association on February 27, 2025. A subsequent Mediation Agreement before the Affordable Housing Dispute Resolution Program, made between the Borough and the Builders’ Association on April 5, 2025, established a Fourth Round Prospective Need obligation of 201 units.

Addressing Present Need / Rehabilitation Obligation

Present Need was previously determined in N.J.A.C. 5:93-1.3 to be the sum of a municipality’s indigenous need, the deficient housing units occupied by low- and moderate-income households, and the reallocated present need, which is the portion of a housing region’s present need that is redistributed throughout the housing region. Under the Second Round rules, evidence for deficient housing included: year structure was built, persons per room, plumbing facilities, kitchen facilities, heating fuel, sewer service, and water supply. (N.J.A.C. 5:92, Appendix A).

The Third Round Rules (N.J.A.C. 5:97-1.1 et seq.) reduced the number of criteria of evidence of deficient housing to three: pre-1960 over-crowded units, which are units that have more than 1.0 persons per room; incomplete plumbing, and incomplete kitchen facilities. (N.J.A.C. 5:97). This reduction in the number of

criteria was found to be by the Appellate Division to be within the Council's discretion and was upheld in the Supreme Court's decision in Mount Laurel IV.

The previously discussed Mount Laurel IV decision found that the reallocated need is no longer a component in the determination of Present Need. Therefore, the Present Need now equates to indigenous need, which means the obligation is based on deficient housing as determined by pre-1960 over-crowded units, incomplete plumbing, and incomplete kitchen facilities.

The Borough intends to address its 20-unit Fourth Round Rehabilitation Obligation through continued participation in Union County rehabilitation programs, operated by the County's Bureau of Community Development and Bureau of Housing. These Bureaus oversee the federally funded Community Development Block Grant (CDBG) program and the HOME Investment Partnership Program (HOME). Union County additionally operates their Home Improvement Program through the Department of Economic Development. The program is funded by Union County with CDBG funds and is available to low- and moderate-income homeowners living in 1 and 2 family homes in Union County. Monetary assistance offered through the program is a Deferred Payment loan up to \$24,999. Homeowners apply directly to the program for assistance. The County also offers a Senior Home Improvement Grant, offering \$5,000 to eligible homeowners over 60. Additional information for these programs can be found in the appendix of the Borough's most recent Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

As part of Third Round compliance, New Providence also agreed to expand its rehabilitation opportunities by implementing a Borough-wide rental rehabilitation program. A rental rehabilitation manual was prepared in August of 2019. CGP&H, the Borough's appointed Administrative Agent (see Appendix J), will continue to coordinate the implementation of the rehabilitation program, and coordinate a revised rehabilitation manual for New Providence.

Vacant Land Adjustment

As a compliance mechanism, municipalities can request an adjustment to their obligation based on the determination that there is not sufficient vacant or developable land within the municipality. As permitted by N.J.A.C. 5:93-4 and the Fair Housing Act, a municipality can submit a Vacant Land Adjustment (VLA) that identifies parcels available for development. The end result of the Vacant Land Adjustment is the determination of the Borough's Realistic Development Potential (RDP) for new affordable housing units. After subtracting out the RDP from the obligation, the remaining calculation is known as the "unmet need."

1989 Vacant Land Adjustment

A vacant land adjustment (VLA) prepared in 1989 outlined New Providence's Prior Round Obligation of 135 units as a Realistic Development Potential (RDP) of 54 units and an unmet need of 81 units. However, the

Borough fully addressed its obligation of 135 during its Third Round compliance process, and therefore, forfeited the VLA.

2015/2019 Vacant Land Adjustment

The Borough's 2017 Housing Element and Fair Share Plan included a VLA, which was prepared in accordance with N.J.A.C. 5:93-4.2, and utilized data through October of 2015. This VLA established an RDP of 14 units and an unmet need of 302.

An Amended Housing Element and Fair Share Plan was adopted by the Borough on July 9, 2019. This amended Plan outlined subsequent negotiations between the Borough and Beckton Dickinson (BD) in an effort to develop mutually agreeable re-zoning in relation to the Borough's affordable housing. Based on mediation sessions with BD, the Borough's professionals, and the Court Master, the Borough determined it was in its best interest to include this additional property in the vacant land calculations, 111 Spring Street (Block 210 Lot 32), owned by BD. The addition of this lot produced an amended Third Round RDP of 52 units and an unmet need of 264 units.

The amended VLA can be found in the appendix of the Borough's Court-approved Third Round Housing Element and Fair Share Plan, adopted July 19, 2019.

2025 Vacant Land Adjustment

Just as the Borough lacked sufficient land to satisfy its Round 3 obligation, it lacks sufficient land to satisfy the 201-unit obligation for Round 4. An updated Vacant Land Adjustment was prepared in February 2025. The revised VLA (Appendix G) reviewed the Borough's Third Round VLA and updated it in preparation of this Fourth Round HEFSP. The conditions of the properties identified in the Third Round have not changed, and because the Third Round HEFSP addressed the RDP identified at that time, those properties are not applied again to the Fourth Round. As a result, the Fourth Round VLA established an RDP of 0 and an Unmet Need of 201 units.

Fourth Round Adjusted Obligation

In summary, the Borough's Rehabilitation Share, Prior Round Obligation, Third Round Obligation, and Fourth Round Prospective Need Obligations are detailed as follows:

New Providence Borough Obligation	
Rehabilitation Share	20
Fourth Round Prospective Need Obligation (2025-2035)	201
RDP	0
Unmet Need	201

Fourth Round Unmet Need

Because the Borough's Fourth Round VLA produced an RDP of 0 units, the Borough's entire obligation of 201 becomes the unmet need. The Borough has satisfied a portion of their unmet need through the following mechanisms.

Prior Round / Third Round Extension of Affordability Controls

The affordable housing assistance section of the amended Fair Housing Act (C.52:27D-321) outlines a mechanism for municipalities to receive affordable housing credits through an extension of affordability control on preserved units. It requires the total affordability control period (original plus extended terms) to be a minimum of 60 years.

Prior to the release of the amended Fair Housing Act, the Borough recognized the importance of extending affordability controls on existing affordable housing within their borders to ensure the affordable housing opportunities continue to be available to area residents. Three (3) existing developments within the Borough were eligible for an extension of affordability controls: Elizabeth Barabash Manor, Murray Hill Farms, and Southgate at Murray Hill. The controls on Murray Hill Farms and Southgate at Murray Hill were extended in 2023, and the controls on Elizabeth Barabash Manor were extended in 2025. All documentation outlining the approved extension of controls can be found in Appendix H.

Elizabeth Barabash Manor

The existing 100% affordable, senior rental housing development includes 22 units whose controls were set to expire on March 1, 2025. The Borough Council adopted Ordinance 2025-03 on February 25, 2025, which established a 30-year extension of affordability controls on top of the site's existing 30-year control period for a total control period of 60 years. Therefore, the Borough is applying the 22 units of extended controls its Fourth Round Unmet Need.

Murray Hill Farms

The existing inclusionary, for-sale family housing development includes 13 units, whose controls were set to expire in April of 2024. The Borough decided to take a proactive approach to ensure these units remain affordable, and the Council approved Resolution 2023-210 on July 18, 2023, which established a 30-year extension of affordability controls on top of the site's existing 30-year control period for a total control period of 60 years. This Plan notes that the Borough's decision and action to extend the controls for Murray Hill Farms took place many months prior to the release of the draft amendment to Fair Housing Act, first made public in December 2024. Therefore, the Borough is applying the 13 units of extended controls toward its Fourth Round Unmet Need.

Southgate at Murray Hill

The existing inclusionary, for-sale family development includes 2 units, whose controls were set to expire on November 2, 2024. Just as with Murray Hill Farms, New Providence saw the benefit in extending the controls on this development, even though at the time they had no knowledge that doing so would qualify them for additional credits in the Fourth Round. The Borough Council approved Resolution 2023-211 on July 18, 2023, which established a 30-year extension of affordability on top of the site's existing 30-year control period for a total control period of 60 years. Therefore, the Borough is applying both units toward its Fourth Round Unmet Need.

Extension of Controls Bonus Credits

The amended Fair Housing Act outlines provisions for the allocations of bonus credits (C.52:27D-311), noting that:

"A municipality shall...receive one unit of credit and one-half bonus credit for each existing low- or moderate-income rental housing unit for which affordability controls are extended for a new term of affordability, in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency, and the municipality contributes funding towards the costs necessary for this preservation."

Of the three sites eligible for an extension of affordability controls, only the Elizabeth Barabash Manor units are rental units. Therefore, one-half bonus credit can be applied for each of the 22 total units (i.e., 11 bonus credits). As was previously discussed, the Borough recently contributed significant funding from its Affordable Housing Trust Fund to the Elizabeth Barabash Manor to ensure the development could pay off its mortgage and provide much need rehabilitation to its units.

Collectively, a total of 48 credits (i.e., 37 units and 11 bonus credits) will be applied to the Borough's Fourth Round Unmet Need.

Increased Lot Density

The A2 Zone currently allows a density of 10 units/acre. As outlined in previous sections of this Plan, Block 310 Lots 1 and 2 and Block 311 Lot 3, are located within the A2 Zone. These lots are the only lots within the A2 Zone that have yet to be developed. Therefore, an increase in the allowed density for these sites is proposed.

Increasing the permitted density on these lots to 13 units/acre, with a mandatory 20% set-aside for affordable units, could produce a total of 65 units across the three lots, which will provide for 13 affordable units. The current zoning would produce 50 total units with 10 affordable. As 10 credits from these sites have been applied to the Prior and Third Rounds, the remaining three (3) credits will be applied to the Borough's Fourth Round Unmet Need.

It is the Borough's opinion that the increase in density is appropriate for the lots in question. The sites are adjacent to single-family residential zoning (R1 Zone) which permits 1 unit on an 18,000 square-foot lot and is across the street from the Technology and Innovation 1 Zone, which is developed with existing commercial uses and an assisted living facility. The sites act as a transition area between the more intensive commercial zoning across the street and the adjacent single-family residential zone. While the sites on Blocks 310 and 311 contain some environmental constraints they have developable areas appropriate for the proposed density. A map of Blocks 310 and 311 with their environmental constraints can be found on the following page, and a draft ordinance amending the zoning for these parcels can be found in Appendix I.

Unmet Need Summary

The 48 credits from the proposed extensions of affordability controls, plus the three (3) additional credits from the increased density of Blocks 310 and 311 amounts to 51 total credits. These 51 credits account for 25% of the Borough's Fourth Round 201-credit Unmet Need requirement, in accordance with the standards of the amended Fair Housing Act (C.52:27D-310.1).

Additional Mechanisms

Affordable Housing Ordinance

An Affordable Housing Ordinance was adopted by the Borough on May 22, 2017 (Ordinance No. 2017-07), establishing the criteria for implementing affordable housing units in conformance with the Uniform Housing Affordability Controls (UHAC). While this Plan acknowledges that an amendment to the UHAC was released on an emergency basis in December 2024, those rules are set to expire in December 2025. It is also the understanding that the Housing Mortgage and Finance Agency (HMFA), the entity currently responsible for the UHAC regulations, is in the process of establishing further amendments to those rules. Because of the uncertainty with the UHAC regulations, the Borough will refrain from adopting an updated ordinance until such rules are finalized, acknowledging that the December 2024 UHAC rules adopted under emergency measures are the current governing regulations. Should there be any discrepancy between the Borough's adopted ordinance and the current UHAC regulations, the current UHAC regulations shall govern.

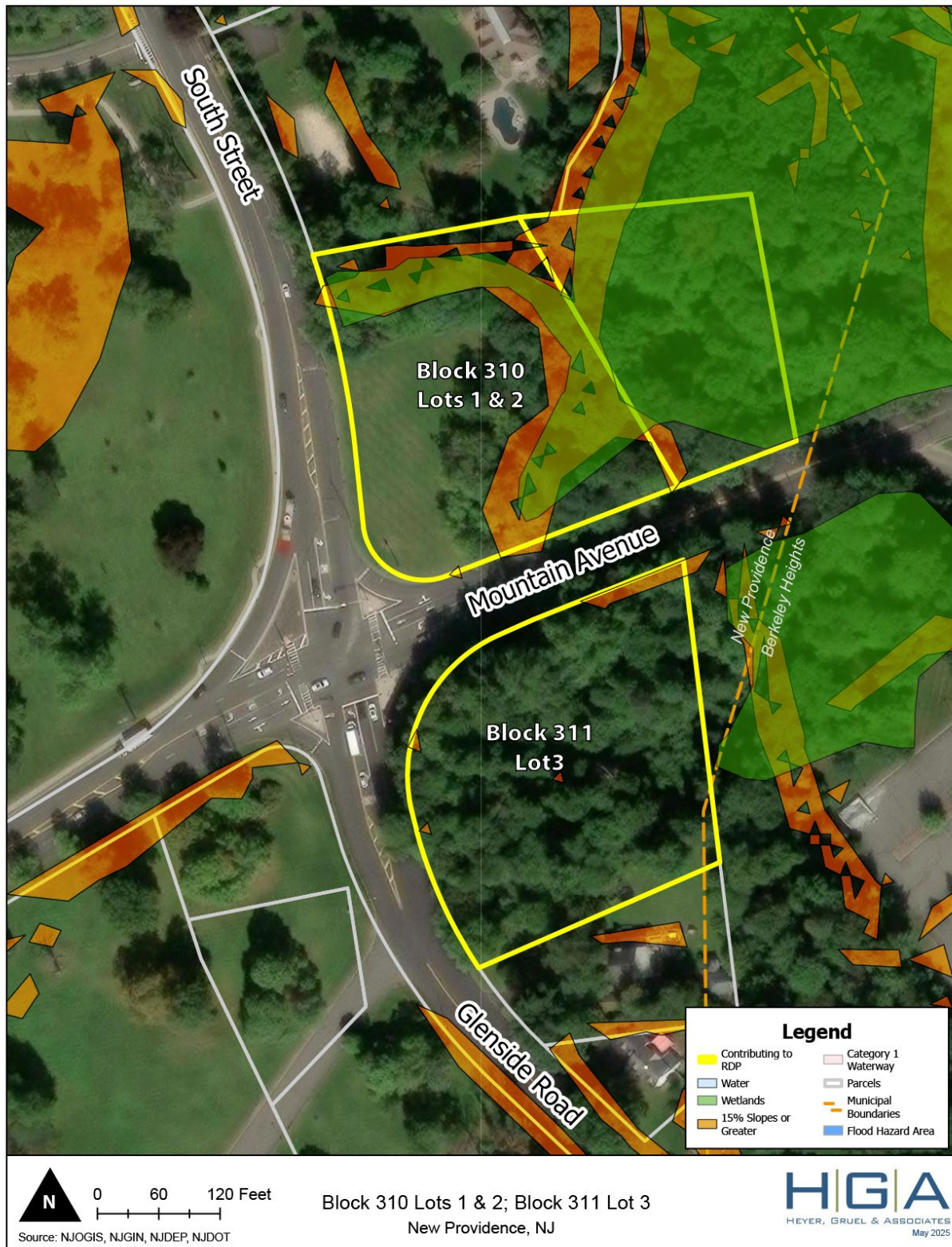
Development Fee Ordinance

A Development Fee Ordinance was adopted by the Borough on May 22, 2017 (Ordinance No. 2017-09). This ordinance can be found on the Borough's website.

Additional Affordable Housing Resolutions

The Borough adopted several additional affordable housing resolutions (Appendix J). These include:

- Resolution 2025-4 – Appointing Keith Lynch as the Borough's Municipal Housing Liaison
- Resolution 2025-5 – Appointing CGP&H as the Borough's Administrative Agent



Fourth Round Summary

Summary of New Providence's Fourth Round of 201	
Fourth Round Unmet Need: 201	
Proposed Extension of Prior/Third Round Affordability Controls:	
<i>Elizabeth Barabash Manor</i>	22
<i>Murray Hill Farms</i>	13
<i>Southgate at Murray Hill</i>	2
Rental Bonus Credits:	
<i>Elizabeth Barabash Manor (rental, extension of affordability controls)</i>	11
Increased Density:	
Blocks 310 and 311*	3

* While the increased density accounts for a total of 13 affordable units, 10 credits have already been applied to the Prior and Third Round obligations.

CONSISTENCY WITH STATE PLANNING REQUIREMENTS

STATE PLAN

In accordance with the amended Fair Housing Act, Housing Elements and Fair Share Plans shall provide an analysis of consistency with the State Development and Redevelopment Plan (SDRP), including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

New Jersey adopted its last SDPR in 2001. A draft amendment to the SDRP was prepared in 2011 but ultimately never adopted. The Office of Planning Advocacy released a new draft SDRP on December 4, 2024. The State is currently going through the Plan conformance process.

The 2024 draft SDRP maintains and expands upon the 2001 objectives for Metropolitan Planning Areas (PA1), which is the primary land designation assigned to the Borough of Highlands. The PA1 objectives from the 2024 SDRP are outlined below:

- Provide for much of the state's future growth in compact development and redevelopment;
- Revitalize cities, towns and neighborhoods, and in particular overburdened neighborhoods;
- Address existing legacy issues such as air pollution, urban heat islands, lead contamination, Brownfields, urban highways, and combined sewer systems;
- Prevent displacement and gentrification;
- Promote growth that occurs in Centers, other appropriate areas that are pedestrian friendly, and in compact transit-oriented forms;
- Rebalance urbanization with natural systems;
- Promote increased biodiversity and habitat restoration;
- Stabilize and enhance older inner ring suburbs;

- Redesign and revitalize auto oriented areas; and
- Protect and enhance the character of existing stable communities.

Land use planning within New Providence is consistent with the PA1 objectives, as development continues to occur within the Borough. Recently adopted residential overlays concentrate sustainable upgrades to underutilized areas with existing infrastructure. Further, zoning amendments seek to maintain the overall residential character of the Borough, with commercial and recreational assets.

MULTIGENERATIONAL FAMILY HOUSING

An amendment to the Fair Housing Act requires “an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20).” As of the date of this Housing Plan, there have been no recommendations by the Multigenerational Family Housing Continuity Commission in which to provide an analysis.

USE OF SURPLUS CREDITS

Any surplus credits generated would be applied to any future obligation that the Borough may have.

SPENDING PLAN

A Spending Plan has been prepared in accordance with the provisions of the amended Fair Housing Act. A municipality may not spend or commit to spend any affordable housing development fees, including Statewide non-residential fees collected and deposited into the municipal affordable housing trust fund, without first obtaining the approval of the expenditure as part of its compliance certification. The draft Spending Plan can be found in Appendix K and is expected to be adopted by the Borough Council at their June 17, 2025 public meeting.

SUMMARY OF FAIR SHARE COMPLIANCE

Borough of New Providence Affordable Housing Obligations	
<i>Present Need Total</i>	20
<i>Prior Round Obligation (1987-1999)</i>	135
Our House	4
The Villages at New Providence	10
Patriot Village	4
Spring Gardens	6
Stonefields at New Providence	2
Riverbend	4
Southgate at Murray Hill	2
Murray Hill Farms	13
Elizabeth Barabash Manor	22
Community Action Independent Living	4
Union County Arc I	4
Union County Arc II	3
Community Access I	6
Community Access II	6
Arc of Union County	3
Blocks 310 and 311	9
Rental Bonus Credits	33
<i>Prior Round Total</i>	<i>135</i>
<i>Third Round Obligation - RDP</i>	52
Blocks 310 and 311	1
Bard/ Beckton Dickinson Site	38
Rental Bonus Credit	13
<i>Third Round Obligation - RDP</i>	<i>52</i>
<i>Third Round Obligation – Unmet Need</i>	264
AH-ARO Overlay Zoning	20
PACO Overlay Zoning	59
AHO Overlay Zoning	127
Rental Bonus Credits	TBD
<i>Third Round Need Total</i>	<i>206*</i>

(Table cont. on following page)

Fourth Round Obligation - RDP	0
Fourth Round Obligation – Unmet Need	201
Elizabeth Barabash Manor (Extension of Controls)	22
Bonus Credits	11
Murray Hill Farms (Extension of Controls)	13
Southgate at Murray Hill (Extension of Controls)	2
Amendment to A2 Zoning	3

*Pursuant to the 2019 settlement agreement, the Borough will claim bonus credits for units in the unmet need as the units are constructed.

APPENDIX A

2019 Settlement Agreement with FSHC, Linde (Murray Hill LLC), and Bard (BD)

- 2019 settlement agreement with Linde attached, listed as “Exhibit B”

AFFORDABLE HOUSING SETTLEMENT AGREEMENT

In the Matter of the Borough of New Providence, County of Union

Docket No. UNN-L-2442-15

This Agreement (“Agreement”) sets forth the terms of the settlement of the matter entitled **In the Matter of the Borough of New Providence, County of Union**, in the Superior Court of New Jersey, Union County, Docket No. UNN-L-2442-15 reached between the Borough of New Providence (“Borough” or “New Providence”), declaratory judgment plaintiff, Fair Share Housing Center (“FSHC”), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, objectors Murray Hill , LLC as successor to Linde North America, Inc, (“Linde”), and Becton Dickinson and Company (f/k/a C.R. Bard, Inc.) (“BD”), (“Objectors”) through this settlement.

Background

New Providence filed the above-captioned matter on July 7, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. in accordance with Mount Laurel IV.

On December 13, 2016, the Borough and FSHC entered into a Settlement Agreement (“2016 Agreement”) which was approved by the Court at a Fairness Hearing held on January 13, 2017, and memorialized in an Order entered January 30, 2017, annexed as Exhibit A (“2016 Order”). Prior to the Compliance Hearing, objections were raised by Objectors. After mediation with assistance of the Court appointed Special Masters, the Borough revised its approach to settlement as set forth herein.

Through that process, the Borough, FSHC, and the Objectors have agreed to settle the litigation and to present that settlement for review and approval to the trial court with jurisdiction over this matter, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

This agreement replaces and supersedes the 2016 Agreement.

Settlement terms

The Borough, FSHC, and Objectors hereby agree to the following terms:

1. FSHC and the Objectors agree that the Borough, through the adoption of a Housing Element and Fair Share Plan that implements the terms and provisions of this Agreement, will have satisfied its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301, et. seq., for the Prior Round (1987-1999) and Third Round (1999-2025). The Third Round Obligation includes both the gap period “present need” (1999-2015) and the prospective need (2015-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality’s Third Round Obligation instead of doing so through plenary adjudication of the present and prospective need.
3. FSHC and New Providence hereby agree that New Providence’s affordable housing obligations are as follows:

2019 Summary of Obligation			
	<i>RDP</i>	<i>Unmet Need</i>	<i>Total</i>
<i>Prior Round:</i>	-	-	135
<i>Third Round:</i>	52	264	316

4. The Borough's efforts to meet its Rehabilitation Share include the following:

New Providence intends to address its Rehabilitation Share through continued participation in Union County rehabilitation programs, operated by the County’s Bureau of Community Development and Bureau of Housing (Bureau). This Bureau oversees the federally funded Community Development Block Grant (CDBG) program and the HOME Investment Partnership Program (HOME). The Borough will also use monies from the affordable housing trust fund to supplement the County rehabilitation programs and shall either create its own Rental Rehabilitation Program or join with another municipality in a shared services agreement in order to address rehabilitation for very

low-, low-, and moderate-income rental units within the Borough. This is sufficient to satisfy the Borough's Rehabilitation Share.

5. The Borough will meet its Prior Round Obligation (1987-1999) in the following manner:

SUMMARY OF NEW PROVIDENCE'S PRIOR ROUND OF <u>135</u>	
Prior Round Credits:	
<i>Our House (very low, rental)</i>	4
Existing Inclusionary Development:	
<i>The Villages at New Providence (rental)</i>	10
<i>Patriot Village (rental)</i>	4
<i>Spring Gardens (rental)</i>	6
<i>Stonefields at New Providence</i>	2
<i>Southgate at Murray Hill</i>	2
<i>Riverbend</i>	4
<i>Murray Hill Farms</i>	13
Existing 100% Affordable Age-Restricted	
<i>Elizabeth Barabash (rental)</i>	22
Existing Alternative Living Arrangements (very- low rental):	
<i>Community Action Independent Living</i>	4
<i>Union County Arc I</i>	4
<i>Union County Arc II</i>	3
<i>Community Access I</i>	6
<i>Community Access II</i>	6
<i>Arc of Union County</i>	3
Existing Inclusionary Zoning	
<i>Blocks 310 and 311</i>	9
Total Units	102
Rental Bonus Credits	
<i>The Villages at New Providence</i>	10
<i>Patriot Village</i>	4
<i>Spring Gardens</i>	6
<i>Community Action Independent Living</i>	3
<i>Union County Arc I</i>	4
<i>Community Access I</i>	6
Total Rental Bonus Credits	33
TOTAL PRIOR ROUND	135

6. The Borough continues to have a Third Round Obligation of 316 units as set forth in the 2016 Agreement. Based upon the revisions to the Borough's approach to compliance, the Borough now has a realistic development potential (RDP) of 52 units for the Third Round. The RDP of 52 units, subtracted from the Third Round Obligation of 316 units, results in an unmet need of 264 units.
7. The Borough will address its Third Round Obligation of 316, which includes the RDP of 52 and an unmet need of 264, through the compliance mechanisms provided below:

SUMMARY OF NEW PROVIDENCE'S THIRD ROUND OF 316	
Summary of New Providence's Third Round RDP of 52	
Existing Non Age-Restricted Inclusionary Zoning: <i>Blocks 310 and 311</i>	1
Proposed Non Age-Restricted Inclusionary Zoning: <i>Bard Site (rental)</i>	38
Total Units	39
Rental Bonus Credits <i>Bard Site</i>	13
Total Bonus Credits	13
THIRD ROUND RDP COMPLIANCE TOTAL	52
Summary of New Providence's Third Round Unmet Need of 264	
Proposed Age-Restricted Overlay Zoning: <i>630 Central Ave. (Block 221 Lot 5)</i> <i>Linde (100 Mountain Ave.)</i>	20 59
Proposed Non-Age-Restricted Overlay Zoning: <i>41 Spring Street (Block 210 Lot 21)</i> <i>165 Spring Street (Block 210 Lot 23)</i> <i>48 Commerce Drive (Block 210 Lot 33)</i> <i>98 Floral Ave. (Block 340 Lot 4)</i> <i>150 Floral Ave. (Block 340 Lot 6)</i> <i>140 Spring Street (Block 340 Lot 8)</i> <i>700 Central Ave. (Block 221 Lot 2.01)</i> <i>121 Chanlon Rd (Block 221 Lot 6)</i> Total Units	29 5 8 7 17 10 30 21 206*

*Pursuant to this settlement agreement, the Borough will claim bonus credits for units in the Unmet Need as the units are constructed.

- a. As part of the Agreement, New Providence will be able to increase its Third Round RDP and, hence, its eligibility for rental bonuses, as units are developed in overlay districts at the following rates and subject to the following terms:

- 1) Rates

- i. For each 3 new family for sale units, one age-restricted unit can be added for a total of 4 credits toward the Unmet Need;

- OR

- ii. For each 2 family rental units, one age-restricted unit can be added and one rental bonus can be added for a total of 4 credits toward the Unmet Need.

- 2) Terms

- i. As the Third Round RDP is increased and the Unmet Need is reduced, all of the parameters of the Settlement Agreement must continue to be met.
 - ii. FSHC shall be notified of all increases to New Providence's Third Round RDP, with the basis for the calculation of the new RDP and additional credits claimed as well as supporting documentation as may be requested by FSHC.

- b. Any excess credits that are generated through development can be carried to future obligations in accordance with applicable law at that time.

8. Proposed Rezoning:

To create future opportunities for affordable housing, the Borough will enact an amendment to the zoning codes as follows. The Borough shall also rezone the Objectors' properties in the following manner:

Linde

As set forth in more detail in a separate agreement between Linde and the Borough, annexed hereto as Exhibit B, and made a part hereof:

- Block 370, Lot 1 (100 Mountain Ave.) will be included in the proposed AH-AR Affordable Housing Age-Restricted Zone as an overlay to the existing zoning. The rezoning will enable the production of 59 affordable, age-restricted units on the site. All 59 units will be applied to the Third Round Unmet Need. The Borough will also rezone Block 320, Lot 18.01, (575 Mountain Avenue) for Continuing Care Retirement Community ("CCRC") development (as set forth in Exhibit B).

Becton Dickinson ("BD")

- The Property, located at Block 210, Lot 32 in the Borough of New Providence, shall be included in the A-H Affordable Housing Zone, which will permit construction of 192 units. BD shall donate to the Borough a portion of the site containing an existing field currently used by the Borough for recreation (soccer field), along with a portion of the adjacent driveway, totaling approximately 2.2 - 2.5 acres. The field will be renamed "Becton Dickinson Field." Regardless of the amount of eventual acreage left at the Company site (total lot acreage minus the soccer field lot acreage), the total number of dwelling units permitted is 192. BD shall be provided an easement for a right-of-way for access to Central Avenue across the Property being donated to the Borough as set forth in Exhibit C. The design of the easement/right-of-way will be subject to minor subdivision approval. The development will provide for a 20% set aside for family rental affordable units, which will result in 38 affordable units. The affordable units shall comply with the requirements of the UHAC regulations and as also required by the terms of this Agreement.
- The zoning shall permit the following:
 - The permitted maximum height of the structures will be 38 feet and 3 stories. If the residential structure contains a ground level enclosed parking area, then the calculation of the height and number of stories shall exclude the ground level parking area. The height of the structure shall be measured from the finished floor of the first floor above the ground level parking area;

- Such other bulk requirements as shall be set forth in the applicable ordinances to be adopted.

Murray Hill

The Borough will amend the zoning for the area located northwest of the Murray Hill train station, providing for overlay zoning with a required 20% affordable set-aside (see proposed zoning map in Exhibit D).

The following chart details the proposed rezoning of the BD site as well as the overlay zoning of Linde and the Murray Hill area.

AH-AR Affordable Housing Age-Restricted Overlay District								
Block	Lot	Total Acreage	Constrained Acreage	Unconstrained Acreage	Density	Total Dwelling Units	20% Set Aside	Property Location
370	1	21.5	0	21.5	13.8	297	59	100 MOUNTAIN AVE ("LINDE")
221	5	7	0	7	14	98	20	630 CENTRAL AVE
Total		28.5	0	28.5	-	395	79	-
AH Affordable Housing Zone								
Block	Lot	Total Acreage	Constrained Acreage	Unconstrained Acreage	Density	Total Dwelling Units	20% Set Aside	Property Location
210	32	31.0	8.8	20.0	9.6	192	38	111 SPRING ST ("BD")
Total		31.0	8.8	20.0	-	192	38	-
AH Affordable Housing Overlay District								
Block	Lot	Total Acreage	Constrained Acreage	Unconstrained Acreage	Density	Total Dwelling Units	20% Set Aside	Property Location
210	21	15	0	15	9.5	143	29	41 SPRING STREET
210	23	2.3	0	2.3	9.5	22	5	165 SPRING ST
210	33	5	1	4	9.5	38	8	48 COMMERCE DR
340	4	2	0	2	16.0	32	7	98 FLORAL

								AVE
340	6	5.7	0.7	5	17.0	85	17	150 FLORAL AVE
340	8	5.1	0.1	5	9.5	48	10	140 SPRING ST
221	2.01	10	0	10	15.0	150	30	700 CENTRAL AVE
221	6	6.5	0	6.5	16.0	104	21	121 CHANLON RD
Total		52	2	50	-	622	127	-
TOTAL		111.1	10.6	98.3	-	1209	244*	-

* This number does not include rental bonus credits which may become available through development.

9. By the implementation of the Plan Summary, and as set forth above, the Borough will have taken all steps necessary to satisfy the legal requirements for addressing its entire Third Round RDP and Unmet Need.
10. The Borough shall meet its Third Round Obligation in accordance with the following standards:
 - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
 - b. At least 50 percent of the units addressing the Third Round Obligation shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - c. At least twenty-five percent of the Third Round Obligation shall be met through rental units; at least half of all rental units meeting the rental obligation shall be available to families.
 - d. At least half of the units addressing the Third Round Obligation in total must be available to families.
 - e. The Borough agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for

age-restricted units that exceed 25% of all units developed or planned to meet its Third Round fair share obligation, inclusive of both mechanisms to address the RDP and the unmet need. The parties agree that the age-restricted units may be satisfied fully through unmet need.

- f. The Borough agrees to require 13% of all units referenced in this plan, with the exception of units constructed, as of July 1, 2008 or subject to preliminary or final site plan approval, to be very low-income units, with half of the very low income units being available to families.
11. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), FSHC (510 Park Blvd, Cherry Hill, NJ); the Latino Action Network (PO Box 943, Freehold, NJ 07728); East Orange NAACP (PO Box 1127, East Orange, NJ 07019); Newark NAACP (PO Box 1262, Newark, NJ 07101); Morris Co. NAACP (PO Box 2256, Morristown, NJ 07962); Elizabeth NAACP (PO Box 6732, Elizabeth, NJ 07206), and the New Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units along with links to application forms, copies of which shall be mailed on request. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
12. All units shall include the required bedroom distribution, shall be governed by controls on affordability, and shall be affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Borough as part of its Plan shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH and modified to reflect the terms of this settlement agreement to ensure that the provisions of this paragraph are satisfied.

- a. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:
 - i. Regional income limits shall be established for the region in which the Borough is located (i.e. Region 2) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
 - ii. The 2018 income limits attached hereto as Exhibit E are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2018 and shall be utilized

until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

- iii. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (i) above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

13. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
14. As an essential term of this settlement, within one hundred twenty (120) days of Court's approval of this Settlement Agreement, the Borough shall adopt an amended Housing Element/Fair Share Plan and shall introduce such ordinance or ordinances providing for amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this settlement agreement and the Plan.
15. The parties agree that if a decision of a court of competent jurisdiction in Union County, a final decision of a New Jersey Appellate Court which creates binding precedent, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in (a) a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than twenty (20%) percent of the total prospective Third Round Obligation established in this agreement (i.e. determined to be 253 or less), and if the calculation or determination is memorialized in an unappealable final judgment or action by the legislature or administrative agency, the Borough may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, New Providence shall be obligated to implement the fair share plan attached hereto, including by leaving in place any site specific zoning adopted or relied upon in connection with the Plan approved pursuant to this settlement agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all

compliance mechanisms referenced herein; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Borough's obligation below that established in this agreement does not provide a basis for seeking leave to amend this agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its prospective need for the Third Round, the Borough may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

16. The Borough shall prepare and submit a spending plan to the Special Master and the court for approval, with FSHC being provided an opportunity to comment on or object to the spending plan. The parties hereto agree that the spending plan, once approved, shall be valid. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services.

The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended; however, the Borough may redact or remove any personally identifying information on individual assistance raising privacy concerns from the website.

17. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

18. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection provided in this agreement. The Borough agrees to comply with those provisions as follows:
- a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
 - b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this agreement, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low-income housing obligation under the terms of this settlement.
19. FSHC, Linde, and BD are hereby deemed to have party status in this matter and to have intervened in this matter as defendants without the need to file a motion to intervene or an answer or other pleading.
20. This settlement agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture

v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall make its planner available as a witness at this hearing.

21. This settlement agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Union County.
22. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
23. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
24. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
25. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
26. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
27. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it; and, (iii) has provided documentation authorizing the signing of the agreement on behalf of the party.

28. **Successors Bound:** The provisions of this Agreement shall run with the land, and the obligations and benefits hereunder shall be binding upon and inure to the benefit of the Parties, their successors, affiliates and assigns, including any person, corporation, partnership or other legal entity which at any particular time may have a fee title interest in the Property which is the subject of this Agreement. This Agreement may be enforced by any of the Parties, and their successors, affiliates and assigns.
29. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
30. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
31. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
32. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO FSHC:

Kevin D. Walsh, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
E-mail: kevinwalsh@fairsharehousing.org

TO LINDE:

Murray Hill LLC as successor to Linde North America, Inc.

John Mark, Esq.
200 Somerset Corporate Blvd.
Suite 7000
Bridgewater, NJ 08807
Phone: 908-771-4752
E-mail: john.mark@linde.com

With a copy to:

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One Jefferson Road
Parsippany, NJ 07054
Phone: (973) 966 8053
E-mail: cgianetti@daypitney.com

TO BECTON DICKINSON:

James G. Webber, Esq.
Dempsey, Dempsey & Sheehan
387 Springfield Avenue
Summit, NJ 07901
Phone: 908-277-0388
E-mail: jwebber@ddsnjlaw.com

Becton, Dickinson and Company
1 Becton Drive, MC 112
Franklin Lakes, NJ 07417
Attention: Real Estate Americas
Phone: _____
E-mail: _____

With a Copy to:

Becton, Dickinson and Company
1 Becton Drive, MC 089
Franklin Lakes, NJ 07417
Attention: Legal Department
Phone: _____
E-mail: _____

TO THE BOROUGH:

Paul R. Rizzo, Esq
DiFrancesco, Bateman, et. al.
15 Mountain Blvd.
Warren, NJ 07059
Phone (908) 757-7800
Email: prizzo@newjerseylaw.net

With a Copy to:

Douglas R. Marvin, Administrator
Borough of New Providence
360 Elkwood Ave.
New Providence, NJ 07974
Phone: (908) 665-1400
E-mail: dmarvin@newprov.org

Agreed on behalf of the Borough of New Providence, with the authorization of the Governing Body:


Allen Morgan Mayor
Dated: 4/1/19

Agreed on behalf of Fair Share Housing Center with the authorization of the Board of Trustees.

Dated: _____

Agreed on behalf of Murray Hill, LLC by Linde Gas North America, sole member

John Mark, Esq., Secretary

Dated: _____

Agreed on behalf of Becton Dickinson and Company

Dated: _____

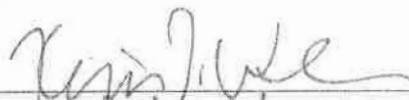
With a Copy to:

Douglas R. Marvin, Administrator
Borough of New Providence
360 Elkwood Ave.
New Providence, NJ 07974
Phone: (908) 665-1400
E-mail: dmarvin@newprov.org

Agreed on behalf of the Borough of New Providence, with the authorization of the Governing Body:

Dated: _____

Agreed on behalf of Fair Share Housing Center with the authorization of the Board of Trustees.



Kevin D. Wahlen
Dated: 2/29/2019

Agreed on behalf of Murray Hill, LLC by Linde Gas North America, sole member

John Mark, Esq., Secretary

Dated: _____

Agreed on behalf of Becton Dickinson and Company

Dated: _____

With a Copy to:

Douglas R. Marvin, Administrator
Borough of New Providence
360 Elkwood Ave.
New Providence, NJ 07974
Phone: (908) 665-1400
E-mail: dmarvin@newprov.org


Agreed on behalf of the Borough of New Providence, with the authorization of the Governing Body:

Dated: _____

Agreed on behalf of Fair Share Housing Center with the authorization of the Board of Trustees.

Dated: _____

Agreed on behalf of Murray Hill, LLC by Linde Gas North America, sole member



John Mark, Esq., Secretary

Dated: April 1, 2019

Agreed on behalf of Becton Dickinson and Company

Dated: _____

New Providence, NJ 07974
Phone: (908) 665-1400
E-mail: dmarvin@newprov.org

Agreed on behalf of the Borough of New Providence, with the authorization of the Governing Body:

Dated: _____

Agreed on behalf of Fair Share Housing Center with the authorization of the Board of Trustees.


Dated: _____

Agreed on behalf of Murray Hill, LLC by Linde Gas North America, sole member

John Mark, Esq., Secretary

Dated: _____

Agreed on behalf of Becton Dickinson and Company



Gary DeFazio, Sr. Corp. Secretary / Associate general counsel
Dated: 4/1/2019

Exhibit A

Order on Fairness Hearing

January 30, 2017

Steven A. Kunzman, Esq. (Arty I.D. # 012731981)
Our File No.: C22117

**DI FRANCESCO, BATEMAN, KUNZMAN,
DAVIS, LEHRER & FLAUM, P.C.**

15 Mountain Boulevard

Warren, New Jersey 07059

Tele: 908-757-7800

Attorneys for Borough of New Providence

FILED

JAN 30 2017

**KAREN M. CASSIDY
A.J.S.C.**

IN THE MATTER OF THE ADOPTION OF
THE BOROUGH OF NEW PROVIDENCE
FOR A JUDGMENT OF COMPLIANCE OF
ITS THIRD ROUND HOUSING ELEMENT
AND FAIR SHARE PLAN.

SUPERIOR COURT OF NEW JERSEY
CIVIL DIVISION: UNION COUNTY
DOCKET NO: UNN-L-2442-15

Civil Action

**ORDER ON FAIRNESS AND
PRELIMINARY COMPLIANCE HEARING**

THIS MATTER having been opened to the Court by DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C., attorneys for the Borough of New Providence (hereinafter referred to as "Borough" or "New Providence"), Steven A. Kunzman, Esq., appearing, in the presence of Joshua Bauers, Esq., attorney for Interested Party, Fair Share Housing Center, Inc. (hereinafter "FSCH"), by way of Fairness and Preliminary Compliance Hearing held pursuant to and in accordance with East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996); and sufficient notice of this hearing having been given in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV") and Morris County Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div. 1984); and the Court having considered the report dated January 8, 2017 and the testimony of the Court-appointed Special Master, Elizabeth McKenzie, P.P., P.A., and the Court having considered the Settlement Agreement entered into between

New Providence and FSHC dated December 13, 2016, including the Borough's draft summary Housing Element and Fair Share Plan annexed to the Settlement Agreement; and the Court having considered the testimony and presentations of the Borough, the Special Master, FSHC at the time of the hearing; and good cause having been shown;

IT IS on this 30th day of January 2017, **ORDERED** that:

1. The Court finds that the Settlement Agreement between New Providence and FSHC is fair and adequately protects the interests of low and moderate income persons within New Providence's housing region based upon the criteria set forth in East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) for approving a settlement of Mount Laurel litigation; and

2. The Court preliminarily finds that the Borough's proposed draft summary Housing Element and Fair Share Plan is facially constitutionally compliant and provides a fair and reasonable opportunity for New Providence to meet its obligation under Mount Laurel IV, subject to New Providence's satisfaction of the list of conditions set forth in the Court's Special Master's report of January 8, 2017, and subject to the Court's approval by way of a Final Compliance Hearing to be held as hereinafter set forth; and

3. A Final Compliance Hearing is hereby scheduled for May 17, 2017 at 10:00 a.m., by which time New Providence shall have complied with the above-referenced conditions, shall have submitted to the Special Master for review and comment New Providence's Housing Element and Fair Share Plan and all Resolutions and Ordinances required to implement the Housing Element and Fair Share Plan, and shall have provided for the Planning Board of the Borough to finalize and adopt the Housing Element and Fair Share Plan and the New Providence

Borough Council to endorse same and to adopt all necessary effectuating Resolutions and Ordinances; and

4. The temporary immunity previously granted to New Providence herein is hereby extended until and through the day following the completion of the Final Compliance Hearing herein scheduled and the entry of an Order granting a Final Judgement in this matter; and

5. A copy of this Order shall be served upon all parties on the service list in this matter with 7 days of New Providence's receipt thereof.



HONORABLE KAREN CASSIDY, A.J.S.C.

Exhibit B

Borough – Linde Agreement

AFFORDABLE HOUSING AGREEMENT

THIS AFFORDABLE HOUSING AGREEMENT ("*Agreement*") is made this _____ day of _____, 2019, by and between:

BOROUGH OF NEW PROVIDENCE, a municipal corporation of the State of New Jersey, County of Union, having an address at 360 Elkwood Avenue, New Providence, New Jersey 07974 ("*Borough*");

and

MURRAY HILL, LLC. as successor to LINDE NOTH AMERICA, INC., a Delaware corporation with a business address of 200 Somerset Corporate Boulevard, Bridgewater, New Jersey 08807 ("*Linde*" or "*Developer*").

Collectively, the Borough and Linde shall be referred to as the "*Parties*." All references to Linde or Developer shall include its successors, affiliates and assigns.

WHEREAS, in compliance with the New Jersey Supreme Court's decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 7, 2015, the Borough filed a Declaratory Judgment Action with the Superior Court of New Jersey ("*Court*"), entitled In the Matter of the Application of the Borough of New Providence, County of Union, Docket No. UNN-L-2442-15, seeking a Judgment of Compliance and Repose approving its Compliance Plan (as defined herein), in addition to related relief ("*Compliance Action*"); and

WHEREAS, in connection with the Compliance Action, the Borough submitted an affordable housing compliance plan / fair share plan ("*Compliance Plan*") pursuant to a settlement agreement with Fair Share Housing Center ("*FSHC*") dated December 31, 2016 ("*FSHC Settlement*") and approved by the Court by Order dated January 30, 2017; and

WHEREAS, Linde objected to the Fair Share Settlement prior to the Compliance Hearing on the FSHC Settlement via correspondence to the Honorable Karen Cassidy, A.J.S.C., dated August 23, 2017 (the "*Objection*"); and

WHEREAS, Linde, through affiliated entities, is the current owner of two properties within the Borough, located at (1) 100 Mountain Avenue and identified as Block 370, Lot 1 on the Borough tax map ("*100 Mountain Property*"); and (2) 575 Mountain Avenue and identified as Block 320, Lot 18.01 ("*575 Mountain Property*") (together referred to as "*Linde Properties*"); and

WHEREAS, Linde desires to develop the 100 Mountain Property with an age-restricted inclusionary development consisting of 297 multifamily units (townhouses and apartments) of which at least fifty-nine (59) units will be restricted for affordable housing ("*Inclusionary*");

Development") as generally shown in the concept plan attached as **Exhibit A** ("*Inclusionary Concept Plan*") and the draft ordinance, attached as **Exhibit B** ("*Inclusionary Ordinance*"); and

WHEREAS, Linde desires to develop the 575 Mountain Property with a continuing care retirement community (the "*CCRC Development*") consisting of independent senior apartments and healthcare units as shown on the concept plan attached as **Exhibit C** ("*CCRC Concept Plan*"); and

WHEREAS, as a result of several negotiations, the parties have come to a resolution of the Objection by including the proposed Inclusionary Development in the Borough's Compliance Plan and by zoning for the CCRC Development on the 575 Mountain Property; and

WHEREAS, as part of the resolution, the Borough desires to effectuate a rezoning of the 100 Mountain Property and the 575 Mountain Property to permit the Inclusionary Development and the CCRC Development, respectively; and

WHEREAS, to ensure that the Inclusionary Development generates affordable housing credits to be applied to the Borough's Round 3 affordable housing obligations, the affordable units within the Inclusionary Development shall be developed in accordance with the Prior Round regulations (N.J.A.C. 5:92-1, et seq. and N.J.A.C. 5:93-1 et seq.) of the New Jersey Council on Affordable Housing ("*COAH*"), the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("*UHAC*"), and all other applicable law; and

WHEREAS, the Borough is also entering into an agreement with Fair Share Housing Center ("*FSHC*"), and Becton Dickinson Company, Inc., and Linde for settlement of the Compliance Action, ("*FSHC Agreement*"); and

WHEREAS, the Parties wish to enter into this Agreement ("*Linde Agreement*") which shall be included and made part of the FSHC Agreement, setting forth the terms, conditions, responsibilities and obligations of the Parties; and

NOW, THEREFORE, in consideration of the promises and the mutual obligations set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties hereto, each binding itself, its successors, affiliates and assigns, agree as follows:

ARTICLE I – PURPOSE

1.1 The purpose of this Agreement is to create a realistic opportunity for the construction of the Inclusionary Development on the 100 Mountain Property and the CCRC Development on the 575 Mountain Property, and to generate affordable housing credits for the Borough to apply to any Prior Round and Round 3 obligation assigned to it.

1.2 The Parties agree that the Properties are available, approvable, developable and suitable for the proposed Inclusionary Development and CCRC Development as those terms are used in this Agreement. No representations are made as to sewer capacity associated with the

development of this site except that the Borough is not aware of any sewer capacity issues for these Properties.

ARTICLE II – BASIC TERMS AND CONDITIONS

2.1 In the event of any legal challenges to the Approvals (as defined below), including a challenge by any third party, the Parties must diligently defend any such challenge and shall cooperate with each other regarding said defense. In addition, if any such challenge results in a modification of this Agreement or of the Inclusionary Development or CCRC Development, the Parties must negotiate in good faith with the intent to draft a mutually-acceptable amended Agreement; however, the affordable units shall not be less than 59 for the Inclusionary Development, and the CCRC Development shall be permitted in accordance with the CCRC Concept Plan (**Exhibit C**).

2.2 This Agreement does not purport to resolve all of the issues before the Court raised in the Compliance Action. Those issues are addressed in the FSHC Agreement, which shall include this Linde Agreement; however, the rezoning contemplated herein shall be completed prior to a Judgment of Compliance.

ARTICLE III – REZONING

3.1 100 Mountain Property: The 100 Mountain Property will be rezoned to permit inclusionary age-restricted housing as an overlay zone, which will be in addition to the current zoning of the 100 Mountain Property, substantially in accordance with the Inclusionary Concept Plan (**Exhibit A**) and Inclusionary Ordinance (**Exhibit B**). The Inclusionary Development shall be further subject to the following requirements:

3.1.1 Proposed Development. The age-restricted inclusionary residential development of the 100 Mountain Property shall be developed with a density allowing up to 297 residential units, 59 of which shall be deed restricted for affordable housing.

3.1.2 Amenities. The residential development of the 100 Mountain Property shall be designed to have the amenities typical for age restricted inclusionary developments.

3.1.3 Parking. Parking for the Inclusionary Development shall comply with the Residential Site Improvement Standards, N.J.A.C. 5:21-1.1, et seq. (“*RSIS*”).

3.2 575 Mountain Property: The 575 Mountain Property will be rezoned to permit, as a principal permitted use, the CCRC Development which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A. 52:27D-330, et seq. and N.J.A.C. 5:19-1.1 et. seq. as an overlay zone, which will be in addition to the current zoning of the 575 Mountain Property, substantially in accordance with CCRC Concept Plan (**Exhibit C**) and shall be subject to the following requirements:

3.2.1. Definitions.

a. Continuing Care Retirement Community "CCRC":

i) a development of residential living units for residents who are sixty-two (62) years of age or older, or for couples, one of whom is at least sixty-two (62) years of age, that provides "continuing care" as defined in N.J.S.A. 52:27D-332.c.

b. Health Care Unit ("HCU") shall consist of either:

i) An assisted living unit or memory care unit, each of which is an apartment configured for those needing assisted living or memory care, and (i) designed to house 1 or 2 related or unrelated individuals, and (ii) having an entrance door opening onto an interior corridor which is a common area; or

ii). A skilled nursing room substantially similar to a room in a nursing home, where the CCRC provides health care under medical supervision and continuous nursing care for residents who do not require the degree of care and treatment which a hospital provides, and (a) designed to house 1 or 2 related or unrelated individuals requiring nursing or rehabilitation care, and (b) having an entrance door opening onto an interior corridor which is a common area.

c. Independent Living Unit ("ILU"):

An Independent Living Unit ("ILU") is a self-contained apartment with full kitchen facilities and private bath comprising an independent self-contained dwelling unit (i) designed to house individuals not needing assisted living services, memory care, rehabilitation care, or nursing care, and (ii) having an entrance door opening onto an interior corridor.

3.2.2 Density. The permitted density shall be 17 units per acre, subject to the provisions set forth in Section 3.2.3, below, and with the number of units being calculated in the following manner:

- a. Each ILU shall be considered to be one unit.
- b. Each HCU shall be considered to be one-third (1/3) of a unit.

3.2.3 Increased Density: The Developer may elect to develop up to, but not greater than, 24 units per acre, in accordance with the method of calculation set forth above in Section 3.2.2.a and b; however, in addition to the Non-Residential Development Fee, as set forth in N.J.S.A. 40:55D-8.3, et. seq., the Developer agrees to pay an additional Three Thousand

Dollars (\$3,000.00) for each ILU over 17 units per acre and an Additional Development Fee of One Thousand Dollars (\$1,000.00) for each HCU over 17 units per acre, as set forth more particularly below in this Section 3.2.3 (collectively, the "Additional Fee") into the Borough's Affordable Housing Trust Fund. One half of the payment of the Additional Fee shall be due at the time of the application for the building permit, and the balance shall be due prior to the issuance of the certificate of occupancy. The computation of density over which the Additional Fee becomes payable, and payment of the Additional Fee, shall be in accordance with the following provisions:

- A. Threshold Density. First, one shall compute the number of units over which the Additional Payment becomes due (the "Threshold Density"). Assuming that total area of the 575 Mountain Property is 24.6 acres, the Threshold Density shall be 418 units ($= 17 \text{ units/acre} \times 24.6 \text{ acres}$).
- B. Counting of Units. Second, the number of units is then computed as the CCRC Development Proceeds, with each ILU counting as one unit and each HCU counting as $1/3$ of a unit.
- C. Payments of Additional Fee. After the Threshold Density is reached then:
 - (i) For each ILU thereafter constructed, an Additional Fee of Three Thousand Dollars (\$3,000) shall be paid (*i.e.*, \$1,500 prior to building permit and \$1,500 prior to certificate of occupancy) since, as set forth above, each ILU is the equivalent of one unit for which the Additional Fee is payable.
 - (ii) For each HCU thereafter constructed, an Additional Fee of One Thousand Dollars (\$1,000) per HCU shall be paid (*i.e.*, \$500 for each HCU prior to building permit and \$500 for each HCU prior to certificate of occupancy) since, as set forth above, each HCU is the equivalent of one-third ($1/3$) of a unit for which the Additional Fee is payable.
- D. Examples: The following examples assume total acreage of 24.6 acres and build-out of 540 ILU's and 108 HCU's.
 - (i) Example 1 – Calculation of Permitted Density. The 540 ILU's and 108 HCU's constitute, in accordance with Section 3.2.2, a total of 576 units for purposes of calculating permitted density ($576 \text{ units} = 540 \text{ ILU's} + (108 \text{ HCU's} \times 1/3)$). At a maximum density of 24 units/acre,

the total number of permitted units, based on assumed acreage of 24.6 acres, is 590 (=24 units/acre x 24.6 acres). Therefore, the 540 ILU's and 108 HCU's are permitted, as they represent 576 units, i.e., less than the 590.

- (ii) Example 2 – Calculation of Additional Fee. If 108 HCU's are first built, then since they each count as 1/3 of a unit, they will be treated as 36 units (=108/3). Therefore, the Threshold Density of 418 units will be reached upon construction of 382 ILU's (= 418 – 36). Thereafter, when an additional 158 ILU's are constructed, for the above total of 540 (= 382 + 158), the Additional Fee of \$3,000/ILU shall be paid for each of said 158 ILU's in excess of the Threshold Density, for a total Additional Fee of \$474,000 (= 158 ILU's x \$3,000/ILU), all payable at one-half prior to building permit and one-half prior to certificate of occupancy.
- (iii) Example 3 – Calculation of Additional Fee. If 418 ILU's are initially constructed then the Threshold Density of 418 units will have been reached. If thereafter, 108 HCU's are built, an Additional Fee of \$1,000/HCU shall be paid for each of said 108 HCU's, i.e., an Additional Fee of \$108,000. And if thereafter, 122 ILU's are constructed, bringing the total to 540 ILU's (= 418 + 122), then an Additional Fee of \$3,000/ILU shall be paid for each of said 122 ILU's, i.e., an Additional Fee of \$366,000 (= 122 ILU's x \$3,000/ILU), for a total Additional Fee of \$474,000 (= \$108,000 + \$366,000, all payable at one-half prior to building permit and one-half prior to certificate of occupancy.
- (iv) Example 4 – Maximum Additional Fee. If 540 ILU's and 108 HCU's are constructed on 24.6 acres, then the maximum, total Additional Fee shall be Four Hundred Seventy-Four Thousand Dollars (\$474,000) computed as follows:

$$\begin{array}{rcl}
 (540 \text{ ILU's} + (108 \text{ HCU's}/3) - 418) \times \$3,000 & = & \\
 (540 + 36 - 418) \times \$3,000 & = & \\
 158 \times \$3,000 & = & \$474,000
 \end{array}$$

3.2.4 Parking: Parking for the ILU's within the CCRC Development shall comply with Table 4.4 in the Residential Site Improvement Standards, N.J.A.C. 5:21-1.1, et seq. ("RSIS"), at 1.3 parking spaces per ILU where the number of bedrooms per unit is not shown on the plan, N.J.A.C. 5:21-4.14; and

parking for all HCU's shall be governed by the Nursing Home requirement in New Providence Ordinance 2013-11 (1 parking space for each 2 beds), all subject to such relief as may be granted under RSIS, including de minimis relief under N.J.A.C. 5:21-3.1.

3.3 No Density Variances: The density permitted for the Properties as set forth in this Article III is the maximum density permitted on the Properties. The Developer understands and agrees that it will not request an increase or variance from the permitted density.

ARTICLE IV - DEVELOPER OBLIGATIONS

4.1 Obligation To File Development Applications In Accordance With Ordinance, Concept Plan And The Elevations: It is the intention of the Parties to have the Developer file development applications, which will be consistent with the Inclusionary Concept Plan, attached as **Exhibit A**, the Inclusionary Ordinance, attached as **Exhibit B**, and the CCRC Concept Plan attached as **Exhibit C**. Except as provided in Section 3.3, nothing herein shall preclude the Developer from seeking reasonable variances, waivers or *de minimis* exceptions as part of the development applications.

4.2 Obligation To Maintain Affordable Housing Set-Aside And To Comply With All Affordable Housing Laws. Developer shall have an obligation to deed-restrict at least 59 of the residential units in the Inclusionary Development as very low, low or moderate income affordable units ("*Affordable Units*"). The 59 Affordable Unit obligation is based upon a 20% set-aside of the 297 total residential units in the Inclusionary Development; however, the Developer shall provide 59 Affordable Units even if the Developer elects to develop less than 297 units on the 100 Mountain Property. The Borough expects and supports the development of 297 age restricted units on the 100 Mountain Property.

4.3 Obligation To Comply With All Affordable Housing Laws And Maintain Creditworthiness of Units.

4.3.1 Developer and the Borough's affordable housing administrative agent ("*Administrative Agent*") shall work to ensure that the Affordable Units are constructed, marketed, and administered in accordance with applicable laws related to affordable housing in New Jersey, including the UHAC regulations and COAH's Prior Round regulations (collectively "*Affordable Housing Laws*"). All necessary steps shall be taken to ensure the continuing creditworthiness of all affordable units provided for under this Agreement. Such steps shall include but not be limited to (i) complying with the bedroom distribution of the affordable units; (ii) the split of very-low income units, low-income units, and moderate-income units; (iii) the phasing of the market units with the affordable units in accordance with all applicable regulations; (iv) appropriately marketing the affordable units; (v) screening potential applicants for the units to ensure that they qualify as very-low, low-, or moderate-income households; (vi) pricing the units at affordable rates; (vii) ensuring that the affordable units are properly deed restricted; (viii) enforcing any and all

other UHAC requirements and the requirements of the Court, COAH, or a successor agency as to the affordability of the units; (ix) addressing any reasonable monitoring requirements as may be imposed on the Borough with respect to the affordable units. For the purposes of this subparagraph, Parties assume current UHAC regulations and COAH Round 2 regulations (N.J.A.C. 5:93-1, et seq.) shall control.

- 4.3.2 In accordance with N.J.A.C. 5:80-26.11 each Affordable Unit shall remain subject to affordability controls for a minimum 30 year control period and until the municipality in which the unit is located elects to release the unit from such requirements.
- 4.3.3 The Parties agree that the Affordable Units are to be included in the Compliance Plan to be approved and credited by the Court in the Compliance Action and treated as age restricted affordable rental units, and that the credits will be applied as the Borough deems fit.
- 4.3.4 Developer will cooperate with and support the Borough's subsequent request for entry of a judgment of compliance provided that the Borough's Compliance Plan includes the Property consistent with this Agreement and will support the settled upon fair share, including any vacant land analysis and/or realistic development potential analysis.
- 4.3.5 Developer shall comply with the following distribution of very-low, low-, and moderate-income units in the Inclusionary Development: very-low (at least 13%) / low (up to 37%) / moderate (no more than 50%). The breakdowns shall therefore be as follows: at least 8 will be very-low, up to 22 will be low, and up to 29 will be moderate.

4.4 Obligation to Cooperate: Developer shall have the obligation to cooperate with Borough to advance the intent and purposes of this Agreement.

ARTICLE V - OBLIGATIONS OF THE BOROUGH

5.1 The Rezoning Ordinance: Upon the Court's approval of any settlement with Fair Share Housing Center to resolve the Compliance Action, the Borough shall, as set forth below, introduce and adopt the Ordinances that will permit the development of the Properties reasonably consistent with the (i) the Inclusionary Concept Plan, for development on the 100 Mountain Property, and (ii) the CCRC Concept Plan, for the development on the 575 Mountain Property within the time required by the Court. It is agreed that with respect to the Inclusionary Development, the Borough will be introducing the draft Inclusionary Ordinance attached as **Exhibit B** for adoption unless otherwise agreed to between the Parties.

Upon introduction of such Ordinances (the "Rezoning Ordinances"), the Borough shall refer the Rezoning Ordinances to the Planning Board for review and recommendation in accordance with the provisions and requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et. seq ("MLUL") or otherwise in accordance with the time frames that may be set by

the Court at the Fairness Hearing. The Rezoning Ordinance for the 100 Mountain Avenue Property shall be adopted by the Borough prior to the Borough seeking and the court granting a Judgement of Compliance and Repose.

5.2 Obligation To Include Project Into Borough's Affordable Housing Plan.

The Borough shall incorporate the Inclusionary Development and, as appropriate, the CCRC Development, into the Compliance Plan for which it seeks the Court's approval.

5.3 Obligation To Cooperate: The Borough acknowledges that in order for Developer to construct the Inclusionary Development on the 100 Mountain Property, and the CCRC Development on the 575 Mountain Property, the Developer will be required to obtain any and all approvals and permits from (1) entities, boards or agencies which have jurisdiction over the Parties to this Agreement and the development contemplated hereby, and from (2) all relevant public entities and utilities; such as, by way of example only, the Borough, the Planning Board, the County of Union, the Union County Planning Board, the New Jersey Department of Environmental Protection, and the New Jersey Department of Transportation (collectively, "*Required Approvals*"). The Borough agrees to use all reasonable efforts to assist the Developer in its undertakings to obtain the Required Approvals.

5.4 Obligation to Maintain Proposed Re-Zoning of Property: The Borough agrees that if a decision of a court of competent jurisdiction in Union County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an affordable housing obligation for the Borough for the period 1987-2025 that would lower the Borough's affordable housing obligation beyond that established by COAH for the period 1987-1999 and/or this Court for the period 1999-2025, the Borough shall nonetheless implement the Rezoning Ordinances contemplated by this Agreement and take all steps necessary to support the development of the Inclusionary Development and CCRC Development contemplated by this Agreement.

5.5 Obligation to Refrain From Imposing Cost-Generative Requirements. The Borough recognizes that any development approvals for the 100 Mountain Property under this Agreement contemplate the development of an "inclusionary development" within the meaning of the Mount Laurel doctrine and as set forth in N.J.A.C. 5:93-10.1 and 5:93-10.2.

ARTICLE VI – MUTUAL OBLIGATIONS

6.1 Obligation To Comply with State Regulations: The Parties shall comply with any and all Federal, State, County and local laws, rules, regulations, statutes, ordinances, permits, resolutions, judgments, orders, decrees, directives, interpretations, standards, licenses, approvals, and similarly binding authority, applicable to the Inclusionary Development, the CCRC Development, or the performance by the Parties of their respective obligations or the exercise by the Parties of their respective rights in connection with this Agreement.

6.2 Mutual Good Faith, Cooperation and Assistance. The Parties shall exercise good faith, cooperate, and assist each other in fulfilling the intent and purpose of this Agreement, including, but not limited to, the introduction and adoption of the Rezoning Ordinances, the

Required Approvals, the development of the Linde Properties consistent with the terms hereof, and the defense of any challenge with regard to any of the foregoing.

6.3 Notices: Any notice or transmittal of any document required, permitted or appropriate hereunder and/or any transmittal between the Parties relating to the Property ("*Notice[s]*") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or recognized overnight or personal carrier such as, for example, Federal Express, with certified proof of receipt, and in addition, where feasible (for example, any transmittal of less than fifty (50) pages), by facsimile or electronic mail. All Notices shall be deemed received upon the date of delivery set forth in such certified proof, and all times for performance based upon notice shall be from the date set forth therein. Delivery shall be effected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO LINDE: Murray Hill LLC as successor to Linde North America, Inc.
John Mark, Esq.
200 Somerset Corporate Blvd.
Suite 7000
Bridgewater, NJ 08807
Phone: 908-771-4752
E-mail: john.mark@linde.com

With a copy to: Craig M. Gianetti, Esq.
Day Pitney LLP
One Jefferson Road
Parsippany, NJ 07054
Phone: (973) 966 8053
E-mail: cgianetti@daypitney.com

TO THE BOROUGH: Paul R. Rizzo, Esq
DiFrancesco, Bateman, et. al.
15 Mountain Blvd.
Warren, NJ 07059
Phone (908) 757-7800
Email: prizzo@newjerseylaw.net

With a Copy to: Douglas R. Marvin, Administrator
Borough of New Providence
360 Elkwood Ave.
New Providence, NJ 07974
Phone: (908) 665-1400
E-mail: dmarvin@newprov.org

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.

ARTICLE VII - MISCELLANEOUS

7.1 Necessity of Required Approvals: The Parties recognize that the site plans required to implement the Inclusionary Development and CCRC Development provided in this Agreement, and such other actions as may be required of the Planning Board or Borough under this Agreement, cannot be approved except on the basis of the independent reasonable judgment by the Planning Board and the Borough Council, as appropriate, and in accordance with their duties and the procedures established by law. Nothing in this Agreement is intended to constrain that judgment or to authorize any action not taken in accordance with procedures established by law, it being understood that any such action shall be in accordance with procedures established by law.

7.2 Default. In the event that any of the Parties shall fail to perform any material obligation on its part to be performed pursuant to the terms and conditions of this Agreement, unless such obligation is waived in writing by all of the other Parties for whose benefit such obligation is intended, such failure to perform shall constitute a default of this Agreement. Upon the occurrence of any default, the non-defaulting Party shall provide notice of the default and the defaulting Party shall have a reasonable opportunity to cure the default within forty-five (45) days. In the event the defaulting Party fails to cure within forty-five (45) days or such reasonable period of time as may be appropriate, the Party(ies) for whose benefit such obligation is intended shall be entitled to exercise any and all rights and remedies that may be available in equity or under the laws of the State of New Jersey, including the right of specific performance to the extent available.

7.3 Severability: Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provisions of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

7.4 Successors Bound: The provisions of this Agreement shall run with the land, and the obligations and benefits hereunder shall be binding upon and inure to the benefit of the Parties, their successors, affiliates and assigns, including any person, corporation, partnership or other legal entity which at any particular time may have a fee title interest in the Property which is the subject of this Agreement. This Agreement may be enforced by any of the Parties, and their successors, affiliates and assigns. The following partial assignments of the rights hereunder are permitted:

- a. The rights and obligations under this Agreement pertaining to the Inclusionary Development may be assigned to and assumed by an assignee who is a prospective developer of the Inclusionary Development on the 100 Mountain Property.

b. The rights and obligations under this Agreement pertaining to the CCRC Development may be assigned to and assumed by an assignee who is a prospective developer of the CCRC Development on the 575 Mountain Property.

In the event of any such partial assignment, the assignee shall have only the rights and obligations pertaining to the development which was the subject of such assignment, and any default by Linde or another assignee with respect to the other development shall not affect, or in any way impair, the rights or obligations of the non-defaulting assignee with respect to its development. For example, default by an assignee of rights pertaining to the Inclusionary Development shall not affect the rights or obligations of an assignee of rights pertaining to the CCRC Development; and each such assignee shall have the cure rights set forth under Section 7.2 with respect to its development.

7.5 Governing Law: This Agreement shall be governed by and construed by the laws of the State of New Jersey.

7.6 No Modification: This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties or, in the event of a partial assignment reference above in Section 7.4, signed by the assignee whose rights and obligations are affected by such modification, amendment, or alteration.

7.7 Effect of Counterparts: This Agreement may be executed simultaneously in one (1) or more facsimile or PDF counterparts, each of which shall be deemed an original. Any facsimile or PDF counterpart forthwith shall be supplemented by the delivery of an original counterpart pursuant to the terms for notice set forth in this Agreement.

7.8 Voluntary Agreement: The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possesses the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth in this Agreement.

7.9 Interpretation: Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties, and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (a) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (b) it has conferred due authority for execution of this Agreement upon the person(s) executing it.

7.10 Schedules: Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.

7.11 Entire Agreement: This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with

respect to the subject matter hereof except as otherwise provided, except for those terms and conditions set forth in the Agreement entered into between the Borough, Fair Share Housing Center, and Becton Dickinson, and Linde, in settlement of the Borough's Compliance Action, to which this Agreement is appended and included [**Erickson needs to review that other agreement**].

7.12 Intentionally Left Blank

7.13 Effective Date: The effective date ("*Effective Date*") of this Agreement shall be the date upon which the last of the Parties to execute this Agreement has executed and delivered this Agreement.

7.14 Waiver. The Parties agree that this Agreement is enforceable. Each of the Parties waives all rights to challenge the validity or the ability to enforce this Agreement. Failure to enforce any of the provisions of this Agreement by any of the Parties shall not be construed as a waiver of these or other provisions.

7.15 Captions. The captions and titles to this Agreement and the several sections and subsections are inserted for purposes of convenience of reference only and are in no way to be construed as limiting or modifying the scope and intent of the various provisions of this Agreement.

7.16 Construction, Resolution of Disputes. Jurisdiction of any litigation ensuing with regard to this Agreement exclusively shall be in the Superior Court of New Jersey, with venue in Union County. Service of any complaint may be effected consistent with the terms hereof for the delivery of "Notices," hereinafter defined. The Parties waive formal service of process. The Parties expressly waive trial by jury in any such litigation.

7.17 Conflicts. The Parties acknowledge that this Agreement cannot be affected by the Compliance Action or any amendments to the Borough's Compliance Plan or Zoning Ordinances, and this Agreement shall control with respect to those matters as applied to the Property. As to any inconsistencies between the Required Approvals and this Agreement, the Required Approvals shall control.

7.18 Recitals. The recitals of this Agreement are incorporated by reference.

[Signature Page to Follow.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Attest:

**MURRAY HILL, LLC. as successor to
LINDE NORTH AMERICA, INC.**

By: Linde Gas North America, LLC, sole member


Name: Craig M. Gianetti, Esq.

CRAIG M. GIANETTI
Attorney at Law of New Jersey

By: 
Name: John Mark, Esq.
Title: Secretary

Date: March 27, 2019

Attest:

**BOROUGH OF NEW PROVIDENCE,
A Municipal Corporation of the
State of New Jersey**

Name:

By: _____
Name:
Title:

Date: _____, 2019

IN WITNESS WHEREOF, the Parties have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Attest:

MURRAY HILL, LLC. as successor to
LINDE NORTH AMERICA, INC.

By: Linde Gas North America, LLC, sole
member

Name: _____

By: _____

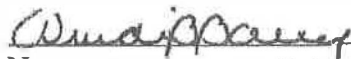
Name: John Mark, Esq.

Title: Secretary

Date: _____, 2019

Attest:

BOROUGH OF NEW PROVIDENCE,
A Municipal Corporation of the
State of New Jersey


Name: WENDI B. BARRY, Clerk

By: _____

Name: ALLEN MORAN

Title: MAYOR

Date: 4/1/19, 2019

APPENDIX B

**Court Order Approving Fair Share Housing Center
Settlement Agreement, filed on April 8, 2019**

Steven A. Kunzman, Esq. (Arty I.D. # 012731981)
Our File No.: C22117

**DI FRANCESCO, BATEMAN, KUNZMAN,
DAVIS, LEHRER & FLAUM, P.C.**

15 Mountain Boulevard
Warren, New Jersey 07059
Tele: 908-757-7800

Attorneys for Borough of New Providence

IN THE MATTER OF THE ADOPTION OF
THE BOROUGH OF NEW PROVIDENCE
FOR A JUDGMENT OF COMPLIANCE OF
ITS THIRD ROUND HOUSING ELEMENT
AND FAIR SHARE PLAN.

SUPERIOR COURT OF NEW JERSEY
CIVIL DIVISION: UNION COUNTY
DOCKET NO: UNN-L-2442-15

Civil Action

**ORDER ON FAIRNESS AND
PRELIMINARY COMPLIANCE HEARING**

THIS MATTER having been opened to the Court by DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C., attorneys for the Borough of New Providence (hereinafter referred to as "Borough" or "New Providence"), Steven A. Kunzman, Esq., appearing, in the presence of counsel for Interested Parties, Kevin D. Walsh, Esq., attorney for Fair Share Housing Center, Inc. ("FSCH"); Craig M. Gianetti, Esq. (Day, Pitney) counsel for Murray Hill, LLC. as successor to Linde North America, Inc. ("Linde"); James G. Webber, Esq. and Samantha Alfonso, Esq. (Dempsey, Dempsey, and Sheehan) for Becton Dickinson/C.R. Bard ("Becton"); Norman Klein, Esq., (Carlet, Garrison, Klein, & Zaretsky) counsel for Shelborne Spring, LLC, and the Court Appointed Special Master, Kendra Lelie, PP, AICP, LLA, by way of Fairness and Preliminary Compliance Hearing held pursuant to and in accordance with East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996); and sufficient notice of this hearing having been given in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New

Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”) and Morris County Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div. 1984); and the Court having considered the Special Master’s report dated April 1, 2019 and the testimony of the Court-appointed Special Master, and the Court having considered the Settlement Agreements entered into between New Providence, FSHC, Becton, and Linde dated April 1, 2019; and the Court having considered the testimony and presentations of the Borough, the Special Master, FSHC, Linde, and Becton at the time of the hearing; and good cause having been shown;

IT IS on this 8th day of April 2019, **ORDERED** that:

1. The Court finds that the Settlement Agreements are fair and adequately protect the interests of low and moderate income persons within New Providence’s housing region based upon the criteria set forth in East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) for approving a settlement of Mount Laurel litigation; and
2. The Court preliminarily finds that the Borough’s proposed plan to comply with the agreed upon Third Round Obligation is facially constitutionally compliant and provides a fair and reasonable opportunity for New Providence to meet its obligation under Mount Laurel IV, subject to New Providence’s satisfaction of the list of conditions set forth in the Court’s Special Master’s report of April 1, 2019, and subject to the Court’s approval by way of a Final Compliance Hearing to be held as hereinafter set forth; and
3. A Final Compliance Hearing is hereby scheduled for September 23, 2019 at 10:00 AM, by which time New Providence shall have complied with the above-referenced conditions, shall have submitted to the Special Master for review and comment New Providence’s Housing Element and Fair Share Plan and all Resolutions and Ordinances required to implement the Housing Element and Fair Share Plan, and shall have provided for the

Planning Board of the Borough to finalize and adopt the Housing Element and Fair Share Plan and the New Providence Borough Council to endorse same and to adopt all necessary effectuating Resolutions and Ordinances; and

4. The temporary immunity previously granted to New Providence herein is hereby extended until and through the day following the completion of the Final Compliance Hearing herein scheduled and the entry of an Order granting a Final Judgement in this matter; and

5. A copy of this Order shall be served upon all parties on the service list in this matter with 7 days of New Providence's receipt thereof, *and has been uploaded to eCourts by this court.*


HONORABLE KAREN CASSIDY, A.J.S.C.

All counsel consent to this form of order.

APPENDIX C

**Borough of New Providence Final Judgement of
Compliance and Repose, dated August 25, 2020**

Steven A. Kunzman, Esq. (Atty I.D. # 012731981)
Our File No.: C22190

**DIFRANCESCO, BATEMAN, KUNZMAN,
DAVIS, LEHRER & FLAUM, P.C.**

15 Mountain Boulevard
Warren, New Jersey 07059
Tele: 908-757-7800
Attorneys for Plaintiff Borough of New Providence

IN THE MATTER OF THE ADOPTION OF
THE BOROUGH OF NEW PROVIDENCE
FOR A JUDGMENT OF COMPLIANCE OF
ITS THIRD ROUND HOUSING ELEMENT
AND FAIR SHARE PLAN.

SUPERIOR COURT OF NEW JERSEY
CIVIL DIVISION: UNION COUNTY
DOCKET NO: UNN-L-2442-15

Civil Action

**FINAL JUDGEMENT OF
COMPLIANCE AND REPOSE**

THIS MATTER having been opened to the Court by DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C., attorneys for the Plaintiff Borough of New Providence ("Borough") by Steven A. Kunzman, Esq., and on Consent of Intervening and Interested Parties, Josh Bauers, Esq., attorney for Fair Share Housing Center, Inc. ("FSCH"); Craig M. Gianetti, Esq. (Day, Pitney) counsel for Murray Hill, LLC. as successor to Linde North America, Inc. ("Linde"); Brett Tanzman, Esq. (Wilf Law Firm) for GH NP Central LLC, 1889 NP Holding LLC, and Hill NP Central LLC, purchaser of the for Becton Dickinson/C.R. Bard Property ("Becton"); Norman Klein, Esq., (Carlet, Garrison, Klein, & Zaretsky) counsel for Shelbourne Spring, LLC, and the Court Appointed Special Master, Kendra Lelie, PP, AICP, LLA.; and,

WHEREAS, the Court having entered a Conditional Declaratory Judgment of Compliance on November 13, 2019 ("Conditional Judgment"), which memorialized the determination by the Court that the Borough is in compliance with its Constitutional obligation

to zone in such a manner as to provide the realistic opportunity for the development of housing affordable to low and moderate income households in accordance with what is commonly known as the Mount Laurel Doctrine and in accordance with the New Jersey Fair Housing Act, N.J.S.A. 52:27d-301, et seq., including all Cycles or Rounds through June 30, 2025 as set forth in the Settlement Agreement entered into in this matter, subject to certain conditions; and,

WHEREAS, all criteria required to demonstrate Compliance as set forth in East/West Venture, 286 N.J. Super 311 (App. Div. 1996), have been satisfied, including that the Borough has satisfied all conditions set forth in the Conditional Judgement, which includes confirming the creditworthiness of certain group homes, resulting in the following changes to the crediting for the Prior Round:

Summary of New Providence's Prior Round of <u>135</u> PROPOSED CHANGES TO BONUS CREDITS	
Prior Round Credits:	
<i>Our House (very low, rental)</i>	4
Existing Inclusionary Development:	
<i>The Villages at New Providence (rental)</i>	10
<i>Patriot Village (rental)</i>	4
<i>Spring Gardens (rental)</i>	6
<i>Stonefields at New Providence</i>	2
<i>Southgate at Murray Hill</i>	2
<i>Riverbend</i>	4
<i>Murray Hill Farms</i>	13
Existing 100% Affordable Age-Restricted	
<i>Elizabeth Barabash (rental)</i>	22
Existing Alternative Living Arrangements (very-low rental):	
<i>Community Action Independent Living</i>	4
<i>Union County Arc I</i>	4
<i>Union County Arc II</i>	3
<i>Community Access I</i>	6
<i>Community Access II</i>	6
<i>Arc of Union County</i>	3
Existing Inclusionary Zoning	
<i>Blocks 310 and 311</i>	9

Total Units	102
Rental Bonus Credits	
<i>The Villages at New Providence</i>	10
<i>Patriot Village</i>	4
<i>Spring Gardens</i>	6
<i>Community Action Independent Living</i>	3
<i>Union County Arc I</i>	4
<i>Community Access I</i>	6
<i>Union County Arc II</i>	3
<i>Arc of Union County</i>	3
Total Rental Bonus Credits	33
TOTAL PRIOR ROUND	135

Accordingly, the approved crediting for the Prior Round is as follows:

Summary of New Providence's Prior Round of <u>135</u> PROPOSED CHANGES TO BONUS CREDITS	
Prior Round Credits:	
<i>Our House (very low, rental)</i>	4
Existing Inclusionary Development:	
<i>The Villages at New Providence (rental)</i>	10
<i>Patriot Village (rental)</i>	4
<i>Spring Gardens (rental)</i>	6
<i>Stonefields at New Providence</i>	2
<i>Southgate at Murray Hill</i>	2
<i>Riverbend</i>	4
<i>Murray Hill Farms</i>	13
Existing 100% Affordable Age-Restricted	
<i>Elizabeth Barabash (rental)</i>	22
Existing Alternative Living Arrangements (very-low rental):	
<i>Community Action Independent Living</i>	4
<i>Union County Arc I</i>	4
<i>Union County Arc II</i>	3
<i>Community Access I</i>	6
<i>Community Access II</i>	6
<i>Arc of Union County</i>	3
Existing Inclusionary Zoning	
<i>Blocks 310 and 311</i>	9
Total Units	102
Rental Bonus Credits	

<i>The Villages at New Providence</i>	10
<i>Patriot Village</i>	4
<i>Spring Gardens</i>	6
<i>Community Action Independent Living</i>	3
<i>Union County Arc I</i>	4
<i>Union County Arc II</i>	3
<i>Arc of Union County</i>	3
<i>Total Rental Bonus Credits</i>	33
<i>TOTAL PRIOR ROUND</i>	135

WHEREAS, the Special Master has confirmed with the Court by letter of August 13, 2020 that all Conditions have been satisfied, and recommends entry of this Final Judgment of Compliance and Repose; and,

WHEREAS, Counsel for all of the Intervenors have consented to the entry of this Final Judgment of Compliance and Repose;

IT IS THEREFORE, ON THIS 25th DAY OF August, 2020,
ADJUDGED, DECLARED AND ORDERED AS FOLLOWS:

1. The Court declares that the Borough of New Providence is in compliance with its Constitutional obligation to provide zoning that creates the realistic opportunity for the development of housing affordable to low and moderate income households as defined in what are commonly known as the Mount Laurel Doctrine and the New Jersey Fair Housing Act, N.J.S.A. 52:27d-301, *et seq.*, through and including all Cycles or Rounds up to and including any and all obligations that may have been determined to exist through June 30, 2025, as set forth in the Settlement Agreement in this matter which was approved by this Court by the Order of Fairness and Preliminary Compliance entered on November 14, 2018 and by the Conditional Judgment.

2. This Final Judgment shall become part of, and attached to, the Settlement Agreement and the HEFSP for the purpose of amending those documents with the acceptable crediting.
3. The Borough is granted continuing repose and immunity from exclusionary zoning litigation until June 30, 2025.
4. All other requirements or provisions of the Conditional Judgment, that are not otherwise addressed in this Final Judgment, shall remain and are incorporated herein.

AND IT IS FURTHER ORDERED that a copy of this Judgment be served upon all interested parties in accordance with the procedure previously established in the Mount Laurel litigation matters.



HONORABLE KAREN M. CASSIDY, A.J.S.C.

APPENDIX D

Borough of New Providence Resolution #2025-58 Accepting Fourth Round Affordable Housing Present Need and Prospective Need Numbers as Modified

- Land Capacity Analysis for the Borough of New Providence attached

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2025-58

Council Meeting Date: 01-28-2025

Date Adopted: 01-28-2025

TITLE: RESOLUTION OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AS MODIFIED

Councilperson Geoffroy submitted the following resolution, which was duly seconded by Councilperson Cumiskey.

WHEREAS, on March 20, 2024, Governor Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) (hereinafter "Amended HFA"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to produce non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Borough of New Providence's (the "Borough") Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 20 units and a Prospective Need or New Construction Obligation of 210 units; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments as well as durational adjustments; and

WHEREAS, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c.2 containing the Vacant and Developable land information that serves the basis for calculating the land capacity factor; and

WHEREAS, the Borough has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, Land Use Board approvals, configuration and accessibility to ascertain whether these identified developable lands may accommodate development; and

WHEREAS, based upon the foregoing, the Borough relies on the DCA calculations of the Borough's fair share obligations as modified herein to account for the Borough's review of the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, Land Use Board approvals, configuration and accessibility to ascertain whether these identified developable lands may accommodate development, and as further set forth in detail and explained in the attached memo prepared by the Borough's Affordable Housing Planner, and the Borough seeks to commit to provide its fair share of 20 units present need and 198 units prospective need, subject to any vacant land and/or durational adjustments it may seek as part of the Housing Plan element and Fair Share Plan element it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Borough reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough also reserves the right to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Borough reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Prospective Need Obligation should be lower than described herein; and

WHEREAS, in light of the above, the Mayor and Council of the Borough of New Providence find that it is in the best interests of the Borough of New Providence to commit to the modified present need and prospective need Fourth Round affordable housing fair share numbers set forth herein, subject to the reservations set forth herein; and

WHEREAS, in accordance with the AOC Directive #14-24 dated December 13, 2024, the Mayor and Council find that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of the Borough of New Providence to direct the filing of an action in the form of a declaratory judgment complaint within 48 hours after adoption of the within Resolution of fair share obligations, or by February 3, 2025, whichever is sooner;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey as follows:

1. All of the above Whereas clauses are incorporated into the operative clauses of this Resolution.

2. The Borough of New Providence hereby commits to the DCA's Round 4 Present Need Obligation of 20 units and a modification of the DCA's Round 4 Prospective Need Obligation of 210 units to 198 units as explained above and in the attached memo from the Borough's Affordable Housing Planner, and subject to all reservations of rights set forth above.

3. The Borough of New Providence hereby directs its Borough Attorney to file a declaratory judgment complaint in Union County within 48 hours after adoption of the within Resolution and attaching this Resolution as an exhibit with the attached memo.

4. The Borough of New Providence hereby authorizes its Borough Attorney to submit and/or file the within Resolution with attached memo with the Program or any other such entity as may be determined to be appropriate.

5. This Resolution shall take effect immediately according to law.

APPROVED, this 28th day of January, 2025.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
BILICKA	X			
CUMISKEY	X			
DOLAN	X			
GEOFFROY	X			
KOGAN	X			
MCKNIGHT	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 28th day of January, 2025.


Denise Brinkofski, Borough Clerk

Borough Of New Providence
County Of Union
State Of New Jersey


Allen Morgan, Mayor

APPENDIX E

Fourth Round Prospective Need Obligation Objections

- Objection from New Jersey Builders Association, filed February 27, 2025
 - Decision and Order Fixing the Borough's Present Need and Prospective Need, April 14, 2025

BISGAIER HOFF, LLC

25 Chestnut Street, Suite 3
Haddonfield, New Jersey 08033

Tel: (856) 795-0150

Fax: (856) 795-0312

By: Richard J. Hoff, Jr., Esq. (NJ Bar No. 015811998)

Email: rhoff@bisgaierhoff.com

Co-Counsel for Defendant/Interested Party, New Jersey Builders Association

HILL WALLACK LLP

21 Roszel Road
Princeton, New Jersey 08540
(609) 924-0808

By: Thomas F. Carroll, III, Esq. (NJ Bar No. 022051983)

Email: tcarroll@hillwallack.com

Co-Counsel for Defendant/Interested Party, New Jersey Builders Association

<p>IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF NEW PROVIDENCE , a Municipal Corporation of the State of New Jersey,</p> <p>Plaintiff.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION UNION COUNTY</p> <p>DOCKET NO.: UNN-L-413-25</p> <p>CIVIL ACTION (<u>MOUNT LAUREL</u>)</p> <p>ANSWER/OBJECTION OF INTERESTED PARTY, NEW JERSEY BUILDERS ASSOCIATION</p>
--	---

Defendant/Interested Party, New Jersey Builders Association (“NJBA”), with a principal place of business at 16 South Avenue West #122, Cranford, New Jersey 07016, and previously designated as an interested party by the Supreme Court in the matter of In re Adoption of N.J.A.C. 5:96 and N.J.A.C. 5:97, 215 N.J. 1 (2015)(“Mount Laurel IV”) and by the Hon. Judge Mary C. Jacobson, retired, in the matter of In the Matter of the Application of the Municipality of Princeton L-1550-15 (Law Div. March 8, 2018) (the “Princeton Decision”), by way of this Answer to the Complaint (“Complaint”) of Plaintiff, Borough of New Providence (“Plaintiff”) in

this matter, and in accordance with Section II.B of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), N.J.S.A. 52:27D-304.2, - 304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (collectively, the “FHA”), and other applicable law, says that:

Paragraphs 1 through 29¹: NJBA denies each and every allegation and objects to any proposed relief set forth in the Complaint, to the extent that any such allegation or requested relief seeks to establish a Fourth Round (2025-2035) prospective need obligation for Plaintiff that is less than that established by the New Jersey Department of Community Affairs (“DCA”), as set forth in the DCA’s *Affordable Housing Obligations for 2025-2035 (Fourth Round)*

Methodology Background

(https://www.nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf), and as audited by third party certified public accountants Mercadien, P.C.

(https://www.nj.gov/dca/dlps/pdf/FourthRoundCalculations_PeerReview.pdf) (collectively, the “DCA Fourth Round Numbers”). Plaintiff’s proposed prospective need obligation does not comply with the FHA or the New Jersey Constitution as construed by the Mount Laurel Doctrine² for the reasons more fully set forth in the February 25, 2025 Report of J. Creigh

¹ NJBA is cognizant of the requirements of R. 4:5-3 relative to the form of an Answer. However, as Directive #14-24 does not mandate compliance with the New Jersey Court Rules in the filing of challenges pursuant to N.J.S.A. 52:27D-304.1.f(1)(a), and this is not an action in the Superior Court, but a proceeding before the Program, NJBA is proceeding with its objection in a uniform fashion that comports with the requirements of N.J.S.A. 52:27D-304.1.f(1)(a), (c). Should the Program interpret Directive #14-24 to require an Answer that fully comports with the requirements of R. 4:5-3, NJBA shall provide the same upon direction of the Program. However, it should be noted that such an amended Answer would not provide any substantive revision to NJBA’s challenge as the merits of that challenge are set forth in this current form of Answer with supporting report.

² The term Mount Laurel Doctrine refers to Southern Burlington County NAACP v. Township of Mt. Laurel, 67 N.J. 151 (1975) (“Mount Laurel I”), Southern Burlington County NAACP, et al v.

Rahenkamp, PP, AICP, a true and correct copy of which is attached hereto as Exhibit "A" (the "Rahenkamp Report"); which is incorporated as if fully set forth herein.

WHEREFORE, NJBA respectfully requests that the Court grant the following relief:

- a. DECLARING that the DCA Fourth Round Numbers are consistent with the FHA, the methodology set forth in the Princeton Decision, and other applicable law;
- b. DECLARING that DCA's calculation of Plaintiff's prospective need for the period 2025-2035 as set forth in the DCA Fourth Round Numbers is hereby established as Plaintiff's prospective need for the period 2025-2035;
- c. DECLARING that Plaintiff's municipal resolution setting forth its proposed prospective need for the period 2025-2035 is inconsistent with the requirements of the FHA, the Princeton Decision, and other applicable law;
- d. DENYING all relief sought in the Complaint to the extent that it seeks to establish a prospective need obligation for the period 2025-2035 that is inconsistent with the DCA Fourth Round Numbers;
- e. ORDERING that Plaintiff, on or before June 30, 2025, shall prepare and submit a Housing Element and Fair Share (with supporting ordinances) that addresses its prospective need for the period 2025-2035 as that prospective need has been established by the DCA;
- f. CONSOLIDATING, for purposes of a final decision on prospective need obligations for the period 2025-2035, all petitions/declaratory judgment Complaints wherein a

Township of Mt. Laurel, 92 N.J. 158 (1983) ("Mount Laurel II"), and its progeny, the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and the implementing regulations of the New Jersey Council on Affordable Housing ("COAH") N.J.A.C. 5:93 and/or N.J.A.C. 5:97, to the extent they have not been invalidated by the Supreme Court in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010), modified, 215 N.J. 578 (2013).

municipality, such as Plaintiff, has sought a reduction of its prospective need obligation below the obligations established by the DCA Fourth Round Numbers;

g. ORDERING that Plaintiff has violated constitutional and statutory rights under the laws of the State of New Jersey, thereby subjecting Plaintiff to paying NJBA's attorney's fees and costs pursuant to N.J.S.A. 10:6-2(c) and N.J.S.A. 10:6-2(f); and

h. ORDERING such additional relief as the Court deems just and equitable.

AFFIRMATIVE DEFENSES

Plaintiff's Calculation of Its Fair Share of the Region's Total, Prospective Need Obligation for the Period 2025-2035 is Inconsistent with the FHA and the New Jersey Constitution and Should Be Rejected by the Program in Favor of Accepting the DCA Fourth Round Numbers

By way of further response in support of this Affirmative Defense and in objection to Plaintiff's Complaint pursuant to N.J.S.A. 52:27D-304.1(f)(l)(c), NJBA asserts the following:

1. NJBA is an interested party within the meaning of the FHA as previously recognized by the Supreme Court and the Princeton Decision.
2. Plaintiff has not challenged the DCA's calculation of the total, prospective need for the region for the ten-year period (2025-2035) as such a calculation has been correctly established by the DCA in accordance with the requirement of N.J.S.A. 52:27D-304.2.
3. DCA's calculation of total prospective need for the region should therefore be accepted by the Program.
4. Pursuant to N.J.S.A. 52:27D-304.3, that total, prospective need for the region must then be allocated, in its entirety, to all municipalities within the region that are not classified as qualified urban aid municipalities.
5. In accordance with N.J.S.A. 52:27D-304.3, the DCA Fourth Round Numbers allocate the entirety of that total prospective need for the region subject to statutory capping.

6. Plaintiff is not a qualified urban aid municipality.

7. For reasons set forth in its municipal resolution, Plaintiff has asserted that its fair share of the total prospective need for the region is less than the prospective need number established for Plaintiff by the DCA Fourth Round Numbers.

8. For the reasons more fully set forth in the Rahenkamp Report attached hereto as Exhibit "A", which is incorporated as if fully set forth herein, the calculation of total prospective need for the region and the allocation of that total prospective need to all municipalities within the region as set forth in the DCA Fourth Round Numbers are fully consistent with the statutory requirements of the FHA at N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3.

9. By proposing to reduce its prospective need from that calculated by the DCA, Plaintiff is, in turn, reducing the total prospective need for the region in contravention to the statutory requirements of N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3.

10. Moreover, in neither its Complaint nor its municipal resolution has Plaintiff reallocated that portion of the total, prospective need for the region that was assigned to Plaintiff by the DCA Fourth Round Numbers, but which Plaintiff claims is greater than the prospective need number that should be allocated to Plaintiff.

11. As a result of Plaintiff's failure to reallocate the difference between the prospective need established and assigned to Plaintiff by the DCA Fourth Round Numbers and the prospective need asserted by Plaintiff in its municipal resolution, a portion of the total prospective need for the region that was correctly calculated by the DCA pursuant to N.J.S.A. 52:27D-304.2 is improperly and unconstitutionally lost.

12. For the reasons more fully set forth in the Rahenkamp Report attached hereto as **Exhibit "A,"** which is incorporated as if fully set forth herein, Plaintiff's proposed reduction of the total, prospective need for the region is contrary to the provisions of the FHA, the Princeton Decision and the New Jersey Constitution, and is otherwise unlawful.

13. In accordance with the DCA Fourth Round Numbers, Plaintiff's prospective need obligation for the period 2025-2035 should be established as 210 units, which, in accordance with the provisions of the FHA, represents Plaintiff's proportionate fair share of the total, prospective need for the region.

14. Any claim by Plaintiff that it has insufficient land to meet the entirety of its prospective need as calculated per the DCA Fourth Round Numbers, either via development or redevelopment, should be properly deferred until the Plaintiff files a Housing Element and Fair Share Plan, which may include a request for a vacant land adjustment.

NJBA reserves the right to supplement this Answer with additional affirmative or other defenses.

BISGAIER HOFF, LLC
Co-Counsel for Defendant/Interested Party, New
Jersey Builders Association



Richard J. Hoff, Jr., Esq.

Dated: February 25, 2025

HILL WALLACK, LLP

Co-Counsel for Defendant/Interested Party, New
Jersey Builders Association

Thomas F. Carroll, III

Thomas F. Carroll, III, Esq.

Dated: February 25, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Richard J. Hoff, Jr., Esquire, and Thomas F. Carroll, III, Esq. are hereby designated as trial counsel for Defendant/Interested Party, New Jersey Builders Association.

BISGAIER HOFF, LLC

Co-Counsel for Defendant/Interested Party, New
Jersey Builders Association



Richard J. Hoff, Jr., Esq.

Dated: February 25, 2025

RULE 4:5-1 CERTIFICATION

1. I hereby certify that the subject matter of the within controversy does not form the basis of any other action presently pending in any court or arbitration proceeding to the best of my knowledge, information and belief and that no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in this action at the present time.

2. I hereby certify that confidential, personal identifiers have been redacted from

documents now submitted to the Court/Program, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

BISGAIER HOFF, LLC
Co-Counsel for Interested Party, New Jersey
Builders Association



Richard J. Hoff, Jr., Esq.

Dated: February 25, 2025

RULE 4:6-1(d) CERTIFICATION

I hereby certify that the within Answer was filed within the time period allowed by N.J.S.A. 52:27D-304.1 3f.(1)(b) and Directive #14-24.

BISGAIER HOFF, LLC
Co-Counsel for Interested Party, New Jersey
Builders Association



Richard J. Hoff, Jr., Esq.

Dated: February 25, 2025

EXHIBIT A



REPORT IN SUPPORT OF NJBA'S CHALLENGES TO THE PETITIONS OF THE NEW JERSEY MUNICIPALITIES SEEKING REDUCTIONS IN THEIR FAIR SHARE OBLIGATIONS

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J. Creigh Rahenkamp, NJPP #5321
Project Number: 25005

February 25, 2025

I. INTRODUCTION & SUMMARY OF FINDINGS

I have been retained by the New Jersey Builders Association (“NJBA”) and submit this report in support of NJBA’s objections to each of those municipalities that filed resolutions with the Affordable Housing Dispute Resolution Program (the “Program”) seeking a reduction of the prospective need allocations as calculated by the New Jersey Department of Community Affairs (“DCA”) for the period 2025-2035.

In summary, the submissions by the municipalities are inconsistent with and incompatible with the recent revisions to New Jersey’s Fair Housing Act, N.J.S.A. 52:27D-301, et seq (the “FHA” or the “Act”). In challenging the allocation performed by DCA, the municipal responses are universally singular in their focus – they seek to reduce the prospective need as to one municipality without accounting for that reduction in the regional aspect of the allocation model. The municipal tactic of individualized reduction occurs in three primary ways:

1. Municipalities mistake the factors and steps necessary to conduct a Vacant Land Adjustment (“VLA”) as part of the compliance phase effort to fit development to the specific circumstances of a municipality with the inherently inexact but uniform data and processes used for conducting a regional allocation.
2. They conflate potential “errors” in the data with simply substituting other sources of information which then is inherently unbalanced in the context of the regional allocation.
3. Each submission implements what is effectively a new methodology as applied to their respective municipality without applying that same methodology to the region.

These issues are further addressed and explained in the sections below.

The Act provides for the ability of a municipality or a consortium of municipalities to conduct their own allocation model, but that model is inherently one that would need to be applied in a uniform manner to all of the municipalities in a region. Municipalities could have done this, as they did during the Third Round litigation through Econsult or as a consortium formed for

the recent legal challenge to the amendments to the Act¹. If anyone felt DCA performed the analyses and calculations incorrectly, they could have prepared a comprehensive alternative analysis. Many professional planners have done their own computations to test DCA's work. I have found no such error and none of my colleagues have asserted that the math is wrong, or that the data series applied by the DCA are not those selected intentionally by the Legislature. It is perhaps more politically than mathematically challenging to put together such a municipal consortium for such an effort as the total Statewide and regional needs calculated by DCA are correct under the FHA. Therefore, any reduced allocations for certain municipalities resulting from a comprehensive alternative model would lead to increases for others given that the total to be allocated – the regional need – is fixed and indisputable.

And that may indeed be the point. Individual municipalities are seeking the individualized application of alternative data and approaches precisely because they could not cooperatively do so as a group if others had to pick up their slack. The net effect is that the approximate 159 municipalities that are seeking to reduce their DCA-calculated prospective need are doing so without accounting for those “lost” units elsewhere within the region, which results in a loss of approximately 14,000 affordable units from the total prospective, post-cap Statewide need of 80,798 units. It is worth remembering that approximately 280 municipalities have chosen the right course at this milestone moment in the process by accepting DCA's comprehensive and accurate work and many of those communities have large allocations. The improperly squeaky wheel should not receive an unjustified benefit.

The failure of any municipality or consortium of municipalities to respond to the requirement of the FHA to allocate the totality of the regional prospective need should lead the Program to sustain the DCA calculation in all cases as it is only the DCA that has adhered to the specific requirements of the FHA, applying the same analysis to the regional need, especially as to land capacity issues, as they applied when allocating that regional need.

¹ Borough of Montvale, et al v. State of New Jersey, et al., MER-L-1778-24.

II. THE BACKGROUND & CONTEXT OF THE FOURTH ROUND ALLOCATION MODEL

THE HISTORY OF ALLOCATION MODELLING

In Mount Laurel I, Justice Hall described the duty of a developing municipality stating that it:

[M]ust, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there, of course including those of low and moderate income. It must permit multi-family housing, without bedroom or similar restrictions, as well as small dwellings on very small lots, low cost housing of other types and, in general, high density zoning, without artificial and unjustifiable minimum requirements as to lot size, building size and the like, to meet the full panoply of these needs.²

The broad challenge to the persistent abuse of the zoning power turned out to be difficult to enforce, so in 1983, Chief Justice Wilentz focused the bright line standard of compliance on the provision specifically of homes for low and moderate-income households. With “low-and-moderate income” defined by the Court as households making less than 80% of the median income in their area, the Mount Laurel doctrine directly affects approximately 40% of New Jersey’s population.³ Under the direction of Mount Laurel II, the needs of the future lower-income population would be numerically estimated and allocated to municipalities.⁴ This framework was developed in case law and set the foundation for the New Jersey Fair Housing Act.

Since Mount Laurel II there have been five (5) allocation models adopted and implemented:

- a. The Consensus Methodology addressed need from 1980 to 1990 and was created under Court direction.⁵ The four (4) allocation factors were covered

² Mount Laurel I, *supra*, 67 N.J. at 179, 187.

³ It should be noted that 40% is allegorical. Within the mechanics of the rules and models, the median income and relationship of household size is determined by HUD periodically and then applied to households (which can tend to be larger in aggregate at lower income levels) so that the actual percentage of the population that falls within the category can vary from 40% to 45%.

⁴ Mount Laurel II, *supra*, 92 N.J. at 205.

⁵ AMG Realty Co. v. Township of Warren, 207 N.J. Super. 388 (1984), is the leading case in setting the structure of

employment, the change in covered employment,⁶ a wealth measure using the municipality's median income as a share of the region's aggregate of all medians,⁷ and the gross acres (developed or vacant) in the growth area under the old State Development Guide Plan.⁸ As this model was developed in the context of town by town litigation, the "region" for each town was an area around that town and unique to itself. The projected need was based on the ODEA Economic/Demographic Model.

- b. First Round, prepared by COAH, was the first allocation model created by that agency and addressed the need from 1987-1993, although it and all subsequent models allow units created after 1980 to be credited.⁹ This model used the same four (4) factors as the Consensus Methodology except that the wealth factor was changed to the 1983 per capita income of the municipality times its population and then taken as a share of the regional total for that figure.¹⁰ This had the effect of shifting some of the obligation from small wealthy communities to larger suburban communities. The major innovation for this round was the creation of the six (6) permanent regions for determining the regional share for each municipality. The projected need was still based on the ODEA Economic/Demographic Model.
- c. Second Round, prepared by COAH, merged two 6-year compliance periods together and covered, in the aggregate, the 12-year period from 1987-1999. This allowed COAH to reduce retroactively the First Round obligation as part of a cumulative 12-year model. At the time, this was referred to as Cumulative Need. COAH's various unsuccessful rule-making efforts to cover the third round have

the allocation model that eventually became universally applied.

⁶ New Jersey Covered Employment Trends, Office of Demographic & Economic Analysis, Division of Planning & Research, Department of Labor.

⁷ The formula was the 1980 median divided by the regional median and that ratio was multiplied by the average of the two employment factors.

⁸ State Development Guide Plan, Division of State & Regional Planning, Department of Community affairs, 1980.

⁹ N.J.A.C. 5:92, especially Appendix A (1986).

¹⁰ New Jersey Legislative Data Book: 1986, Bureau of Government Research, Rutgers,

referred to this obligation as the Prior Round (sometimes also called the Prior Obligation).¹¹ The model introduced significant changes. First, the population projection used was the average of two models – the Economic/Demographic Model and the Historic Migration Model by ODEA. This has the effect of dampening need in edge areas and shifted some of the allocation towards the regions that had grown in the past. The economic component saw a shift from employment to the nonresidential real estate valuation and the change in the valuation of the prior 10-year period. This also tended to reallocate units from suburban employment centers to inner ring suburbs with older factories and shopping areas that still had real estate value even if employment was lower. The land factor was changed to an estimate of “vacant” land using remote sensing taking advantage of the then relatively new Geographic Information Systems (GIS) technology. The totals were then weighted based on the new State Plan’s area designations. This greatly shifted portions of the obligation from developed communities in the growth area to greenfields communities. It was still a 4-factor model.

- d. Third Round was delayed and ultimately addressed in what has been called the Jacobson methodology, reflecting the work of Judge Jacobson to oversee a 40+-day trial in the case of In the Matter of the Application of the Municipality of Princeton L-1550-15 (Law Div. March 8, 2018) (“Princeton Decision”) and subsequently issue a decision that worked through all of the many issues in developing that methodology. That decision is specifically referenced in the amendments to the FHA as a point of guidance.¹² The projection of need was again based on the average of the two projections prepared by the NJDOL, but required significant adjustment procedures due to changes in the way the data was published by NJDOL. The primary change to the allocation model was that the Third Round model followed the choice of the various COAH-

¹¹ N.J.A.C. 5:93, especially Appendix A (1994).

¹² The quantitative outcome of that trial was published as Statewide and Municipal Obligations Under Jacobson Opinion, dated March 18, 2018, prepared by Econsult Solutions.

published models for the round which reduced the allocation factors from four (4) to three (3), using non-residential valuation change alone and without a stock or total factor.

- e. Fourth Round is governed by the revisions to the FHA reflected in P.L. 2024, c.2 which covers from 2025 to 2035 and has been implemented through the work of the DCA pursuant to the specific methodology directives now contained with the Act.¹³ Following the recent revisions to the Act, it is a 3-factor allocation model as described more fully below.

THE LEGISLATURE TACKLES THE FOURTH ROUND MODEL

The Legislature had before it the experience of COAH regulations as well as the recent history of the Third Round model and considerable input, and came to very specific and detailed conclusions in the recently adopted revisions to the FHA specifying data sets and giving clear direction.

The first step in any model is the determination of how much low and moderate income housing we will need to meet the expanding population of our State. As indicated in describing the evolution of the allocation model there was a great deal of argument over which population projection to use. Historically, if one has a projection during a recession and the economy recovers, the projection will be wrong to the low side. Projections done in good economic times tended to over-project what happened during the next recession. And one thing that was learned in the long gap of non-compliance is that, without the Mount Laurel doctrine operating to produce approvals for inclusionary development, overall housing growth and therefore population growth stalls, which is hardly surprising as supply limitations arising from local zoning is the point of the doctrine. Similarly, converting the raw projection into households and therefore the number of units needed was hotly contested in the Third Round.

¹³ Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background, Fourth Round Calculation Workbook, Consulting Report by Mercadien, PC essentially auditing the DCA work.

Household sizes had been on a steady decline from World War II through 1990, but stayed flat and even showed signs of climbing again as the baby boom echo started having children in greater numbers. The Legislature adopted an entirely new approach that would eliminate these incessant arguments. Rather than rely on often speculative projections, the tool that was determined to be used was looking back at the growth that had actually happened in the last 10 years and simply applying that forward.

As DCA explained and calculated in its October 2024 report:

The Affordable Housing Law requires that “Projected household change for a 10-year round in a region shall be estimated by establishing the household change experienced in the region between the most recent federal decennial census, and the second-most recent federal decennial census.” The most recent federal decennial census is the 2020 Census, and the second-most recent census is the 2010 Census. DCA collected household data at the county level from the Table H14 of the 2010 Census Summary File 1 and Table DP1 of the 2020 Census Demographic Profile. These figures were aggregated to the Housing Region level and the difference between the two was computed, representing the increase in the number of households on the Final Summary tab of the Excel calculation model. The Affordable Housing Law requires that “this household change, if positive, shall be divided by 2.5 to estimate the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region, and to determine the regional prospective need for a 10-year round of low- and moderate-income housing obligations.” Pursuant to this requirement, DCA divided the household change for each Housing Region by 2.5, producing Regional Prospective Need figures totaling 84,698 statewide.

Simple and workable, but that simplicity was obtained by looking back at the decade with the slowest growth since World War II reflecting the lack of multifamily approvals resulting from the gap in Mount Laurel enforcement that took place between the Second Round (1999) and the start of enforcement for the Third Round (2015). As a result, the legislative formula projects less housing supply than will likely be needed, but the manner of calculating that need is straightforward and unequivocal.

In allocating the regional need to individual municipalities, the four prior models had the same overall structure, with an allocation of that need to individual municipalities through the use

of factors correlated with economic capacity, relative wealth and a land capacity factor. The specific data sets used varied over time in an effort to use the best available data and create fair distributions.

For example, the Consensus Methodology and COAH'S First Round used covered employment as the economic factor because the amount of employment and change in employment were deemed to be the most relevant factors to the location for housing demand (a home is where a job goes to rest at night!). However, problems with the accuracy of employment data due to the prevalence of companies reporting based on post office locations or concentrating employment towards headquarters or data centers for reporting purposes led COAH to change to a nonresidential assessment factor as a replacement for the Second and Third Round models. As the Legislature was considering the Fourth Round, it received testimony and submissions suggesting that the employment data was now much improved, that the use of total and change as two factors in the allocation was a superior approach (weighting economic capacity stronger in the model) and that using non-residential valuations from 2015 to 2025 – the “normal” 10-year period prior that had been the norm in all models – produced widespread negative numbers as there had been a strong decline in nonresidential real estate valuation through that period that would have harmful effects on the operation of the model.¹⁴ In response, the 2024 revisions to the FHA stayed with nonresidential valuation, but set the start date for the range back to 1999 rather than 2015 so that inflation and a longer view of nonresidential valuation would remove the negative numbers in the model, and kept with a single factor weight for economic aspect of the model. In short, while I may disagree personally with some of these choices, the Legislature did not simply rubber stamp the COAH or Jacobson models, instead considering alternatives and tweaking the model for the Fourth Round to fit circumstances.

Similarly, the land capacity factor was closely examined by the Legislature. It received submissions and testimony suggesting that redevelopment had played a stronger role in recent

¹⁴ Among the many submissions, see “The Case for Allocation Reform: Why the 3rd Round Model with 4th Round Data fails as Housing Policy & What to Do About It”, J. Creigh Rahenkamp and Graham Petto, American Planning Association – New Jersey Chapter, undated.

housing development, and it was suggested by some commentators that the use of simply the gross acres in the growth area (weighting by category) as had been done in the Consensus and COAH's First Round model was again more appropriate than the "vacant land" approach adopted by COAH for the Second Round. In addition, advocates for housing suggested that the allocation factor would be more accurate if it reflected the redevelopment potential of each municipality and there were drafts of the bill that included the phrase "development and redevelopment" in defining the land capacity factor. The discussions around these two issues are instructive to the present issues. First, greenfield or first development of land still presents a large share of housing development. The economic and wealth factors already provide an allocation to all municipalities (other than exempt Urban Aid municipalities) so shifting the land factor to something more neutral could have had the effect of allocating more of the needed housing to communities that could be unable to accommodate it. Further, adding a responsibility to the agency executing the model to be able to assess the redevelopment potential of each municipality was a data challenge that could not be met – there is simply no way to know at a State level whether a dark retail center still has performing leases or is ready to redevelop, or which office park's owners are committed to trying to fill the empty spaces, and which are ready to move on. In fact, these decisions are often triggered by the compliance process itself as landowners become aware that their land might have the option to be developed for multifamily housing. Simply put, the Legislature had to balance the desire for complete accuracy in measuring total development capacity with the realistic availability of statewide data and had to choose workable surrogates that accommodated availability and workability in the context of a regional model.

Further, the issue of potential for discrepancies between regional and local environmental conditions and data was something that COAH also reviewed in the context of their Second Round rulemaking. As COAH explained in its Response to public comments:

COMMENT: The Council has generated estimates of undeveloped land based on a land satellite. The Council should develop a mechanism to alter the municipal housing allocations based on errors made by the satellite.

RESPONSE: The Council used the satellite data in order to direct housing need into areas that could accommodate the need in a manner that was sensitive to the SDRP. The satellite does not result in precise estimates of undeveloped land; but it classifies land consistently based on the image reflected from the Earth. **Because these measurements are uniform throughout the State, the Council has determined that the satellite is a reasonable and fair tool with which to calculate reasonable regional shares that may be used to allocate housing need to municipalities in each housing region (see Appendix B). Therefore, the Council will not accept challenges to a particular municipality.** Rather, based on an error in the calculation of undeveloped land, a party in the process seeking to alter the Landsat calculation must demonstrate that the regional share of undeveloped land is incorrect. **In other words, the focus in such a determination must not be on the estimate of undeveloped land for any one municipality; but rather on the relationship defined by the undeveloped land in a specific municipality divided by the undeveloped land in the housing region.**¹⁵

Similarly Judge Jacobson wrestled with the challenge of theoretically more accurate local data using tax information provided by Dr. Peter Angelides of Econsult as a potential change to the model as compared to the fairness of the remote sensing approach, even though it embodied known inaccuracies:

Mr. Reading (the court master) concluded that, although Dr. Angelides' reliance on municipal block and lot classification of land use instead of aerial surveys could offer a more accurate and up-to-date method, his approach depended upon classifications performed by individual municipal assessors, and therefore lacked statewide uniformity. Mr. Reading further concluded that any inaccuracies in the land imagery data due to recent development could be addressed **by adjustments made in each town's compliance process.** Mr. Reading once again recommended Dr. Kinsey's methodology as it conformed more closely to COAH's Second Round methodology.

The court concurs with Mr. Reading's assessment that, given yet another choice between two imperfect alternatives, following the Second Round approach is the best option, especially since the approach relied on data derived from a single consistent source that **can be corrected during the compliance process.**¹⁶

¹⁵ 25 NJR 5765, Comment 15. Emphasis added.

¹⁶ See Princeton Decision at p. 106. Emphasis added.

DCA EXECUTES THE LEGISLATED MODEL

DCA has published an allocation workbook, the GIS files used for the land capacity analysis, a methodology and background summary, and an independent audit of its work through a peer assessment.¹⁷

I am not aware of any challenge to the DCA's calculation of the Statewide prospective need, nor to each region's portion of that Statewide need. Further, as previously noted, given the new, clear standards for calculating that prospective need, any such challenge would be without basis as it is truly an exercise in arithmetic with the inputs being Census data that is not disputable. There is no doubt that under the FHA, the Statewide total prospective need is a pre-capped total of 84,698.

Regional Obligations Calculations - 2010 and 2020 Census

Region	Regional Prospective Need	2010 Households - Decennial Census	2020 Households - Decennial Census	Change	Change Divided by 2.5 (Assumed Low- and Moderate Income Household Growth)
1	27,743	803,704	873,062	69,358	27,743
2	20,506	693,844	745,108	51,264	20,506
3	11,604	446,114	475,123	29,009	11,604
4	13,822	588,249	622,803	34,554	13,822
5	9,134	461,569	484,404	22,835	9,134
6	1,889	220,880	225,602	4,722	1,889
TOTAL	84,698	3,214,360	3,426,102	211,742	84,698

Consistent with the FHA, COAH regulations and the Jacobson methodology, that total, prospective need must then be allocated to each non-urban aid municipality within the State in accordance with the allocation factors set forth in the FHA. The DCA performed that allocation on a regional basis consistent with the provisions of the FHA.

¹⁷ All accessible at: [New Jersey Department of Community Affairs](#) | (Last Verified 2/25/2025).

None of the many municipal submissions that I have read challenge the allocation factors, the data series or set used, or the math of the allocation tables. Each has sought to reduce their individual allocations of prospective need as assigned by the DCA without placing their objections in a regional context and calculating what their suggested approach would do to the allocation factors of other municipalities or the region as a whole. Moreover, those municipalities have done so without reallocating those units to other towns within the region, which is inconsistent with both the FHA and the long-standing approaches of COAH and the Princeton Decision.

III. THE NATURE OF THE ASSERTED MUNICIPAL ADJUSTMENTS

THE COMMITTED LANDS OR PIPELINE ISSUE

Many of the municipal submissions seek to reduce the acres of land assigned to their municipality by the DCA analysis by proposing to remove sites that have approvals under the MLUL. The argument is that since these sites are no longer available for future inclusionary development, they clearly aren't "vacant" in the context of the allocation model. This logic is flawed for four reasons.

First, neither the Act nor the DCA manual indicate that approved or pipeline projects are to be removed. DCA used land use data from the MOD IV files to help it sort through tree canopies in the aerial interpretation hiding homes or roads, etc., and it used building permit data to locate sites that were presently under construction. While I might argue that even some construction doesn't lock a site out for future consideration in the compliance stage, it was an even and fair approach from a Statewide perspective. Approval-based pipeline sites were not removed as a methodological step in the analysis of land in any municipality. Doing so through a single municipal adjustment is implementing a step not undertaken in the regional allocation and would result in an unfair adjustment. There is simply no statutory or logical authority for the removal of pipeline sites.

Second, the whole concept of pipeline projects being removed exactly parallels the conundrum faced by the Legislature in potentially including redevelopment sites in the allocation process. There is no conceivable way for the State (or anyone else) to know at a regional level which parcels have approvals and for what uses. Allowing any municipality to alter its responsibility based on this factor that cannot be known for all municipalities is inherently distorting and unfair.

Third, this confuses the allocation of need with a municipal response during compliance to the allocation. Part of the municipal response could be that the municipality does not have sufficient vacant land to address the entire housing obligation. There is a process to judge the capacity of such a community's vacant land – the vacant land adjustment (“VLA”) process. The first step of that process is determining the realistic development potential of each of the municipal vacant sites (“RDP”) in a parcel-by-parcel review as part of the compliance process. In setting an RDP, it is normal practice to remove committed/approved sites where the owner has communicated their desire to see through the development of their approved project. While part of the compliance process, this is not a step authorized for the allocation process.

Fourth, the sites identified as committed are often highly questionable and include, for example, decades old general development plan and site plan approvals for office parks where the last building was constructed a decade or more ago and in areas where other already constructed office parks are being converted to residential. Some pipeline removals were very large single-family lots that, even with the approved construction, would count as developable land in a VLA analysis. One is an approval for a warehouse complex on a site that sought inclusionary housing in the Third Round unsuccessfully and will undoubtedly be offered by its owners again in the Fourth Round, notwithstanding the approvals. Even where a site is a designated Third Round compliance site, it is not sufficiently committed to remove it from the allocation model as I have several clients in exactly that situation that have filed a letter of interest with the respective municipalities seeking to accommodate

additional units because they have that ability through redesign or use of portions of the site not used in the current design to accommodate substantially more housing.¹⁸

In short, the idea of a pipeline adjustment is not authorized by the Act, impossible to do on a regional or statewide basis, and counter-productive to the goal of producing affordable housing for the protected class.

DIFFERENT ENVIRONMENTAL KNOWLEDGE

Many of the municipal submissions assert that there are wetlands, floodplains or other environmental features known to them that are not reflected in the GIS files sourced from DEP by DCA. Or that there are lands constrained by some restriction against development not captured in the State database.¹⁹

First, the data sources to be used are specific in the Act. Using other sources – even if “true” – is not authorized and it inherently introduces unfairness into the allocation as any municipality using alternative sources biases the model unless that source is used for everyone. The issue isn’t whether the DEP model is perfectly “right”, but whether its alleged errors and inaccuracies are generally distributed fairly. Many of the submissions even show a map of a line for an environmental feature and don’t source where that line actually came from.

Second, it is often not clear that the alternative source is indeed “true” or more accurate than the DCA GIS. For example, wetlands are not wetlands officially until investigated by a professional, surveyed and submitted to DEP, reviewed – often on site – and agreed to in a

¹⁸ It is worth noting the Act at Section 304.1 3(f)(1)(c) requires that prior round inclusionary sites be reevaluated moving forward. It would certainly be ironic if such sites are subject to a review, but other “committed” sites are not! Clearly part of the VLA/RDP process is determining whether such sites would be available for future inclusionary development.

¹⁹ It should be remembered that COAH’s Second Round model created the vacant land allocation criteria, and intentionally chose not to remove any environmentally constrained land. The idea that environmentally constrained land should be part of the model came from the assessment funded by FSHC for the Jacobson trial. DEP elected to include such criteria but were not mandated to do so by the Act. The choice of slopes as a criterion is one that is particularly fraught with controversy.

regulatory process. Floodplains are determined by specific modelling. So, it is not at all apparent that the alternative sources used by some municipalities are, in fact, more accurate. They are just different than the DCA GIS in a way that favors a reduction for that one town.

Many of the submissions identify parcels that they believe the size or shape inhibit development, but these are the kinds of artifacts any GIS system will have applied statewide and there is no reason to believe that they are distributed in any particular way. Removing sites asserted to be “landlocked” or inaccessible is similar to the pipeline issue – tell someone that they can have high density residential zoning and watch how fast they buy an easement or an adjoining property to get access. Neither of these categories are appropriately removed in a focus on a single municipality.

As to “preserved land” or land restricted by some sort of deed restriction or program participation, the specific programs covered by the DCA GIS are explicit. Simply being subject to a different kind of restriction does not, or should not, have an impact on the allocation. To the extent that a municipality is able to demonstrate an “error” – that the land was restricted prior to the date that the data source used and is part of a program included in the mapping - then any such alleged error can be rectified during the VLA process. To the extent that a municipality wants to remove land that is not such an “error” then that is simply creating a sui generis methodology not applied to the region as a whole.

The Act was very clear on which data sources to use and requiring that the same sources and methodologies be used both locally and regionally.

(4) A municipality’s land capacity factor shall be determined. This factor shall be determined by estimating the area of developable land in the municipality’s boundaries, **and regional boundaries**, that may accommodate development through the use of the "land use / land cover data" most recently published by the Department of Environmental Protection, data from the American Community Survey and Comprehensive Housing Affordability Strategy dataset thereof, MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from the Department of Community Affairs and weighing such land based on

the planning area type in which such land is located. After the weighing factors are applied, the sum of the total developable land area that may accommodate development in the municipality **and in the region** shall be determined. The municipality's share of its region's developable land shall be its land capacity factor.

None of the municipal submissions comply with this direction.

DIFFERENT ASSESSMENT KNOWLEDGE

Several of the municipal submissions suggest that the equalization ratio applied to their assessments is “wrong”, or rather the number that the local assessor used for that time period is different than the one reported in the DCA table. I have not seen any local submission explain methodologically why this might be, and they simply assert that the State table is wrong. Having done fiscal impact studies for many years in NJ, I find a mismatch between the State table and the local figures regularly – at a rate that I could not realistically believe is repeated error. I have always believed that the State was making adjustments to keep all of the ratios consistent across municipalities for use in the State's and Legislature's purposes. Again as with the environmental data, only comprehensively addressing the issue across all municipalities simultaneously makes sense in suggesting that the allocations need to change.

AND THERE ARE NO UPWARD ADJUSTMENTS?

It is telling that none of the submissions found a single area where the different environmental sources provided for less constrained lands. Further, under the Act, municipalities are required to review and give consideration to the lands offered by willing developers and yet among the many submissions I have reviewed, there was no such review. Are there truly no sites in the State where the site-specific information provided by developers about their offered sites showed more developable area than the remote sensing mapping indicated? That is hard to believe. I am not advocating that site-specific information should be part of the allocation model, but rather that if municipalities seek to

be allowed to use alternative information sources unique to their situation, then this should have been uniformly applied within that municipality as it cuts both ways.

The land factor weighs the developability of vacant land by its category in the aging State Plan. And we have no municipal submission measuring the areas in Planning Area 3 or 4, with a lower weighting, that has seen the expansion of sewer service and development that would effectively change the character of the area to that of Planning Area 2, with its higher weighting. Despite the fact that the State Plan's Impact Assessment stated that over 300 "centers" would be needed under the Plan to be successful in accommodating projected growth, the actual Plan was published without including these centers and a process was created for municipalities to petition for "center designation". This process has largely failed, but one could expect a fair municipal submission to have included vacant land in sewer service areas in Planning Areas 3 through 5 that are functionally centers, and should receive a higher weight. Again, this did not happen.

My point is not that these are factors that should be part of the allocation model. But rather they are an indication that the municipal submissions are disingenuous, cherry picking data and criteria to lower their number rather than fairly assessing the development capacity of their community in a regionally balanced manner.

IV. CONCLUSION

Municipalities are first protected in the allocation model from "overdevelopment" by two doctrines included within the model. There is a cap of 1,000 units per compliance period and there is a limit on the allocation that would exceed 20% of the current municipal housing stock. That protection is reflected by DCA's calculations which reduced the pre-capped Statewide need of 84,698 to a post-cap need of 80,798.

Further, the VLA/RDP process is part of the compliance stage that closely fits the allocated number to what can be realistically accomplished by a municipality. This was particularly remarked upon by Judge Jacobson in selecting a less-than-perfect but uniform allocation

approach for the land factor in the Princeton Decision. There can practically be no such thing as a perfect allocation approach. By the end of the compliance process, no municipality is ever required to develop more housing than it actually has the capacity and land resources to accommodate. A downward adjustment at the allocation stage does have a clearly improper (and unconstitutional) effect – reducing the affordable housing to be produced in a municipality that would have had the capacity to accommodate it appropriately.

My rough calculation of the total units that would be lost if not reallocated is approximately 14,000 units. Against the post-cap need of 80,798, this is approximately 17.3% of the total need. The idea that the allocations need to be reduced now given the trifecta – low allocation, generous credits²⁰ and the VLA/RDP process to come in the compliance phase – is contrary to the statutory criteria and the Mount Laurel doctrine, the needs of our low and moderate income households, and the economy that we all share that depends on their labor. It is my professional conclusion that the Program should reject municipal submissions that propose a reduction in prospective need allocations that are not predicated on a viable region-based critique that accounts for the entirety of the prospective need allocated to a given region. The type of municipality-specific reductions that have been proffered to the Program are not consistent with the Act or the allocation model within the Act. Therefore, the proposed reductions should be disallowed.

²⁰ There is an expanded array of bonus credits to be awarded for various types of housing and locations that yield compliance math, but not actual housing units, and these represent a dilution of the allocated need. Further, 2025-2035, the compliance window for the Fourth Round is within the late Second Round compliance period when the majority of current affordable housing was placed into service, will be eligible for extensions of those affordability controls. If those controls are extended, the Fourth Round will be marked not by the creation of new units, but the extension of controls for units already occupied by affordable households.

APPENDIX A:

RAHENKAMP BACKGROUND MATERIAL

I am a planner that has been in the field for 43 years and a licensed professional planner in NJ for 29 years. I served as an officer of the American Planning Association – New Jersey Chapter for eight years and presently serve as the Chair of that organizations Housing Committee. My background is further described in the attachment which follows.

I have considerable experience with issues related to affordable housing, the Mount Laurel Doctrine²¹ and regulations adopted by the Council on Affordable Housing (“COAH”). My most notable involvements include:

- a. I authored a report that was extensively quoted by the Court in Urban League of Essex Co. v. Township of Mahwah 207 N.J. Super. 169 (Law Div. 1984), which first detailed the implementation of the Supreme Court's mandate to purge "cost generative features" from local codes for inclusionary developments;
- b. I served as the expert for the prevailing plaintiffs in RDS v. Pohatcong (unpublished, Honorable Roger Mahon, 1996), which first addressed the relationship of the *NJ State Development & Redevelopment Plan* to the Mount Laurel Doctrine; and,
- c. I served as the planning expert for a landowner in Maneely v. Township of West Windsor (consolidated and decided in Toll Bros., Inc. v. Twp. of W. Windsor, 303 N.J. Super. 518, 574-76 (Law Div. 1996), aff'd o.b., 334 N.J. Super. 109 (App. Div. 2000), certif. granted in part on limited issues, 167 N.J. 599-600 (2001), aff'd, 173 N.J. 502 (2002)), which dealt with the enduring rights of inclusionary developers through subsequent allocation rounds.

I have also served as a Court appointed Master in Saddle Brook (Honorable Daniel P. Mecca), Green Township (Honorable Reginald Stanton) and Highbridge Borough (Honorable Roger Mahon). Engagements as a planner for landowners succeeded in achieving builder's remedies in Logan Township, Livingston Township and Fair Lawn Borough, and negotiated settlements in dozens of municipalities.

In the subfield of allocations of need in New Jersey, my first major role was gathering all of the data necessary to run municipal allocations under the Consensus Methodology that had been developed by the Courts prior to the implementation of the Fair Housing Act. This data was

²¹ The term Mount Laurel Doctrine refers to Southern Burlington County NAACP v. Township of Mt. Laurel, 67 N.J. 151 (1975) (“Mount Laurel I”), Southern Burlington County NAACP, et al v. Township of Mt. Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”), and its progeny, the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and its implementing regulations N.J.A.C. 5:93 and/or 5:97, to the extent they have not invalidated by the Supreme Court in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010), modified, 215 N.J. 578 (2013).

included as an appendix in an ICLE publication in 1987.²² In the same publication, I also independently ran the allocation model COAH had developed for the First Round (1987-1993) based on its proposed regulations. I thereafter shared data with Dr. Robert Burchell, the chief investigator for the Center For Urban Policy Research (“CUPR”) and COAH’s consultant at the time. I served on Task Forces created by COAH to provide review and comment on the development of the allocation models for both Rounds 1 and 2. With regard to the Third Round, I reviewed each proposed model developed by COAH over the past decade and a half, and I had been invited to review and comment on Dr. David Kinsey’s work²³ at several key points in the development of his reports.

²² Mount Laurel II and the Fair Housing Act, Jeffrey R. Surenian, Esquire, NJ Institute for Continuing Legal Education, 1987.

²³ New Jersey Low and Moderate Income Housing Obligations for 1999-2025 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology, David N. Kinsey, PhD., FAICP, NJPP, Fair Share Housing Center, April 16, 2015, revised July 17, 2015.

J. Creigh Rahenkamp, NJPP

Mr. Rahenkamp is extensively involved in research and analysis of evolving regulatory techniques and their impact on the economics of land development and social responsibility. He has frequently served as an expert witness in legal challenges, preparing reports and testimony for actions challenging inappropriate land use policies and restrictions or defending well-constructed regulations. He has been accepted as an expert by trial courts in several states, innumerable planning and zoning boards throughout the country, and has served as a Court-appointed Master in New Jersey.

As part of these services, he has been a key participant in litigation and settlement negotiations in numerous municipalities under various "fair share" doctrines in several states, including a role in the leading cases of Mount Laurel, Mahwah, Pohatcong, West Windsor, Livingston & Fair Lawn.

While litigation is a major focus of the practice, Mr. Rahenkamp regularly works with land developers through the feasibility assessment and land design process in an effort to meet the evolving needs of the market while managing regulatory risk prudently.

In addition, Mr. Rahenkamp has broad experience in the evaluation and preparation of economic development strategies for local and regional governments and site selection studies or market assessments for private industry.

Representative Projects

Larchmont, Mount Laurel Township, NJ: Preparation of expert reports detailing the feasibility of residential development under alternative regulatory constructs pursuant to Mt. Laurel I/II, including cost implications of affordable housing set-asides, fee structures, site design requirements, and procedural mechanisms leading to the adoption of Court approved ordinances and site-specific settlement agreements for several developers.

City of Harrisburg, PA: Analysis and evaluation of the restrictive role of a private redevelopment corporation which directed the redevelopment efforts in Harrisburg in support of a Federal antitrust suit which resulted in project approvals for several landowners.

Waldo Yards, Jersey City, NJ: Expert report reviewing the methodology and data prepared by the Port Authority, demonstrating its flaws and offering significant new research substantiating the choice of alternative locations for a major railcar maintenance facility. Work included community impact statements and assessments of future development potential resulting in action by the Governor of NJ to direct the Port Authority to revise their selection.

World Financial Center, Battery Park City, NY: Analysis of the impacts of Hoboken-Manhattan ferry service on the viability and function of the public spaces and corporate lobbies of the WFC. Recommendations for routing, improvements and timing of activities were created to better manage the pedestrian conflicts.

Department of Community Affairs, NJ: Preparation of site plans using the proposed Residential Site Improvement Standards to test the statewide code against a variety of design techniques and land use palettes to ensure that the code would not limit traditional PUD, TND or other mixed use design solutions. Provided additional commentary and recommendations for amendments.

Master Plans, Housing Elements and Open Space/Recreation Plans: City of Millville, NJ; City of Vineland, NJ; City of Lancaster, PA; Town of Hilton Head Island, SC; Saco, ME, Northampton County, PA; Borough of New Morgan, PA; Findlay Township, PA.

Education

Bachelor of Arts, University of Pennsylvania:
Political Science & Economics Minor,
Master of Professional Studies: Real Estate (Development),
Georgetown University:
Additional Graduate Work:
University of Wisconsin: 4 Courses in Political
Science/Economics
University of Pennsylvania, Wharton School:
Demographics, Economic Development.
Princeton University, Woodrow Wilson School:
Political Risk Analysis
Temple University, Community & Reg. Planning:
Planning Administration, Transportation
Planning, Sustainability
University of Maryland, Colvin Institute
Fundamentals of Development Finance

Employment

August 1998 – Continuing:
Creigh Rahenkamp & Associates, LLC
December 1997 – August 1998: Schoor DePalma
1995 – 1997: BartonPartners Architects & Planners
1980 – 1995: John Rahenkamp Consultants, LLC

Publications

“Key Informant Interviews,” Land Development, NAHB Fall 1998.
“Density Standards in the Post-Nollan Era,” Land Development, NAHB, Fall 1990 (w/ John Rahenkamp & William Hengst).
“Fair Share Allocation,” and “COAH: The New Spatial Policy for New Jersey,” in Mount Laurel II and the Fair Housing Act, Jeffrey R. Surenian, New Jersey Institute of Continuing Legal Education, Newark, NJ: 1987.
“Fair Share Housing in New Jersey,” in Growth Management: Keeping on Target? Douglas Porter, editor, Urban Land Institute, Washington, DC: 1986 (w/ John Rahenkamp).

Professional Memberships

NJ Professional Planner (August 1995, #5531)
American Institute of Certified Planners (July 1990, Lapsed)
American Planning Association
New Jersey Chapter, Vice President 2012-2017
Pennsylvania Chapter
Private Practice Division
Planning & Law Division
Urban Land Institute
Philadelphia Council
National Association of Homebuilders
New Jersey Builders Association
Builders League of South Jersey
Pennsylvania Builders Association
National Council on Seniors Housing
American Economic Association (Lapsed)
American Political Science Association (Lapsed)

**Appointments & Service:
Public Sector**

PA State Land Use Advisory Panel:
Member, 1999-2002 (Appointment by Governor)
NJ Department of Community Affairs:
Residential Development Ad Hoc Task Force, 1987
Residential Site Improvement Standards,
Professional Review Contract, 1995
Housing Policy Task Force, 2008
NJ Council on Affordable Housing (COAH):
Data Development Task Force, 1986
Rules Reexamination Task Force, 1991
Allocation Approaches Task Force, 1992
NJ Office of State Planning:
Environmental Assessment Tech. Advisory Cte.,
1988
Advisory Committee on Infrastructure: Impact
Assessment of the NJ Interim State Plan, 1992
Pinelands Commission: Housing Task Force, 2005-2007
Riverton Borough, NJ: Zoning Board of Adjustment,
Member, 1990.

Private Sector

LGR Examinations: "Field Expert" to Develop Questions
for the New Jersey Professional Planner Examination,
1999
American Planning Association, New Jersey Chapter
(APANJ):
Vice President of Conference Services, 2012-2018
National Association of Homebuilders:
Land Development Committee, 1996-2003
Land Planning Subcommittee, Chair 1998
Planning Policy Subcommittee, Chair 2000, Member
1996-2003, 2012-2013
National Smart Growth Working Group, 1998-2003
Smart Growth Subcommittee, Member 2006.
Pennsylvania Builders Association:
Growth Management Task Force, 1992-1994, 1999-
2000
New Jersey Builders Association:
Hall of Fame, Associate Inductee, 2007
Land Use & Planning Committee, 1988-2017
Affordable Housing Task Force, 1988-2017
(Various)
Builders League of South Jersey: Local Director, 1989-
1994
South Jersey Land Plan Coalition: Board of Directors,
1990-93
Judge/Selection Committees: NAHB Smart Growth
Awards; APANJ Annual Planning Awards;
NJBA SAM & APEX; BLSJ MAME; HBAM
Pinnacle.

Representative Presentations

American Planning Association National Conventions:
Inclusionary Zoning and Development Economics
Market-Driven Agricultural Preservation
The NJ Model Subdivision & Site Plan Ordinance
Regulating for Design: Standards for PUD/TND
Demographics & Zoning: Housing Need as Policy
Impact Fees: A Contrarian's View

APANJ Annual Conferences:
Various "How-to": Use Variance/Impact
Assessment/Expert Witness/
Commentary: COAH/State Plan
<https://www.youtube.com/watch?v=grL9BeOKmq4&feature=youtu.be>

Urban Land Institute Seminars:
Project Feasibility & Regulatory Risk Analysis
Fair Share Housing Implementation: Techniques & History

Institute for Continuing Legal Education:
Allocation of Price Controlled Housing under COAH
Planning Locally Under the NJ State Plan
Growth Management Tools & Techniques
Redevelopment Do's and Don'ts: NJ & PA
Annual Land Use Institute: Various Panels

Continuing Legal Education International
Planning within Redevelopment Procedures
Various "How-to": COAH/State Plan/Smart Growth

Lorman Educational Services
Affordable Housing in New Jersey
Zoning, Subdivision & Land Development in New Jersey


National Association of Home Builders Conventions:
Project Feasibility Analysis
Managing Regulatory Risk/Growth Management Issues
Workforce Housing Initiatives
Measuring/Presenting the Fiscal Impact of Development
Impact Fees & Local Infrastructure Finance Strategies

Atlantic Builders Conventions & Seminars:
Marketing Green: Making Environmentalism Pay
Market Driven Land Planning/Practical TND Solutions
Various "How-to": COAH/State Plan/Access Code
Planning Chaos: Restoring Planning to Regulations

Various State & Local Builders Associations:
Educational Programs on the Market/Design Link, or
Regulatory Risk Assessment & Management

Regional Planning Comes of Age Conference 2006: Housing Policy & Implementation Challenges

NJ Land Conservation Rally 2014: Non-Contiguous Cluster

		New Jersey Judiciary Civil Practice Division Civil Case Information Statement (CIS) Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1. Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed, or attorney's signature is not affixed.		
For Use by Clerk's Office Only				
Payment type <input type="checkbox"/> check <input type="checkbox"/> charge <input type="checkbox"/> cash	Charge/Check Number	Amount \$	Overpayment \$	Batch Number
Attorney/Pro Se Name Richard J. Hoff, Jr.		Telephone Number (856) 375-2803 ext.		County of Venue Union
Firm Name (if applicable) Bisgaier Hoff, LLC			Docket Number (when available) UNN-L-413-25	
Office Address - Street 25 Chestnut Street , Suite 3		City Haddonfield	State NJ	Zip 08033
Document Type Answer/Objection			Jury Demand <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of Party (e.g., John Doe, Plaintiff) New Jersey Builders Association		Caption IMO New Providence Borough		
Case Type Number (See page 3 for listing) <u>816</u>				
Are sexual abuse claims alleged?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Does this case involve claims related to COVID-19?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Is this a professional malpractice case? If "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Related Cases Pending? If "Yes," list docket numbers			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Do you anticipate adding any parties (arising out of same transaction or occurrence)?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of defendant's primary insurance company (if known)			<input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown	

The Information Provided on This Form Cannot be Introduced into Evidence.**Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation**Do parties have a current, past or recurrent relationship? ☐ Yes ☒ No

If "Yes," is that relationship:

☐ Employer/Employee ☐ Friend/Neighbor ☐ Familial ☐ Business☐ Other (explain) _____Does the statute governing this case provide for payment of fees by the losing party? ☐ Yes ☒ No

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition.

Do you or your client need any disability accommodations? ☐ Yes ☒ No

If yes, please identify the requested accommodation:

Will an interpreter be needed? ☐ Yes ☒ No

If yes, for what language?

I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Attorney/Self-Represented Litigant Signature: _____

Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES

(Choose one and enter number of case type in appropriate space on page 1.)

Track I - 150 days discovery

- 151 Name Change
- 175 Forfeiture
- 302 Tenancy
- 399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 Book Account (debt collection matters only)
- 505 Other Insurance Claim (including declaratory judgment actions)
- 506 PIP Coverage
- 510 UM or UIM Claim (coverage issues only)
- 511 Action on Negotiable Instrument
- 512 Lemon Law
- 801 Summary Action
- 802 Open Public Records Act (summary action)
- 999 Other (briefly describe nature of action)
- 816 (Affordable Housing)

Track II - 300 days discovery

- 305 Construction
- 509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD))
- 599 Contract/Commercial Transaction
- 603N Auto Negligence – Personal Injury (non-verbal threshold)
- 603Y Auto Negligence – Personal Injury (verbal threshold)
- 605 Personal Injury
- 610 Auto Negligence – Property Damage
- 621 UM or UIM Claim (includes bodily injury)
- 699 Tort – Other

Track III - 450 days discovery

- 005 Civil Rights
- 301 Condemnation
- 602 Assault and Battery
- 604 Medical Malpractice
- 606 Product Liability
- 607 Professional Malpractice
- 608 Toxic Tort
- 609 Defamation
- 616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases
- 617 Inverse Condemnation
- 618 Law Against Discrimination (LAD) Cases

Track IV - Active Case Management by Individual Judge / 450 days discovery

156 Environmental/Environmental Coverage Litigation
 303 Mt. Laurel
 508 Complex Commercial
 513 Complex Construction
 514 Insurance Fraud
 620 False Claims Act
 701 Actions in Lieu of Prerogative Writs

Multicounty Litigation (Track IV)

282 Fosamax
 291 Pelvic Mesh/Gynecare
 292 Pelvic Mesh/Bard
 293 DePuy ASR Hip Implant Litigation
 296 Stryker Rejuvenate/ABG II Modular Hip Stem Components
 300 Talc-Based Body Powders
 601 Asbestos
 624 Stryker LFIT CoCr V40 Femoral Heads
 626 Abilify
 627 Physiomesh Flexible Composite Mesh
 628 Taxotere/Docetaxel
 629 Zostavax
 630 Proceed Mesh/Patch
 631 Proton-Pump Inhibitors
 633 Prolene Hernia System Mesh
 634 Allergan Biocell Textured Breast Implants
 635 Tassigna
 636 Strattice Hernia Mesh
 637 Singulair
 638 Elmiron
 639 Pinnacle Metal-on-Metal (MoM) Hip Implants

If you believe this case requires a track other than that provided above, please indicate the reason on page 1, in the space under "Case Characteristics".

Please check off each applicable category

☐ **Putative Class Action** ☐ **Title 59** ☐ **Consumer Fraud**
☐ **Medical Debt Claim**

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE BOROUGH
OF NEW PROVIDENCE,
UNION COUNTY PURSUANT
TO P.L. 2024, CHAPTER 2
(N.J.S.A. 52:27D-304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
UNION COUNTY
DOCKET NO. UNN-L-000413-25

Civil Action

Mt. Laurel Program

**DECISION AND ORDER FIXING
MUNICIPAL OBLIGATIONS FOR
“PRESENT NEED” AND “PROSPECTIVE
NEED” FOR THE FOURTH ROUND
HOUSING CYCLE**

THIS MATTER, having come before the Court on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program (“Program”), pursuant to the Complaint for Declaratory Judgment filed on January 30, 2025 (“DJ Complaint”) by the Petitioner, **TOWNSHIP OF SPRINGFIELD** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the “Program”, seeking a certification of compliance with the FHA;

AND IT APPEARING that, the Municipality timely adopted Resolution 2025-58 on January 28, 2025, seeking deviation from the “prospective need” calculations allocated to it by the New Jersey Department of Community Affairs (“DCA”) in its report dated October 18, 2024 entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)* (the “DCA’s Fourth Round Report”) – specifically, a “present need” obligation of 20 affordable housing units, and a “prospective need” obligation of 210 affordable housing units, which calculations have been

deemed “presumptively valid” for purposes of the FHA - (Municipality agreed with the DCA calculation of 20 units for ‘present need’) and based on the Municipality planners’ recommendation for 198 units for a “prospective need” affordable housing obligation for the Fourth Round housing cycle;

AND IT APPEARING that, a challenge to the Municipality’s calculations was timely filed by the New Jersey Builders Association (“NJBA” or “Challenger”) by and through its counsel, wherein NJBA disputed the Municipality’s proposed obligation for prospective need, and supported DCA’s present and prospective need obligations, with an expert report of J. Creigh Rahenkamp;

AND IT APPEARING that, pursuant to the Program, the Administrative Office of the Courts (“AOC”) appointed and assigned the case to Program member, the Hon. Thomas C. Miller, A.J.S.C. (Ret.) (“Program Member”) to manage the proceedings, host settlement conferences, and make recommendations to the Court in accordance with the FHA and the AOC’s Directive #14-24 (“Directive #14-24”), and that the Program Member appointed Christine Nazzaro-Cofone, PP, an independent affordable housing expert, as special adjudicator (“Special Adjudicator”) in this case to work with, make recommendations to and assist the Program;

AND IT APPEARING that, on or about March 27, 2025, a settlement conference was conducted on notice to all parties with the participation of local officials, town planner, and attorneys for the Municipality and an attorney for the NJBA, and at which the parties engaged in extensive settlement negotiations, with the guidance and assistance of the Program Member and the Special Adjudicator;

AND IT APPEARING, that as a result of the settlement conference the Municipality and NJBA reached a resolution (“Settlement”); the Settlement was placed on the record on March 27,

2025; and that the parties committed to circulating a settlement agreement and uploading it to eCourts, with counsel for the Municipality further agreeing to present the Settlement to the governing body of the Township of Springfield for approval, with resolution confirming same to be uploaded to eCourts;

AND THE COURT, having received the Program Member's report dated March 27, 2025, since posted to the eCourts jacket for this matter at Trans. ID: LCV20251012427, the findings, terms, and recommendations of which are incorporated by reference as though more fully set forth herein (the "Report");

AND THE COURT, having been advised that (i) the Special Adjudicator has recommended acceptance of the Settlement, (ii) the Program Member has recommended acceptance of the Settlement as reasonable and in furtherance of the interests of low- and moderate-income households in the Municipality (collectively, the "Recommendations"), and that (iii) the Program Member further recommends that the Court adopt the findings and recommendations set forth in the Report and enter an Order, *forthwith*, implementing the terms of Settlement and thereby fix the "present need" and "prospective need" obligations of the Municipality for the Fourth Round housing cycle;

AND THE COURT, having reviewed and considered the Program Member's Report and Recommendations, having been satisfied that an arm's length Settlement was reached and entered into by and between the parties that is fair and equitable as well as in the best interests of the protected class of low- and moderate-income households in the Municipality, and for good and sufficient cause having otherwise been shown:

IT IS, THEREFORE, on and as of this 14th day of **APRIL 2025 ADJUDGED AND ORDERED**, that the Program Member's Report and Recommendations for approval of the Settlement, be, and the same hereby is **ACCEPTED** and **ADOPTED** in their entirety; and to that end, more specifically, it is further

ORDERED, as follows:

1. That the "present need" obligation of the Municipality, be, and hereby is fixed as twenty (20) (uncontested by the Municipality in the record) affordable units for the Fourth Round housing cycle.

2. That the "prospective need" obligation of the Municipality, be, and hereby is fixed as two-hundred-and-one (201) affordable units for the Fourth Round Housing cycle; and

3. That the Petitioner is hereby authorized to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the "present need" and "prospective need" allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay; and

4. That any and all "challenges" to the Petitioner's Housing Element and Fair Share Plan as adopted by Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the eCourts case jacket for this matter, and as provided for and in accordance with Section III.B of AOC Directive #14-24; and

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and Challenger NJBA's counsel upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:

Daniel R. Lindemann

HON. DANIEL R. LINDEMANN, J.S.C.

Designated Mt. Laurel Judge – Union Vicinage

(X) Challenged.

R. 1:7-4(a): Having reviewed and considered the Program Member's Report and Recommendations as well as the terms of Settlement placed on the record by the parties before the Program Member on March 27, 2025, the Court is satisfied that an arm's length Settlement was reached and entered into by and between the parties, and that the terms of the Settlement attained are fair and equitable as well as in the best interests of the protected class of low- and moderate-income households in the Municipality. This Settlement disposes of all challenges filed.

Accordingly, the Court hereby adopts in full the Report and Recommendations of the Program Member and accepts the same for the detailed findings and reasons set forth therein. As a result, the Municipality retains all the protections of the above-referenced amendments to the FHA, continues to retain immunity from exclusionary zoning litigation, and that the Program retains jurisdiction for the compliance phase in accordance with the statutory framework and AOC Directive #14-24.

An appropriate form of Order implementing the Program Member's Report and Recommendations accompanies this statement of reasons.

SO ORDERED.

APPENDIX F

Bard Site Documentation

- Planning Board Resolution #2022-04
- Planning Board Resolution #2022-10
 - Affirmative Marketing Flyer
 - Affirmative Marketing Plan

**BOROUGH OF NEW PROVIDENCE
PLANNING BOARD
GH NP CENTRAL, LLC**

RESOLUTION

WHEREAS, GH NP Central, LLC (the “Applicant”) is the owner of property located at 730 Central Avenue and 111 Spring Street (Block 210, Lots 20.01, 22 and 32), with frontage on Central Avenue and Spring Street, in the A4 Affordable Housing Zone (the “Site” or “Property”), and has applied to the Planning Board of the Borough of New Providence (the “Board”) for preliminary and final site plan approval, variance and design waiver relief, in connection with the construction of an inclusionary residential development, consisting of two (2) four-story multifamily apartment buildings (84 units) with ground-floor parking garages and ten (10) three-story carriage house buildings (108 units) for a total of 192 units, 38 of which will be designated as affordable units, together with various site improvements including a clubhouse with an outdoor pool, patio, and play area; and

WHEREAS, the Applicant seeks the following bulk variance and design waiver relief:

1. A variance for a multifamily residential building having a length of 219.5 feet, whereas multifamily residential buildings are not permitted to exceed 200 feet, pursuant to Section 310-50.1J(h) of the Zoning Ordinance;
2. A variance for a freestanding sign having a setback of 2 feet from the property line, whereas freestanding signs are not permitted to be less than 15 feet from the property line, pursuant to Section 310-50.1I(d) of the Zoning Ordinance¹;
3. A variance for a freestanding sign having a setback of 6 feet from Private Road “A”, whereas freestanding signs are not permitted to be less than 15 feet from internal roadways, pursuant to Section 310-50.1I(e) of the Zoning Ordinance²;

¹ The Applicant subsequently modified the proposal to relocate the signs in a conforming location such that the requested relief for same was no longer required.

² The Applicant subsequently modified the proposal to relocate the signs in a conforming location such that the requested relief for same was no longer required.

4. A design waiver for no landscaping along the internal roadways, whereas a minimum three (3) foot wide landscape strip is required between the curb and sidewalk along all internal streets, pursuant to Section 310-50.1K(b)2 of the Zoning Ordinance; and
5. A design waiver for street trees planted approximately 24 feet apart, whereas the street trees are required to be planted within landscape strips at an average of 40 feet part, pursuant to Section 310-50.1K(b)3 of the Zoning Ordinance; and

WHEREAS, the Applicant served the required notices in accordance with the Municipal Land Use Law (“MLUL”); and

WHEREAS, public hearings on notice were held on such application on October 19, November 9, and December 14, 2021, at which times interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board has examined, considered, and placed on file with its record all of the exhibits submitted by the Applicant; and

WHEREAS, the Board does hereby make the following findings of fact and conclusions:

1. The Property is a roughly 27 acre, irregularly shaped lot located to the southwest of the intersection of Central Avenue and Spring Street. Spring Street borders the eastern side of the Property providing access to Commerce Street, which creates the Property’s southern boundary. The Property is surrounded by the Technology and Business 2 Innovation (TBI-2) Zone and the R-2 Single-Family Zone. The Allen W. Roberts Elementary School is located to the southwest of the Property.

2. The Property is a component of the Borough’s Third Round Affordable Housing Compliance and the Borough’s Court-approved Settlement Agreement with Fair Share Housing Center. The Borough’s Housing Element and Fair Share Plan (“HEFSP”) and the Settlement Agreement provide for the construction of 192 multifamily residential units, 20% or 38 units of which are set aside as affordable units. As part of the Settlement Agreement with Fair Share Housing Center, the Applicant, through its predecessor in title and contract vendor, donated 3.4

acres of the northern portion of the Property to the Borough. The 3.4 acre lot was previously subdivided, creating Lot 20.01, which includes a soccer field and access driveway from Central Avenue.

3. The Property is presently improved with a large, one-story building and three (3) small accessory buildings. A detached garage is located to the northwest of the principal building and a small one-story brick and concrete block building northeast of Commerce Street. A cell tower enclosure is affixed to the northwest corner of the principal building. The Property also has a gate and attendant booth at the southern end of the driveway.

4. The Property is constrained by several easements, including a 20-foot-wide access and utility easement to the north of the principal building for the existing cell tower; an underground right-of-way agreement with JCP&L; two (2) 20-foot-wide access easements on Lot 20.01 along the driveway entrance and exit; an additional 20-foot-wide utility easement for the cell tower along the driveway; and a conservation easement along the western side of the Property.

5. The Applicant proposes to demolish all of the existing improvements on the Property, including the removal of pavement, concrete, curbing, landscaping, fences, a fuel tank, storm and sanitary sewer pipes and structures. The existing cell tower and enclosure were decommissioned and relocated to adjacent Lot 21 to the north (site plan approval was granted earlier in 2021). The Applicant proposes to replace the existing improvements with an inclusionary residential development consisting of two 42-unit apartment buildings (84 units), seven 12-unit townhouse/carriage house style multifamily apartment buildings (84 units), and three 8-unit townhouse/carriage house style multifamily apartment buildings (24 units) for a total of 192 units, 20% of which (38 units) will be set aside as affordable units. The proposal also includes a clubhouse with an outdoor swimming pool, patio, and play area, a direct pedestrian walkway from

the southeastern section of the development to Commerce Drive, as well as various other site improvements.

6. The Applicant's proposal is depicted and described on the following documents:
 - a. Site Plans prepared by Beth E. Kenderdine, P.E., dated July 13, 2021, last revised October 4, 2021, same consisting of ten (10) sheets;
 - b. Plan of Survey prepared by David Lucchi, P.L.S., dated November 16, 2020, unrevised, same consisting of one (1) sheet;
 - c. Architectural Plans prepared by Avelino Martinez, R.A., dated August 14, 2020, last revised September 21, 2021, same consisting of 25 sheets; and
 - d. Traffic Statement prepared by Daniel D. Disario, P.E., P.T.O.E., dated October 3, 2021.

7. The Applicant received the following review memoranda:
 - a. Planning Memorandum prepared by M. McKinley Mertz, P.P., A.I.C.P., and Lauren M. Purdom, P.P., A.I.C.P., dated October 15, 2021;
 - b. Engineering Memorandum prepared by Kevin Boyer, P.E., C.F.M., dated October 15, 2021;
 - c. Police Department Memorandum prepared by Captain Daniel Henn, dated August 20, 2021, last revised October 5, 2021; and
 - d. Bureau of Fire Prevention Memorandum prepared by the Fire Official, Edward Nasto, dated September 28, 2021.

8. McKinley Mertz, the Borough Planner; Kevin Boyer, the Borough Engineer; and Keith Lynch, the Director of Planning and Development, were duly sworn according to law.

9. James Webber, Esq., and Samantha Alfonso, Esq., of Dempsey, Dempsey & Sheehan, entered their appearances on behalf of the Applicant. Mr. Webber provided an overview of the application and the relief requested. He confirmed that the Applicant would relocate the proposed signage so as to comply with the setback requirements, thereby eliminating the need for two of the variances initially requested.

10. Beth Kenderdine, P.E., of Edwards Engineering Group, having a business address of P.O. Box 8437, Somerville, New Jersey, was duly sworn according to law, provided her qualifications, and was accepted by the Board as an expert in the field of civil engineering.

11. Referencing the Site Plans submitted with the application materials, Ms. Kenderdine described the Property and the existing and proposed improvements. She also addressed the engineering questions and recommendations set forth in the October 15, 2021 Review Memorandum prepared by the Borough Engineer, Kevin Boyer, and stipulated, on behalf of the Applicant, to complying with same.

12. Ms. Kenderdine addressed the engineering questions and recommendations set forth in the October 15, 2021 Review Memorandum prepared by the Borough Planner, McKinley Mertz, and stipulated, on behalf of the Applicant, to complying with same. She advised that the Applicant would work with the Borough Planner as to the parking lot landscaping, as well as the overall landscaping throughout the Site. Ms. Kenderdine noted that the Applicant is actually proposing to plant more trees than required and, therefore, requires design exception relief for the spacing of the street trees. She advised that the Applicant could comply with the requirement, but that same would result in the removal of trees from the landscaping plan. Ms. Kenderdine confirmed that the gate house will be demolished.

13. On discussion of the existing gravel driveway that leads to a clearing in the wetlands on the western side of the Property, Mr. Webber stipulated, as a condition of approval, that this area of the Property could be used for passive recreation and that the Board could retain jurisdiction over same to ensure that the area is not developed. He further stipulated that the Applicant would remove the trailer currently located in said area. Mr. Webber concurred that any

development proposed in this area would require the Applicant to return to the Board for approval of same.

14. Ms. Kenderdine addressed the landscape, lighting and sign comments in the Planner's review letter. She testified that details for the proposed light poles are provided on Sheet C-7 on the Site Plans. Ms. Kenderdine explained that the lighting fixtures are a lantern style so as to be consistent with the carriage house style of the carriage houses. The Applicant stipulated to providing the specifications for the exterior building fixtures and illumination characteristics. Ms. Kenderdine noted that the Property is bordered by commercial properties and wetlands so light spillage should not be an issue. Nonetheless, the Applicant stipulated that all exterior lighting fixtures will be shielded or downward directed to prevent light spillage onto the adjacent properties. Ms. Kenderdine explained that the rain garden originally proposed beyond the northern parking lot has been removed because the parking lot was reconfigured to improve the rim road and the rain garden could no longer be accommodated. She further explained that the Applicant proposes additional landscaping between the parking lot and the building.

15. On questioning, Ms. Kenderdine testified that a significant amount of impervious coverage will be removed and replaced with landscaping. At the Board's request, she agreed to submit an overlay exhibit to help clarify the locations of the existing pavement that will be removed and replaced. On questioning as to phasing, Mr. Webber suggested that the Board could condition the approval on the Applicant attending a pre-construction meeting to discuss same. On questioning as to whether the existing trees could be protected, Mr. Webber advised that the Applicant would submit a tree protection plan based on recommendations from the Borough arborist, same to be subject to the review and approval of the Board professionals. Ms. Kenderdine

noted that the Applicant will also be required to submit a soil erosion and sediment control plan in accordance with the Somerset-Union Soil Conservation District requirements.

16. Ms. Kenderdine reviewed the comments in Captain Daniel Henn's Review Memorandum dated October 5, 2021. She explained that the cul-de-sacs had been removed from the plans in order to retain the grade, maintain the existing trees, and reduce the amount of proposed additional impervious coverage. Ms. Kenderdine noted that the cul-de-sacs were not required by the Residential Site Improvement Standards ("RSIS"). The Applicant stipulated that all of the buildings will be labeled and signed so emergency personnel can quickly and efficiently locate each of the units. Ms. Kenderdine testified that the Applicant will provide public pedestrian access off Commerce Street between Buildings 9 and 10 and off the sidewalk on Spring Street by the main driveway. She confirmed that the Property will have out outdoor security cameras, a compliant pool fence, and that the Applicant will stipulate to allowing Title 39 enforcement so that the Police Department can enforce traffic/parking on the Site.

17. Ms. Kenderdine reviewed the comments in the Fire Official's Review Memorandum dated September 28, 2021. She confirmed that the bridge leading to Central Avenue will be rated to ensure it can handle the weight of fire apparatus. Ms. Kenderdine explained that the watermain needs to be designed in more detail and that the Applicant will provide a loop system if possible, noting that same needs to be coordinated with NJ American Water. She testified that the Fire Department Connection ("FDC") will be demolished and replaced with a code compliant connection. Ms. Kenderdine advised that Storz connections will not be used for any new fire hydrants. She explained that gas service will be required for the building and that the provision of same will be coordinated by the Applicant and the utility provider. As to electric service, the

location of the transformers and other related equipment will be coordinated with Jersey Central Power and Light.

18. On questioning by the Board, Ms. Kenderdine advised that the Applicant will retain an independent contractor for trash removal, the Police Department will be given access to any relevant recordings from security cameras on the Property, and that the proposed fencing will be consistent with the overall site (i.e., brick). She explained that the Applicant proposed to replace the existing gate on Commerce Drive with a solid fence and confirmed that the fencing around the pool will be code compliant. Ms. Kenderdine confirmed that barbed wire is not proposed.

19. On questioning, Ms. Kenderdine contended that the stormwater management would be improved given the removal of a significant amount of impervious coverage.

20. Members of the public questioned whether an environmental impact study was done and if one is required by the Borough (Mr. Boyer confirmed that Applicant is in compliance with the requirements); whether the Site could be developed further (yes, but same would require further approval from the Board); whether pedestrians will have access to the Site for recreational purposes (subject to the Applicant's approval as the Site is private property); whether the development will be a gated community (no); whether the cell tower would remain (no, it is being removed and relocated 200' to the north to 41 Spring Street); whether the Applicant will maintain the stormwater management facilities on an adjacent property (no, but the Applicant will find out who owns same); whether the foot path from Spring Street to the school will remain (yes); whether there is sufficient emergency access (yes); whether a study had been done to ensure the chemicals from treating the lawn would not flow into the Salt Brook (no); whether the sanitary sewer system can accommodate the proposal (the Applicant will be required to submit a study); and whether the

fire hydrant system will have a loop system (it will depend on whether NJ American Water approves same).

21. At the November 9, 2021 hearing, Mr. Webber addressed questions raised by the Board and members of the public at the prior hearing. He introduced into evidence, as Exhibit A-2, an Open Space Comparison, prepared by Ms. Kenderdine and explained that the exhibit was in response to the Board's request for an overlay showing the areas of impervious coverage that will be converted into greenspace. He advised that the Applicant is still waiting for confirmation that there is sufficient capacity in the sanitary sewer system and that the culverts adjacent to Lot 34 were conveyed to the Borough by way of an easement.

22. The Board Chairman advised that he had visited the Site and that, in his opinion, the culverts may need to be improved by the Borough. He further advised that at his visit, he observed refuse in the wetlands area and suggested that the area be cleaned and existing impervious coverage be removed so that portion of the Property could be returned to its natural state. On discussion, Mr. Webber advised that the Applicant had previously stipulated to removing the impervious coverage in the wetlands area and confirmed that any additional development on that portion of the Property would require Board and NJDEP approval. Ms. Kenderdine added that a conservation easement encapsulates the wetlands so no changes to the wetlands are permitted. On discussion of a pedestrian gate on the access road off of Central Avenue, the Board Chairman suggested large boulders because they would prevent vehicular access.

23. Avelino Martinez, R.A., of Blackbird Group Architects, LLC, having a business address of P.O. Box 5943, Newark, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of architecture. Referencing

Exhibit A-1, a compendium of renderings prepared by Blackbird Group Architects, Mr. Martinez described the existing and proposed conditions.

24. Mr. Martinez testified that the Site is located between Central Avenue to the north, Commerce Drive to the south and Spring Street to the east. The Site is currently occupied by two buildings: a 190,000 square foot corporate building and a one-story 13,000 square foot building in the southwest corner of the Property. He testified that the proposed development consists of two apartment buildings referred to as Buildings 1 and 2, both of which consist of three stories constructed above a one-story parking garage, with each building having 42 dwelling units for a total of 84 dwelling units. Mr. Martinez explained that, on the southern portion of the Property, the Applicant proposes 10 three-story buildings consisting of eight- and twelve-unit carriage-style carriage houses with a total of 108 dwelling units. A clubhouse and pool are also proposed.

25. Mr. Martinez testified that the proposed courtyard areas in the middle of the two apartment buildings trigger the variance for the building length of 219.5 feet. Mr. Martinez described the exterior rendering of the twelve-unit carriage-style carriage houses shown on Sheet 5 of **Exhibit A-1**. He explained that the carriage house units consist of three stories with pitched roofs and opined that the design gives the development a suburban, residential feel. Each carriage house unit has a garage and driveway.

26. Referencing Sheet A-1.1 of the Architectural Plans, Mr. Martinez described the floor plan layout for an eight-unit carriage-style multi-unit building, which has two units per module. There is direct access from the garage on the ground floor to the units. There are duplex units (Type 2E duplex) with a living room, dining room, and kitchen on the ground floor behind the garage with bedrooms, bathrooms and walk-in closets at the rear of the building on the second floor. There are also duplex units (Type 3A duplex) on the second and third floors with a living

room, dining room and kitchen on the second floor over the garage and bedrooms, bathrooms and a walk-in closet in the front of the building on the third floor.

27. Mr. Martinez testified that 38 of the proposed 192 dwelling units will be affordable units equally distributed throughout the complex. He explained that the affordable units are located on the third floor on either end of the carriage house buildings, but that the carriage houses do not have elevators. On questioning, Mr. Martinez stipulated, on the Applicant's behalf, that the appearance of the buildings will be substantially similar to what is depicted on the renderings, in terms of materials, architectural design, color, etc., subject to the availability of similar materials at the time of construction. Mr. Martinez confirmed that the exterior materials will be the same on all four sides of the buildings. He testified that the carriage houses are 38' high and that the 12-unit buildings are the same as the 8-unit buildings, just with four additional units.

28. Mr. Martinez testified that the parking garage is located on the ground floor of the apartment buildings and that each apartment building has 76 parking spaces consisting of 44 individual spaces and 32 tandem spaces. He explained that each of the three floors above the parking garage contain 14 units consisting of one-, two- and three-bedroom units, elevators and stairs on each end. Mr. Martinez testified that some of the units have balconies or Juliette balconies, which are balconies that have a sliding door with a railing in front to provide light, air and space but do not provide access to the outside as a regular balcony does. He explained that the courtyard and lobby are in the center of each building with the garages on either side. The buildings are 36'-6" tall, whereas 38' is permitted, and the roofs are primarily flat with a pitched roof around the perimeter for a more residential appearance. Mr. Martinez testified that the flat portion of the roof is 4' lower than the pitched roof so the condensers, which will be located on the roof, will not be visible.

29. Mr. Martinez testified that the apartment buildings are 219'-6" wide and 145'-8" deep and that the additional building length allows for wider courtyards which provide more light, air and space to the residential units. He explained that the courtyards also break up the building façades and reduce the appearance of massing. Mr. Martinez noted that the 50' distance between the wings of the building will allow the Applicant to install landscaping. On questioning, he testified that all of the units are handicapped accessible, except for the third-floor affordable units, and that the parking garage also has handicapped compliant parking spaces.

30. Mr. Martinez testified that the one-story clubhouse on the southwest portion of the Property is 22' high as measured to the midpoint of the roof and will consist of the leasing office, a bar area, fireplace, restrooms with showers for the pool, fitness center and utility and package rooms. He explained that the entrance to the clubhouse faces the residences. Mr. Martinez confirmed that the architectural design of the clubhouse is similar to that of the residential units and will be constructed using the same types of materials.

31. As to refuse and recycling within the apartment buildings, Mr. Martinez testified that each floor of has two chutes: one for trash and one for recycling. The trash chute will empty into a trash compactor in the trash room on the garage level and will then be fed into a sealed dumpster. The recycling chute empties into a dumpster. Mr. Martinez testified that, as to the refuse and recycling within the carriage houses, each unit will have bins for trash and recyclables with designated areas for same in the garage. He explained that the trash and recyclables will be picked up by a private hauler.

32. Mr. Martinez addressed the Boards questions about the trash compactor and dumpsters in the apartment buildings. He explained that the dumpster is a two cubic-yard dumpster that will be wheeled outside for pickup by building management staff. Mr. Martinez testified that,

if the trash compactor is full, residents will not be able to open the chute doors because the doors have an interlock. He explained that there will be additional bins for residents to use if the compactor is full. Mr. Martinez stipulated, on behalf of the Applicant, that the superintendent of the apartment buildings will monitor the trash area to ensure it remains clean and orderly.

33. On discussion of the affordable units, Mr. Martinez testified that all of the affordable units are identified on the floor plans. Ms. Mertz confirmed that the distribution of the affordable units throughout the development is consistent with the zoning requirements and the Uniform Housing Affordability Controls. Mr. Martinez testified that, while only 8 three-bedroom affordable units are required, the Applicant proposes 10 such units, all of which are located in the carriage house buildings. He confirmed that all of the affordable units are end units located on the third floor in the carriage house buildings and that all of the affordable units will have the same amenities as the market-rate units. Mr. Martinez testified that all of the eight- and twelve-unit carriage house buildings have two affordable units, and that each apartment building has nine affordable units. He explained that the one-bedroom affordable units are all located in the apartment buildings.

34. On discussion of the electric vehicle charging stations, Mr. Martinez stipulated that the Applicant will comply with the required number of charging stations for electric vehicles and that, here, the requirement will be 45 stations, but that the exact locations of the chargers have not yet been determined. He advised that residents living in the carriage houses can install their own charger in their garages, and the breaker panels in the carriage houses will accommodate the installation of a charging port.

35. On discussion of whether generators are proposed, Mr. Martinez testified that each apartment building will have a generator to provide power for the elevator and emergency lighting

in common areas, but that the carriage house buildings will not have generators. On questioning, Mr. Martinez confirmed that the carriage house buildings will not have heat if there is an extended power outage because the carriage house units will have gas-fired forced hot air heat systems that require electricity for the fans. A Board Member advised that the Borough provides heating shelters, but the shelter could be overwhelmed with an additional 400 to 500 residents using the shelter. The Applicant agreed to consider installing a generator to support the clubhouse so residents could shelter there in an emergency.

36. On questioning regarding the HVAC and hot water units, Mr. Martinez advised that the layout for the utilities has not been fully engineered, but that he anticipates that the HVAC and hot water units will be contained within a closet within the residential units. Mr. Martinez testified that the compressors will be located at grade along the perimeter of the carriage houses approximately 3 feet from the rear of the buildings and that, to the extent any of them will be visible from Spring Street and Commerce Drive, landscape buffering will be installed.

37. On questioning as to whether any green building techniques are proposed, Mr. Martinez advised that the Applicant is not applying for LEED certification, but will incorporate green building techniques where possible. He explained that the inclusion of a parking area below the residences in the apartment buildings reduces the amount of impervious coverage that would otherwise be required; materials from the demolition of the existing structures will be recycled and the concrete will be crushed and reused; the HVAC equipment will be high-efficiency; the windows will exceed insulation requirements; the appliances will be 100% energy efficient; the lights will be LED; and, there will be lighting sensors that control the brightness of the lights. He contended that the proposed building techniques address the Borough of New Providence Sustainable Building Design Guidelines.

38. Mr. Martinez addressed the architectural comments and questions in the Borough Engineer's Review Memorandum dated October 15, 2021. On questioning as to the removal of the cul-de-sacs, Mr. Webber reiterated that the removal of the cul-de-sacs reduced the lot coverage and the need for the retaining walls at Commerce Drive and Spring Street, thereby allowing the existing grade and mature trees to be maintained. Mr. Martinez then addressed the architectural comments and questions in the Borough Planner's Review Memorandum dated October 15, 2021. Mr. Martinez confirmed that there are 38 affordable units, 6 of which will be one-bedroom units, 22 of which will be two-bedroom units and 10 of which will be three-bedroom units. He further confirmed that the affordable and market-rate units will have the same amenities. On questioning, Mr. Martinez testified that the average size of the apartment units is 1,500 square feet and the carriage house units are 1,750 square feet. He explained that each apartment building will have two storage rooms on each side of the building for tenant storage and confirmed that the floor plans comply with New Jersey and Federal Fair Housing Act requirements.

39. On questioning as to the lighting, Mr. Martinez advised that the buildings will not be illuminated other than by the accent light fixtures to be located near the entrances to the apartment buildings. The Applicant stipulated that the exterior lighting would be limited to safety level lighting around the doorways, entrances and garages. Mr. Martinez testified that one monument sign is proposed and that the location and signage thereon will conform with the signage requirements.

40. Mr. Martinez confirmed that the buildings will be labeled/signed as requested in Captain Henn's Review Memorandum dated October 5, 2021. He then addressed the comments and questions in the Fire Official's Review Memorandum dated September 28, 2021. Mr. Martinez testified that the carriage houses and clubhouse will be sprinklered and that the Applicant will

work with the Fire Department regarding the location of the Fire Department Connections (“FDCs”). He explained that the apartment building stairwells will have standpipes and the Applicant will coordinate with the Fire Department regarding valving and connections. Mr. Martinez advised that each residential unit would have a smoke and carbon monoxide detector and that the complex will have pull stations to report the location of an emergency. He explained that access to the sprinkler rooms will be via a Knox box. Mr. Martinez confirmed that the sprinkler system load calculations will reflect the added suppression need for a battery fire in an electric vehicle in the parking garages.

41. Members of the public questioned whether the Applicant will accept a Veteran’s Affairs Certificate of Eligibility for purchase of a unit (the units are rentals and not for purchase); what would happen if an affordable unit becomes vacant (affordable units are subject to a 30-year deed restriction and remain affordable for that period of time) whether green or solar roofs are proposed (no); whether the pitched roof design of the buildings would generate additional stormwater runoff than flat roofs (no); and whether the stormwater runoff patterns would be changed (no).

42. At the December 13, 2021 hearing, Mr. Webber provided an update as to some of the issues raised at the prior meetings. He advised that the boulders along the athletic field (Lot 20.01) will be extended to delineate the Applicant’s Property from the Borough’s property, rather than a gate or fence as was previously proposed. Mr. Webber noted that the culvert to the west by the residential neighborhood is located on Borough property and, therefore, the Borough will continue to maintain it along with the culvert that runs across the Applicant’s Property. He confirmed that the gravel area near the wetlands that was previously used for parking trucks will be removed, and the area will be returned to its natural state. Mr. Webber advised that the Applicant

is unable to provide emergency back-up power for the apartment buildings or carriage houses, but that the clubhouse will have an emergency generator so residents in need of warmth or electricity will not have to go to a warming shelter. He confirmed that the pedestrian access to the pathway on Commerce Street will not have a gate.

43. On discussion of the cul-de-sacs, Mr. Webber advised that Captain Henn from the Police Department deferred to the Board's recommendation and Mr. Webber noted that elimination of the cul-de-sacs avoids disturbance of the wetlands, eliminates grading and preserves the trees. Mr. Webber advised that the Applicant had widened the entrance on Spring Street as requested by the Fire Department.

44. Mr. Webber explained that the Applicant proposes to add balconies to the two-bedroom affordable units at the ends of the multi-family apartment building. He confirmed that the complex will have an onsite superintendent and a back-up superintendent. Mr. Webber advised that the Borough Engineer confirmed the Applicant's proffer regarding the two-acre reduction in impervious coverage. He further advised that he received confirmation that the sanitary sewer system has the capacity to handle the complex and that the Applicant will comply with any conditions of approval relating thereto.

45. On discussion, the Applicant stipulated to sharing footage from its security cameras with the Police Department if requested and that the location of the security cameras and associated lighting will be determined in consultation with the Police Department. On discussion of snow removal, Ms. Mertz advised that same is not generally handled with a formalized agreement, but rather an informal agreement between the Borough and the Applicant. She noted that the Borough Council could require said maintenance obligations to be set out in a developer's agreement or some other document.

46. Mr. Webber confirmed that the emergency access roadway will not be gated and, instead, boulders and signage are proposed to delineate the properties. He reminded the Board that the main entrance to the development will be on Spring Street and that the Applicant does not presently intend to restrict access from the emergency access roadway.

47. Dan Disario, P.E., of Langan, having a business address of 989 Lenox Drive, Lawrenceville, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in traffic engineering with a certificate in traffic operations. Mr. Disario testified that he had prepared a traffic statement comparing the trip generation of the proposed development with the trip generation of the prior development, which included two commercial buildings. For the prior development, Mr. Disario testified that the estimated number of trips during the weekday morning peak hour (one hour between 7 a.m. and 9 a.m.) is 180 vehicles entering and 30 vehicles exiting the Site for a two-way total of 210 trips. For the proposed residential development, the estimated number of trips during the weekday morning peak hour is 20 vehicles entering and 70 vehicles exiting for a two-way total of 90 trips - a reduction of 120 trips from what previously existed. Mr. Disario testified that the trip generation for the afternoon peak hour (one hour between 4 p.m. and 6 p.m.) for the prior use was 35 vehicles entering and 175 exiting for a two-way total of 210 trips, whereas the trip generation for the afternoon peak hour for the proposed development is 65 vehicles entering and 40 vehicles exiting for a two-way total of 105 trips - a reduction of 105 trips from what previously existed. Mr. Disario conceded that the proposed residential development results in an increase of 85 trips during the Saturday midday peak hour (one hour between 11 a.m. and 2 p.m.) with 95 vehicles entering and 80 vehicles exiting for a two-way total of 175 trips compared to 90 two-way trips for the prior use (50 vehicles entering and 40 vehicles exiting). He confirmed that the proposed development represents an increase in

trips during the Saturday midday peak hour, but reminded the Board that the increase in Site trips will be less than 100 peak-hour trips overall. Mr. Disario contended that the increase of 85 trips during the Saturday midday peak hour will not have a discernible impact on traffic and that the traffic from the residential development will be reduced from what it was during the week compared to the previous use. On questioning, Mr. Disario noted that the traffic study does not account for the Property's proximity to the train station and that same would likely reduce the number of trips because residents can walk to the station. On further questioning, Mr. Disario contended that the proposed development will not have a detrimental impact on pedestrian safety.

48. After substantial discussion regarding the use of the emergency access, Mr. Webber reiterated that the Applicant is only interested in using the road off Central Avenue for emergency access and stipulated, on the Applicant's behalf, to providing traffic measures to restrict same to emergency access only. Mr. Webber further stipulated, that the Applicant will work with the Borough and its professionals in determining the most appropriate measure(s) to limit access to the Site from Central Avenue.

49. Paul Ricci, P.P., Ricci Planning, having a business address of 177 Monmouth Avenue, Atlantic Highlands, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of professional planning. Mr. Ricci introduced into evidence, as Exhibit A-3, a compendium of photographs of the Property and the surrounding area, and, as Exhibit A-4, revised floor plans showing the newly proposed balconies for the two apartment buildings. Mr. Webber advised that the floor plan now shows the proposed balconies for the two-bedroom affordable units for a total of six balconies on each of the two multi-family units (total of 12 balconies for the two buildings).

50. Mr. Ricci noted that the proposal is nearly conforming except for the minor deviation for the building length of 219.5 feet. He confirmed that the proposal complies with all of the requirements for setbacks, parking, building height, coverage, density and the affordable housing set aside.

51. As to the requested relief for the length of the building, Mr. Ricci contended that granting the requested variance for the building length will not detract from the zoning requirements in the A-4 Zone. He further contended that the longer buildings are a better zoning alternative as they allow the Applicant to provide courtyards which will provide additional light, air, and open space. Referencing Exhibit A-4, Mr. Ricci described the views of the Property from across the street, from the intersection of Spring Street and Commerce Drive, and from Commerce Drive. Mr. Ricci opined that the existing evergreen plantings mitigate the visibility of the building from Spring Street.

52. Mr. Ricci contended that granting the requested relief would advance the purposes of the Municipal Land Use Law set forth in Section 2 thereof, including the promotion of the general welfare and a desirable visual environment, as well as the provision of sufficient space for residents and adequate light, air and open space. He opined that the benefits associated with granting the requested relief substantially outweigh the detriments associated therewith. Mr. Ricci further contended that the requested relief can be granted without substantial detriment to the public good or substantial impairment of the Master Plan and Zoning Ordinances. On questioning, Mr. Ricci confirmed that variance approval for the height of the fence was previously granted so no additional variance is required. He further confirmed that the proposed signage will be relocated to eliminate the need for any variance relief relating thereto.

53. Robert Sherman, having an address of 15 Hawthorne Drive, was duly sworn and expressed concern about stormwater management and offered his comments regarding the emergency access road. Mr. Boyer testified that he reviewed the Applicant's calculations regarding the reduction in impervious coverage and confirmed that same is accurate.

54. Phil Dempsey, having an address of 40 Hawthorne Drive, expressed concern regarding the proposed lighting on the emergency access road. Mr. Lynch, Director of Planning and Development, advised that there is no lighting on the roadway beyond the gatehouse. Mr. Webber added that there is light spillage from the commercial building to the east, so the road is already illuminated. Mayor Morgan noted that the road has never had lighting and the use of the road will be for emergency vehicles only such that additional lighting is unnecessary.

55. No other member of the public commented on, or objected to, the Applicant's proposal.

DECISION

56. After reviewing the testimonial and documentary evidence presented and based thereon, the Board, by a unanimous vote of 7 to 0, finds that the Applicant has satisfied its burden of proving its entitlement to preliminary and final major site plan approval, together with the requested bulk variance relief pursuant to N.J.S.A. 40:55D-70(c)(2) and design waivers.

The Bulk Variance Relief – Positive Criteria:

57. As to the requested relief for the excessive length of the multifamily residential building (219.5 feet proposed; 210 feet permitted), the Board finds that the Applicant has demonstrated that the purposes of the MLUL will be advanced by the requested deviations from the zoning requirements, and that the benefits to be derived therefrom will substantially outweigh the relatively modest detriments associated therewith, in accordance with N.J.S.A. 40:55D-

70(c)(2). In this regard, the Board finds that the excessive building length will provide increased open space within the proposed courtyard, as well as an increase in the amount of sunlight in the proposed dwelling units, and will provide a more aesthetically pleasing environment than a conforming building length. As such, the Board concurs with the unrefuted expert testimony of the Applicant's Professional Planner that the proposal advances the following purposes set forth in Section 2 of the MLUL: (a), (c), (g), and (i) in that granting the requested relief will promote the general welfare; provide adequate light, air and open space; provide sufficient space in appropriate locations for residential, recreational, and open space; and promote a desirable visual environment.

58. The Board further finds that the Applicant has demonstrated that the benefits of granting the requested relief substantially outweigh the detriment associated therewith, particularly given the magnitude of the benefits (i.e., additional open space; increased light, air and open space; and improved aesthetics to be derived therefrom). The Board notes that the existing building on the Site is approximately 500 feet in length by 320 feet in depth, and that the proposed building could be approximately 20% larger if the Applicant were to construct a 200-foot by 200-foot building, rather than the proposed 219.5 foot by 145 foot building.

59. As such, the Board finds that the Applicant has satisfied the positive criteria for the requested bulk variance relief, pursuant to N.J.S.A. 40:55D-70(c)(2).

The Bulk Variance Relief – Negative Criteria

60. As to the negative criteria, the Board finds that the Applicant has demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Master Plan and Land Development Ordinance. As to the substantial detriment prong of the negative criteria, the Board accepts the

unrefuted expert testimony provided by the Applicant's professional planner, Mr. Ricci, that the proposed building length is consistent with the lengths of other buildings in the immediate area, which range from 240 feet to 650 feet. The Board further finds that the existing and proposed landscaping will significantly mitigate any visual detriment associated with proposed length of the building. This finding is supported by the lack of any public opposition as to the length of the building.

61. As to the substantial impairment prong of the negative criteria, the Board notes that affordable housing is a permitted use in the A4 Affordable Housing Zone. The Board further notes, as testified to by Mr. Ricci, that the proposal otherwise complies with the A4 Affordable Housing Zone requirements, particularly since the proposal complies with the setback, height, building coverage, and density requirements. In this regard, the Board notes that the proposal will reduce the existing coverage significantly (38% existing; 29.8% proposed; 50% permitted).

62. As such, the Board finds that the Applicant has satisfied the negative criteria for the requested bulk variance relief, pursuant to N.J.S.A. 40:55D-70(c)(2).

The Design Waiver Relief:

63. As to the requested design waiver relief for non-conforming landscape strips and street tree spacing, the Board finds that the literal enforcement of the provisions relating to same is impracticable and/or will exact undue hardship due to peculiar conditions pertaining to the Property. As to the landscape strips, the Board recognizes that the Applicant has stipulated to working with the Borough Planner to provide adequate landscaping throughout the Site. As to the street tree spacing, the Board recognizes that the Applicant is actually proposing more trees than would be otherwise required if the Applicant were to comply with the spacing requirements. As

such, the Board finds that the Applicant has demonstrated an entitlement to the requested design waiver relief.

The Preliminary and Final Major Site Plan Approval:

64. As to the requested preliminary and final major site plan approval, the Board finds that good cause exists and the Applicant has complied with the requirements set forth in Chapter 305 of the Ordinance. As such, the Board finds that the Applicant is entitled to the requested preliminary and final major site plan approval.

WHEREAS, the Board took action on this application at its meeting on December 14, 2021, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of New Providence, on the ____ day of _____, 2022, that the application of **GH NP Central, LLC**, for preliminary and final site plan approval, design waiver and bulk variance relief, as aforesaid, be, and is hereby, granted, subject to the following conditions:

- (1) The Applicant shall post sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account;
- (2) The Applicant shall prohibit the use of the emergency exit by residents (i.e., same shall be solely used for emergency access purposes) and the nature and location of the instrumentalities restricting such access (i.e., signage, gates, boulders, etc.) shall be subject to the review and approval of the Borough Engineering Department. If the Applicant and the Borough Engineering Department cannot agree as to same, the Board shall retain jurisdiction and shall be the arbiter of any such disagreements;
- (3) The Applicant shall obtain any necessary approvals for the sanitary sewer and shall comply with any requirements set forth in said approvals;
- (4) The Applicant shall designate an employee to be responsible for the monitoring of the trash and recycling areas to ensure that said areas remain sanitary and clean;

- (5) The Applicant shall incorporate green building techniques, but shall not be required to obtain LEED Certification;
- (6) The Applicant shall revise the plans to reflect that the dropped block curb at the accessible ramps be modified to concrete curb for easier accessibility;
- (7) The Applicant shall submit signed and sealed certifications of ADA compliance for all as-built pedestrian facilities (curb ramps) at the completion of construction;
- (8) The Applicant shall revise the plans to include calculations for existing and proposed drivable surfaces;
- (9) The Applicant shall complete and submit the Checklist for Conducting Stormwater Management Reviews found in Section 3.4 of the Tier A Municipal Stormwater Guidance Document, same to be subject to review and approval by the Borough Engineering Department;
- (10) The Applicant shall complete and submit the Major Development Stormwater Summary (Attachment D of the Tier A Permit), same to be subject to the review and approval of the Borough Engineering Department;
- (11) The Applicant/Owner shall enter into an easement agreement with the Borough to allow for the Borough to access and inspect the stormwater management facilities pursuant to the requirements of the MS4 Tier A Permit held with the NJDEP, same to be subject to the review and approval of the Borough Engineering Department and the Borough Attorney;
- (12) The Applicant shall submit a Stormwater Operation and Maintenance Manual for review and approval prior to the start of construction. Once approved, same shall be incorporated into the easement described in the immediately preceding condition in a form acceptable to the Borough Engineer and Borough Attorney;
- (13) The Applicant shall make the Stormwater Operation and Maintenance Report available to the Borough within 14 business days upon request and shall submit same to the Borough Clerk and Engineer for review and recordation annually;
- (14) The Applicant shall revise the plans to depict sight triangles for all proposed intersections;
- (15) The Applicant shall revise the plans to reflect that salt storage and snow maintenance equipment shall not be stored on the Property;
- (16) The Applicant shall provide construction cost estimates for on- and off-site improvements for review and determination of applicable bonding and inspection fees in accordance with the MLUL requirements;

- (17) The Applicant shall be responsible for repairing any damage within the Borough right-of-way to the satisfaction of the Borough Engineer, including, but not limited to, sidewalks, curbs, and asphalt, caused by construction activities associated with the installation of the improvements on the Site;
- (18) The Applicant shall submit a signed and sealed as-built survey for review prior to the issuance of a Certificate of Occupancy and the as-built survey shall accurately depict all constructed site features, including but not limited to, grading contours, spot elevations, drainage structures, utilities, etc., and same shall be subject to the review and approval of the Borough Engineering Department;
- (19) The Applicant shall revise the plans to reflect that the proposed signage will comply with the minimum required setback of 15 feet, as well as the other requirements set forth in Section 310-6 of the Ordinance, and same shall be subject to the review and approval of the Borough Engineering Department;
- (20) The Applicant shall work, in good faith, with the Borough Planner as to the proposed landscaping and street tree spacing. The Applicant shall also install landscape screening for any mechanical equipment proposed to be located in the front-yard setback;
- (21) The Applicant shall comply with the Borough's Affordable Housing Ordinance (Chapter 275 of the Ordinance) as well as the Uniform Housing Affordability Controls regarding construction phasing of the affordable units, as well as the proposed bedroom distribution (6 one-bedroom units; 22 two-bedroom units; and 10 three-bedroom units for a total of 38 affordable units);
- (22) The Applicant shall revise the plans to include the patios and balconies discussed and stipulated to by the Applicant and shall revise the impervious coverage calculations accordingly, all of which shall be subject to the review and approval of the Borough Engineering Department;
- (23) The Applicant shall revise the plans to include direct pedestrian connections from the Site to the walking path that extends west along Commerce Street and same shall be subject to the review and approval of the Borough Engineering Department;
- (24) If not already provided, the Applicant shall provide a detail for each proposed type of apartment configuration;
- (25) The construction (materials, colors, style, etc.) shall be substantially similar to what is depicted on the renderings submitted to the Board;
- (26) The Applicant shall construct the clubhouse such that the materials, colors, and architectural style are substantially similar to the construction materials, colors and architectural style of the residential buildings;

- (27) The Applicant shall submit a lighting schedule and/or manufacturer's specification details with the Lighting Plan and same shall address the proposed light fixtures for the apartment and carriage house buildings, including clarification of the proposed mounting heights;
- (28) All lighting shall be appropriately shielded and/or downward directed to minimize the amount of light spillage onto adjacent properties;
- (29) Any tree removal shall be in accordance with the requirements set forth in the Borough's tree removal standards (Chapter 247 of the Ordinance);
- (30) The Applicant shall revise the plans to depict the proposed location of the required electric vehicle charging stations within the multi family apartment buildings and the site (i.e., 10% of the number of approved parking spaces or 45 spaces) and same shall be subject to the review of the Borough Engineering Department. The EV charging spaces for the carriage houses have not yet been determined. The Applicant shall coordinate with the Bureau of Fire Protection as to the location of any disconnects for said charging stations and, once approved, shall revise the plans accordingly;
- (31) The Applicant shall revise the plans to reflect the locations of all proposed mechanical equipment and same shall be subject to the review and approval of the Borough Engineering Department;
- (32) The Applicant shall revise the plans to reflect the inclusion of a generator that will supply power to the proposed clubhouse and same shall be subject to the review and approval of the Borough Engineering Department;
- (33) The Applicant shall work with the Borough as to proposed procedures for snow removal, particularly as to the emergency access road that borders the Borough's property, and same shall be subject to the review and approval of the Borough Engineering Department and, if necessary, Borough Attorney;
- (34) The Applicant shall submit a report to the Bureau of Fire Prevention regarding the status and rating of the bridge leading to Central Avenue and said bridge shall accommodate the largest fire apparatus;
- (35) The Applicant shall work with the Borough Engineering Department and New Jersey American Water to provide a loop hydrant system. If such a system is not approved by New Jersey American Water, the Applicant shall work with the Borough Engineering Department and the Bureau of Fire Prevention to establish an alternate system;

- (36) The Applicant shall coordinate with the Bureau of Fire Protection as to the location of any proposed Fire Department Connections and shall provide any additional information as to same if requested by the Bureau of Fire Protection;
- (37) The Applicant shall work with the Bureau of Fire Protection as to the valving and connections of the proposed standpipes;
- (38) The Applicant shall not provide Storz connections for any new fire hydrants;
- (39) The Applicant shall provide details for the fire alarm system interconnections with suppression, as well as access to FACPs, same to be subject to the review and approval of the Bureau of Fire Protection;
- (40) The Applicant shall install Knox boxes so the Fire Department can access all valves, panels, and controls in the sprinkler rooms;
- (41) The Applicant shall revise the plans to reflect that gas services are being provided to all buildings and the Applicant shall also confirm all electric service locations to the carriage house and apartment buildings;
- (42) The Applicant shall revise the plans to clarify that the sprinkler system load calculations reflect the added suppression needed for a Battery Electric Vehicle (BEV) fire in the parking garage;
- (43) The Applicant shall ensure that all buildings are properly labeled so that emergency personnel can quickly and efficiently navigate the Site;
- (44) The Applicant shall revise the plans to reflect the proposed pedestrian access to the Site;
- (45) The Applicant shall revise the plans to reflect the height of the parking garage doors on both apartment buildings;
- (46) The Applicant shall install proper signage restricting parking on the private roads;
- (47) The Police Department shall have Title 39 authority to enforce parking violations;
- (48) The Applicant shall revise the plans to note that the wetland area along the western edge of the Property that was previously used to store vehicles and maintenance equipment shall be restored to its natural state (i.e., the Applicant shall remove all impervious coverage, refuse, and the existing trailer and replace same with vegetation) and used solely for passive recreation purposes. Any future improvements involving said area of the Property shall require the Applicant to return to the Board for further approval, as well as obtain any outside approvals, and the Board shall retain jurisdiction as to same;

- (49) The Applicant shall provide a copy of the recorded wetlands conservation easement to the Borough Engineering Department and Borough Clerk;
- (50) The Applicant shall coordinate the locations of security cameras and associated lighting for same with the Borough Police Department;
- (51) The Applicant shall provide the Police Department, if requested to do so, with any footage recorded on the security cameras;
- (52) The Applicant shall install compliant pool fencing and gates, same to be subject to the review and approval of the Borough Engineering Department;
- (53) The Applicant and its contractors shall participate in a pre-construction meeting with Borough officials to discuss staging and phasing for the project;
- (54) The subject development proposal shall be constructed/effectuated strictly in accordance with the plans and testimony presented to the Board and any conditions testified to during the hearing, even if not specifically set forth herein, shall apply thereto;
- (55) The Applicant shall post all performance and maintenance guarantees required by the Borough Engineer and shall pay all taxes, escrows and fees to the Borough official and shall obtain any necessary municipal governmental approvals;
- (56) The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein;
- (57) The Applicant shall comply with all Federal, State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State; and
- (58) All notes included in the approved plans, including any notes required by this Resolution, shall be deemed to be conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.

ROLL CALL VOTE:

Those in Favor: Mr. Castagna, Mr. Hoefling, Mr. Keane, Mr. Sartorius and
Chairman Lesnewich

Those Opposed: -----

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of New Providence at its meeting of February 15, 2022

Approved this 15th day of February, 2022.


Margaret Koontz, Secretary


Robert Lesnewich, Chairman

**BOROUGH OF NEW PROVIDENCE
PLANNING BOARD**

**GH NP Central, LLC
111 Spring Street**

RESOLUTION

WHEREAS, GH NP Central, LLC (the “Applicant”) has applied to the Planning Board of the Borough of New Providence (the “Board”) for amended site plan approval relating to property designated as Block 210, Lot 32 on the Borough Tax Map and more commonly known as 111 Spring Street, which is located in the A-4 Affordable Housing ("AH-4") Zone (the “Property” or the “Site”);

WHEREAS, a public hearing on notice was held on such application on November 22, 2022, at which time interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and members of the public, and the reports from consultants and reviewing agencies, has made the following factual findings and conclusions:

1. The Property is a roughly 27 acre, irregularly shaped lot located to the southwest of the intersection of Central Avenue and Spring Street. Spring Street borders the eastern side of the Property providing access to Commerce Street, which creates the Property’s southern boundary. The Property is located in the AH-4 Zone and is surrounded by the Technology and Business 2 Innovation Zone, the Affordable Housing Overlay, and the R-2 Zone. The Allen W. Roberts Elementary School is located to the southwest of the Property.

2. The Property was previously developed with a large single-story building and associated impervious improvements, as well as a cell tower structure. The building is currently in the process of being demolished and the cell tower is being relocated to the property to the

northeast (41 Spring Street). The relocation of the cell tower was the subject of two previous Planning Board approvals.

3. On December 14, 2021, the Applicant obtained preliminary and final site plan approval, variance and design waiver relief, in connection with the construction of an inclusionary residential development, consisting of two (2) four-story multifamily apartment buildings (84 units) with ground-floor parking garages and ten (10) three-story carriage-style townhouse buildings (108 units) for a total of 192 units, 38 of which were designated as affordable units, together with various site improvements including a clubhouse with an outdoor pool, patio, and play area.

4. Specifically, the Applicant sought and obtained the following relief:

- a. A variance for a multifamily residential building having a length of 219.5 feet, whereas multifamily residential buildings are not permitted to exceed 200 feet, pursuant to Section 310-50.1J(h) of the Zoning Ordinance;
- b. A design waiver for no landscaping along the internal roadways, whereas a minimum three (3) foot wide landscape strip is required between the curb and sidewalk along all internal streets, pursuant to Section 310-50.1K(b)2 of the Zoning Ordinance; and
- c. A design waiver for street trees planted approximately 24 feet apart, whereas the street trees are required to be planted within landscape strips at an average of 40 feet apart, pursuant to Section 310-50.1K(b)3 of the Zoning Ordinance.

5. The Applicant now seeks to amend the prior approval in order to satisfy the requirements of the New Jersey Department of Environmental Protection (“NJDEP”) relating to the presence of wetlands and associated buffer transition areas. The overall number of residential units is not changing and there will continue to be 38 units designated as affordable units. The aforementioned variance and design waiver relief is still necessary, but no additional variance or design waiver relief is required as part of the proposed amendments.

6. The Applicant is proposing to make the following changes to the site plan in accordance with the NJDEP regulations:

- a. The eight-unit carriage-style townhouse building that was previously located closest to the Spring Street entrance was removed. Those eight units have been redistributed within the two proposed multifamily buildings;
- b. The main driveway entrance from Spring Street was shifted south toward Commerce Street and is no longer a boulevard;
- c. The site identification sign shifted to the south consistent with the driveway shift;
- d. The previously proposed cul-de-sac at the eastern end of Private Road F has been eliminated and the streets are now interconnected to form a loop;
- e. Overall parking counts have not changed except for the reduction in townhouse parking spaces due to the reduction in townhouse units; and
- f. The proposed landscaping has been updated and enhanced.

7. The Applicant's proposal is depicted and described on the following documents:

- a. Site Plans prepared by Beth E. Kenderdine, P.E., dated July 31, 2021, last revised October 31, 2022, same consisting of five (5) sheets;
- b. Architectural Plans prepared by Avelino Martinez, R.A., dated October 27, 2022, unrevised, same consisting of thirteen (13) sheets; and
- c. Freshwater Wetlands Letter of Interpretation: Line Verification from the State of New Jersey Department of Environmental Protection, dated June 29, 2022.

8. The Applicant received the following review memoranda:

- a. Planning Memorandum prepared by M. McKinley Mertz, P.P., A.I.C.P., dated November 15, 2022; and

- b. Engineering Memorandum prepared by Kevin Boyer, P.E., C.F.M., dated November 16, 2022.

9. M. McKinley Mertz, the Board Planner; Kevin Boyer, the Board Engineer; and Keith Lynch, the Director of Planning and Development, were duly sworn according to law.

10. Samantha T. Alfonso, Esq., entered her appearance on behalf of the Applicant and provided an overview of the previously approved development of the Site, which included the construction of two (2) apartment buildings and ten (10) carriage-style townhouse buildings, a clubhouse and pool. Ms. Alfonso reminded the Board that a portion of the Property was deeded to the Borough for an athletic field (now Lot 20.01) with an easement for the driveway off of Central Avenue to access the Site.

11. Ms. Alfonso explained that this application is for a minor amendment to the previously approved site plan to accommodate the new classification of exceptional resource value freshwater wetlands and the resulting additional buffer required per the NJDEP Letter of Intent (“LOI”). Ms. Alfonso contended that the amended site plan is an improvement over the site plan that was previously approved. She explained that, in order to address the NJDEP’s comments, one of the carriage-style townhouse buildings, consisting of eight (8) units, has been eliminated. The eight townhouse units that are being displaced will be redistributed to the multifamily apartment buildings.

12. Ms. Alfonso introduced into evidence, as **Exhibit A-1**, a comparison of the approved site plan and the proposed amended site plan.

13. Beth Kenderdine, P.E., having an address of 69 West End Avenue, Somerville, was duly sworn according to law, provided her qualifications, and was accepted by the Board as an expert in the field of civil engineering. She explained that following the Board’s approval of the application in 2021, a wetlands delineator delineated the Site and applied to the NJDEP for a LOI

to confirm the location of any wetlands and buffers. Ms. Kenderine further explained that, while the Applicant knew that the area at the rear of the Property was classified as being of extraordinary resource value requiring a 150' buffer, she was surprised that two areas in the front and the area by the detention basin were classified as ordinary resource value which requires a 50' buffer or transition area from the wetlands.

14. Ms. Kenderine testified that portions of the wetlands buffer areas that were previously disturbed are permitted to be further disturbed. She further testified that, as a result of the new wetlands delineations, she redesigned the Site to avoid disturbing areas of the Property that were not previously disturbed. Ms. Kenderine explained that the divided driveway was in a wetlands transition area, so it has been shifted south and replaced with a central driveway that loops around the Site.

15. Ms. Kenderine testified that, in order to comply with the NJDEP requirements, the Applicant must eliminate one of the eight-unit carriage-style townhouse buildings, as well as shift and reduce the footprint of the apartment buildings to relocate them out of the transition area for the detention basin. She explained that minor changes were also required for the configuration of the parking on the main driveway as some of the parking stalls were in areas not previously disturbed. Ms. Kenderine testified that the Site will have 433 parking stalls, thereby exceeding the parking requirement of 384 stalls. On questioning as to whether the parking counts had changed, Ms. Kenderine testified that 449 parking stalls were previously approved, and the Applicant is now proposing 433 parking stalls. She further testified that the minimum required number of parking stalls is 384 and is, therefore, conforming. Ms. Kenderine explained that some of the parking stalls had to be shifted to avoid environmentally sensitive portions of the Property.

16. Ms. Kenderdine addressed the engineering comments in the Borough Planner's Review dated November 15, 2022 and stipulated to complying with same as a condition of approval. She testified that the Applicant reduced the size of the previously approved garbage enclosure because said enclosure was larger than necessary. Additionally, the enclosure was relocated to what she contended was a better position. She confirmed that the Applicant will install signage for the parking spaces closest to the multifamily apartment buildings indicating that said spaces are reserved for the residents of the multifamily dwelling units. Ms. Kenderdine testified that the Electric Vehicle Charging ("EVC") stations will comply with the State's EVC ordinance and the location of same will be coordinated with the Borough Planner. She explained that there are a lot of areas on the Site that will be restored to their natural condition/wetlands because of the proposed plan revisions. On questioning, Ms. Kenderdine testified that the sidewalk on the west side of the multifamily apartment buildings is an existing sidewalk, but was not shown on the previous site plan. She confirmed that the sidewalk will not be removed.

17. Ms. Kenderdine then addressed the comments in the Borough Engineer's Review Letter dated November 16, 2022. She testified that the on-site circulation has been improved by the elimination of the dead end by the carriage-style townhouse building on the southeastern corner and connection of same to the driveway to Spring Street. Ms. Kenderdine confirmed that the impervious coverage has been reduced as a result of the amendments to the plan. She testified that the drainage patterns remain the same and advised that a drainage analysis will be submitted to the Borough's Engineer for review. The Applicant stipulated, as a condition of approval, to adding a stop sign on Private Road "F" to address the vehicular conflicts between vehicles in the driveway and vehicles backing out from Building 11.

18. On questioning, Ms. Kenderdine agreed that 28 EVC stations are required for the multifamily apartment buildings and stipulated, on behalf of the Applicant, to working with the Board Planner to determine the most appropriate locations for said EVC stations. Ms. Kenderdine confirmed that residents of the carriage-style townhouses will have the ability to install their own EVC stations.

19. The Police Department had no comments on the amended application.

20. On questioning, Ms. Kenderdine testified that the Applicant previously proposed 449 parking stalls but has reduced the number of parking stalls to 433, whereas 384 parking stalls are required. She explained that the multifamily apartment building units require fewer parking stalls than the carriage-style townhouse units hence, overall, less parking is necessary because eight of the condominium units were converted into apartment units.

21. Robert Sherman, 15 Hawthorne Drive, asked about the greater transition/buffer areas required by NJDEP. He also asked about the impact of the changes on the utilities and stormwater management and if the stormwater management plans are available to the public. Ms. Kenderdine testified that there is a conservation easement protecting the environmentally sensitive areas. She explained that there will not be a public hearing specifically as to the stormwater management design, but that all of the stormwater management plans and supporting documents are available to the public and can be viewed by submitting an Open Public Records Act request for them. A Stormwater Management report was submitted as part of the prior application and Ms. Kenderdine confirmed that the Applicant will meet the conditions described in the report. Mr. Sherman then asked if the open ditch will be covered. The swale and 30" diameter pile will remain, and the swale will not be covered. Mr. Sherman asked about parking. Parking is permitted on the

private road only in designated areas. Parking in the driveway by the athletic field in the easement area is up to the Borough.

22. Doreen Schwanenflugel, 80 Hawthorne Drive, asked about the lighting, Green Acres and the demolition. Ms. Kenderdine responded that lighting on the Site was approved as part of the prior application and confirmed that there are no changes to the lighting. The Applicant stipulated that all lighting will be downward directed and will comply with the Ordinance requirements. On questioning, Ms. Kenderdine explained that the Applicant is using water during the demolition of the existing structures to control dust and is monitoring the air quality in accordance with the demolition requirements.

23. Allen Swanson, 47 Overhill Drive, asked for confirmation that the proposed development is reducing the impervious coverage over the previous use. Mr. Swanson contended that same would be a net benefit in terms of stormwater management on the Site.

24. Avelino Martinez, R.A., having an address of PO Box 5943, Newark, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of architecture. Mr. Martinez provided an overview of the changes and noted that there are no changes to the clubhouse or the carriage-style townhouse buildings, except for the elimination of one eight-unit carriage-style townhouse building. He explained that the eight displaced units will be absorbed into the two multifamily apartment buildings. Four units will be added to each multifamily apartment building. Referring to Sheet B 1-1.2 of the revised architectural plan, Mr. Martinez testified that the two-bedroom units along the rear of the multifamily apartment buildings have been converted to one-bedroom units. The total number of one-bedroom units in the multifamily apartment building will be increased by eight (8) units. The carriage-style townhouse to be eliminated included two units that were designated as affordable

units. One of the one-bedroom market-rate units on the second floor of each apartment building has been converted to a two-bedroom affordable unit. Both apartment buildings will have the same distribution and type of units but with a change from two-bedroom to one-bedroom units. Mr. Martinez testified that the affordable units are the same size as previously approved and will have the same amenities. While the exterior of the multifamily apartment buildings remains the same, the sides of the building were brought in 9'2."

25. Mr. Martinez responded to questions from the Board. He advised that the width of the courtyards in the front of the multifamily apartment buildings is the same but the depth of each has been reduced. The parking stalls in front were eliminated. The parking garages have 76 parking stalls the same as previously approved. Although the buildings are being reduced in size, the Applicant was able to maintain the number of parking stalls by optimizing the layout with more tandem spaces. Ms. Alfonso confirmed that the overall number of parking stalls is being reduced to 433, but the site exceeds the requirement of 384 stalls.

26. Ms. Mertz commented that Mr. Martinez addressed the concerns in her review letter. She confirmed for the Board that the affordable units are not being unfairly reduced in size. Ms. Mertz contended that the amended plan is an improvement over the prior plan.

27. Robert Sherman, 15 Hawthorne Drive, was duly sworn according to law, and commented that the existing Site is not being maintained and expressed concern about a pile of glass near the guardhouse.

28. Doreen Schwanenflugel, 80 Hawthorne Drive, was duly sworn according to law and commented that it would be helpful if application materials could be displayed on the screens in Council Chambers.

29. Ms. Alfonso summarized the application to amend the prior approval to address the line verification of the freshwater wetlands on the Site per the NJDEP's Freshwater Wetlands LOI. The amended plan provides more benefits than the previously approved application with more landscaping and less impervious coverage. The amended application provides as much light, air and open space as possible as well as a mix of units. Ms. Alfonso submitted the application for approval.

DECISION

30. After considering the evidence submitted and testimony provided, the Board, by a vote of seven to zero, finds that the Applicant has demonstrated an entitlement to the requested amended site plan approval pursuant to Chapter 305, Subdivision of Land and Site Plan Review, as well as Article 5 of the Municipal Land Use Law. In this regard, the Board concurs with the unrefuted expert testimony that the amended site plan provides for safer on-site circulation, increased protection of environmentally sensitive portions of the Property, and aesthetic improvements. As such, the Board finds good cause exists to grant the requested amended site plan approval.

WHEREAS, the Board took action on this application on November 22, 2022, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g); and

NOW, THEREFORE, be it resolved by the Planning Board of the Borough of New Providence, on this 13th day of December 2022, that the application of GH NP Central, LLC, for the requested relief, as aforesaid, be, and hereby is granted, subject to the following conditions:

1. Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by Ordinance within 30 days of the adoption of a Resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to

the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable);

2. The Applicant shall pay the fees of the Board professionals, including, but not limited to, the Board Attorney, Board Engineer, and Board Planner;
3. The Applicant shall post all required performance guarantees, engineering, maintenance and inspection fees as may be applicable and required pursuant to the Municipal Land Use Law and the Zoning Ordinance of the Borough of New Providence;
4. The number of units and bedroom distributions shall comply with the Borough's affordable housing ordinance requirements as well as the Uniform Housing Affordability Controls. Specifically, as to the affordable units, there shall be 6 one-bedroom units, 23 two-bedroom units, and 9 three-bedroom units distributed as set forth on Sheet T-1 of the Architectural Plans prepared by Avelino Martinez, R.A, dated October 27, 2022. Any deviation from what is depicted on the plans shall require approval from the Board;
5. The Applicant shall work in good faith with the Board Planner to locate the required 28 EVC stations throughout the Site. The Applicant shall also ensure that each of the townhouse units can accommodate an EVC, if desired by the future resident;
6. There are 184 parking spaces required for the two multifamily buildings and only 152 parking spaces are provided within the buildings' parking structures. The remaining 32 required parking spaces are surface parking spaces. The Applicant shall install signage at the 32 parking spaces closest to the multifamily buildings to reserve said parking spaces for the multifamily units and same shall be subject to the review and approval of the Board Professionals;
7. The Applicant shall install a stop sign at the intersection of Private Road F and the easterly driveway for Building 11 to eliminate vehicular conflicts between undesignated drive aisles and open areas and same shall be subject to the review and approval of the Board Engineer;
8. The Applicant shall submit complete and updated Site Plans and supporting documents previously provided for technical review;
9. The Applicant shall abide by and address all comments set forth in the prior report from the Board Engineer dated October 15, 2021 to the extent same have not been addressed satisfactorily;
10. The Applicant shall construct the proposed improvements in strict compliance with the documentary and testimonial evidence submitted to the Board, including, but not limited to, any plans submitted or presented as part of the application, any

exhibits introduced into evidence, and any statements made during the course of the hearing;

11. The Applicant shall obtain all necessary approvals and permits from any outside agency having jurisdiction;
12. Any conditions of approval stipulated to by the Applicant is incorporated herein even if not specifically stated;
13. The Applicant shall comply with all Federal, State, County and municipal statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State; and
14. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, including those of the Planning Board, to the extent same are not inconsistent with the terms and conditions set forth herein.

ROLL CALL VOTE

Those in Favor: Mr. Castagna, Mr. Hoefling, Mr. Keane, Mr. Sartorius, Ms. Torsiello and Chairman Lesnewich.

Those Opposed: -----

The undersigned Secretary of the Borough of New Providence Planning Board does hereby certify that the within resolution of memorialization was adopted by this Board pursuant to N.J.S.A. 40:55D-10(g) at its meeting on December 13, 2022.


Margaret Koontz, Secretary


Robert Lesnewich, Chairman

AFFORDABLE RENTALS IN NEW PROVIDENCE



Please submit a preliminary application at www.AffordableHomesNewJersey.com and join the **New Providence Rental Waiting list** by **June 30, 2025** to be included in the random lottery number drawing to determine priority order.

If you do not have an email address, call 609-664-2769 ext. 5.

- **NewProv Central** is located at 111 Spring Street in New Providence in Union County.
- **Unit amenities include:** Central AC, Dishwasher, and Washer and Dryer.
- **Complex amenities include:** Club House, Exercise Room, Game Room, Lounge, and Pool
- **Pets are allowed;** restrictions and fees apply.
- This is a **smoke-free community**.
- Although any income eligible households may apply, residents and workers of Essex, Morris, Union, and Warren counties will be selected before residents of other counties or states.

March 2025

Thirty-Eight NEW affordable apartments are expected to be ready for occupancy in Summer 2025 (subject to change). Rent pricing including Sewer, Trash and Water are below:

One Bedroom		Two Bedroom		Three Bedroom	
1 Very Low	\$482	3 Very Low	\$575	1 Very Low	\$651
2 Low	\$960	9 Low	\$1,148	4 Low	\$1,314
3 Moderate	\$1,210	11 Moderate	\$1,448	4 Moderate	\$1,661

Maximum Gross Income by Household Size

Household Size	Very Low	Low	Moderate
1	\$27,177	\$45,296	\$72,473
2	\$31,060	\$51,766	\$82,826
3	\$34,942	\$58,237	\$93,180
4	\$38,825	\$64,708	\$103,533
5	\$41,931	\$69,885	\$111,816
6	\$45,037	\$75,061	\$120,098

Affordable Homes New Jersey
a CGP&H service



www.AffordableHomesNewJersey.com/

To see available homes and submit a preliminary application visit

Affordable Apartments for Rent in New Providence

DON'T MISS THIS OPPORTUNITY!



CGPH

Community Grants, Planning & Housing
1249 South River Road, Suite 301
Cranbury, NJ 08512

Phone: (609) 664-2769
Fax: (609) 664-2786

AFFIRMATIVE FAIR HOUSING MARKETING PLAN

For Affordable Housing in **Region 2**

I. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number CGP&H 1249 South River Road, Suite 301 Affordablehomesnewjersey.com 609-664-2769 ext 19		1b. Development or Program Name, Address Providence Place 111 Spring Street New Providence, NJ 07974	
1c. Number of Affordable Units: 38 Number of Rental Units: 38 Number of For-Sale Units: 0	1d. Price or Rental Range From: \$630 To: \$1,901	1e. State and Federal Funding Sources (if any) <div style="text-align: center;">N/A</div>	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: March 2025 Occupancy: July 2025		
1h. County: Morris		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number Marlene Reyes Residential Coordinator Garden Homes 820 Morris Turnpike Short Hills, NJ 07078 973.467.5000 marlener@gardenhomes.com			
1k. Application Fees (if any): \$85			

II. RANDOM SELECTION

<p>2. Describe the random selection process that will be used once applications are received.</p> <p>The Administrative Agent will assign random numbers to each applicant through a computerized random number generator.</p> <p>After the list of applications submitted during the initial lottery period is exhausted, the priority of preliminary applications is established by the date the household submitted their preliminary application (Interest Date).</p> <p>In addition to the random number assigned to the household and/or the interest date, there are other factors impacting waiting priority which are described below.</p> <ul style="list-style-type: none"> Regional Preference: Applicants that indicated that they lived or work in the Affordable Housing Region will be contacted first. Once those applicants are exhausted, applicants outside the region will be contacted. Household Size: Whenever possible, there will be at least one person for each bedroom. If the waiting list is exhausted and there are no in or out region households with a person for each bedroom size, units will be offered to smaller sized households that do not have a person for each bedroom. The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor. A household can be eligible for more than one unit category.
--

III. MARKETING

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

☐ White (non-Hispanic)
 ☐ Black (non-Hispanic)
 ☒ Hispanic
 ☐ American Indian or Alaskan Native
 ☒ Asian or Pacific Islander
 ☐ Other group:

3b. Commercial Media (required) (Check all that applies)

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
TARGETS ENTIRE REGION 2			
<input checked="" type="checkbox"/>	Run for 4 consecutive weeks	DIGITAL: Star Ledger	Region 2
<input checked="" type="checkbox"/>	Once at start of affirmative marketing period	HMFA's Housing Resource Center (njhrc.gov)	Regions 1-6
<input checked="" type="checkbox"/>	Once at start of affirmative marketing period	HOUSNG SEARCH WEBSITE: Affordable Homes Jersey (CGP&H) www.affordablehomesnewjersey.com	Regions 1-6
<input checked="" type="checkbox"/>	At beginning of Initial marketing and as needed	SOCIAL MEDIA: X.com, Instagram, Facebook	Regions 1 - 6
<input checked="" type="checkbox"/>	At beginning of initial marketing and as needed	RADIO AD: NJ 101.5	Regions 1 - 6
TARGETS PARTIAL REGION 2			
<input checked="" type="checkbox"/>	Once at start of affirmative marketing period	New Providence Borough - https://www.newprov.us/	Union County
<input checked="" type="checkbox"/>	Once a week for 4 consecutive weeks	PRINT: Daily Record	Morris County

3c. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing)			
Name of Group/Organization	Outreach Area	Racial/Ethnic Identification of Readers/Audience	Duration & Frequency of Outreach
Fair Share Housing Center	Statewide	Various	At beginning of affirmative marketing period and as needed
Latino Action network	Statewide	Hispanic	At beginning of affirmative marketing period and as needed
East Orange NAACP	Statewide	African American	At beginning of affirmative marketing period and as needed
Newark NAACP	Statewide	African American	At beginning of affirmative marketing period and as needed
Morris County NAACP	Statewide	African American	At beginning of affirmative marketing period and as needed
Elizabeth NAACP	Statewide	African American	At beginning of affirmative marketing period and as needed

ADDITIONAL NON-DIGITAL REGIONAL MAILING: REGION 2**3d. Regional Mailing**

See attached list of businesses, social service agencies, libraries, and community contacts	Throughout region	Various	At beginning of affirmative marketing period and as needed
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IV. APPLICATIONS

Applications for affordable housing for the above units will be available at the following locations:

4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that applies)

See attached list of businesses, social service agencies, libraries, and community contacts	Throughout region	Various	At beginning of affirmative marketing period and as needed
---	-------------------	---------	--

4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)

New Providence Municipal Building 360 Elkwood Ave., New Providence, NJ, 07974

New Providence Memorial Library 377 Elkwood Ave., New Providence, NJ, 07974

4c. Sales/Rental Office for units (if applicable)

V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality's COAH substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI funding).

Matthew DiLauri

Name (Type or Print)

Administrative Agent

Title/Municipality

M. DiLauri

5/8/2025

Signature

Date

APPENDIX G

2025 Vacant Land Adjustment

Vacant Land Adjustment

Borough of New Providence
Union County, New Jersey

May 22, 2025

Prepared By:



Heyer, Gruel & Associates
Community Planning Consultants
236 Broad Street, Red Bank, NJ 07701
(732) 741-2900

Vacant Land Adjustment

Borough of New Providence
Union County, New Jersey

May 22, 2025

Prepared By:

Heyer, Gruel & Associates
Community Planning Consultants
236 Broad Street, Red Bank, NJ 07701
(732) 741-2900

The original of this report was signed and
sealed in accordance with N.J.S.A. 45:14A-12



McKinley Mertz, AICP, P.P. #6368

With contributing content by Brooke Schwartzman, Associate Planner

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APPENDICES

Appendix A: Non-Contributing VLA Lots

EXECUTIVE SUMMARY

The New Jersey Fair Housing Act, at N.J.S.A 52:27D-307(c)(2), provides for an adjustment to the present and prospective fair share obligation of a municipality based on available vacant and developable land, infrastructure considerations, or historic factors.

This report inventories the vacant land in New Providence that may be used to determine the Borough's Realistic Development Potential (RDP) to provide its fair share of low- and moderate-income housing. This report follows the procedure for conducting a Vacant land Adjustment (VLA) as detailed in N.S.J.A. 5:97-5.2. The Borough of New Providence has undertaken a VLA in each housing round, with the first VLA being completed in 1989.

This 2025 analysis updates the most recent VLA that was approved as part of the Borough's Third Round JOR (granted August 20, 2020). The 2025 VLA analyzed 219 lots for potential residential development and identifies no new properties that contribute to the Borough's RDP. All potentially vacant land within the Borough is either heavily environmentally constrained, preserved as open and recreational space, already developed for legitimate uses like the hosting of utility infrastructure, or was applied toward the Third Round RDP calculation.

VACANT LAND ADJUSTMENT

A Vacant Land Adjustment, or VLA, is a process by which an initial list of potentially developable properties is curated. Then, through a series of investigatory steps outlined in N.S.J.A. 5:97 and explained in this report, lands that are revealed to be undevelopable are removed. The final product is a list of the remaining lots that evaded disqualification. These lots are then used to calculate a municipality's RDP.

DETERMINING PROPERTIES FOR CONSIDERATION

The analysis began by mapping all of the various land use categories within the Borough using the most recently available MODIV Tax Assessment database (2024). The database contained property class data for most parcels. For the limited number of parcels which the database had assigned a null value as their property classification, online tax records and individual site analyses were used to fill in the blanks. The process of replacing null values with accurate property classification data helps ensure that all potentially vacant lands are included in the analysis. This property class data was then translated into land use categories.

While the procedure detailed in N.S.J.A. 5:97-5.2 requires that single-family, two- to four-family, and other multi-family land uses be mapped as separate categories, the data provided by MODIV does not precisely break down into these categories. Rather, any land categorized as Residential (2) is considered to be one to four family uses, while any land categorized as Apartments (4C) is considered to be other multi-family uses.

The vacant land analysis then identified lots belonging to 4 types of property classes: vacant land (1), public property (15C), Church & Charitable Property (15D), Other Exempt Property (15F). Properties classified as Regular Farmland (3A) and Qualified Farmland (3B) were not examined as part of this analysis since the Borough does not have any property of these classifications. The 219 parcels in New Providence that fall into these four property classes were further analyzed, as described in the following paragraphs.

DISQUALIFYING LOTS

Pursuant to N.J.S.A. 5:97-5.2, parcels may be removed from consideration if they are permanently preserved as open space through the New Jersey Green Acres program, deed restriction, or conversation easement. Parcels may also be removed if they are listed on the Historic or State Inventory of Historic Places. As such, the parcels which met these criteria were removed.

Additional lots were disqualified if it was discovered that the lot was not actually vacant or underutilized. Examples of lots in New Providence that were disqualified include those hosting power lines, houses of worship, and veteran housing.

ASSESSING DEVELOPABLE ACREAGE

Pursuant to N.J.S.A. 5:97-5.2, environmentally constrained lands may be removed from consideration. Environmentally constrained lands include those lands: located in or within 50' of wetlands, located in the special flood hazard area (the FEMA 100-year floodplain), located in or within 300' of Category 1 waterways, and with a 15% slope or steeper. Each property was evaluated to determine which, if any, environmental constraints were present, and how much of the property was constrained. The portion of each property not impacted by environmental constraints was calculated to determine "developable acreage".

ANALYZING LOT SIZE

After determining each eligible lot's developable acreage, that acreage is assessed for adequate sizing. Per the procedure outlined in the N.J.S.A, developable lands are presumed to have a minimum density standard of 6 units per acre and a minimum affordable unit set aside of 20%. Consequently, any parcel with an area of less than 0.8333 acres would be considered inadequate for development since it would not be able to accommodate the minimum 5 units needed to achieve a 20% affordable unit set-aside.

One exception to the lot sizing disqualification is when properties sharing a border are owned by the same entity. In these cases, the lots are considered cohesive. Online tax record data was used to investigate adjacent lots for common ownership. Once common ownership was factored in, any of the remaining parcels that were determined to have an inadequate lot size (less than 0.833 acres) were removed.

Of the 219 lots subjected to the VLA analysis, only 11 lots qualified and were determined to be large enough based on their developable acreage. All 11 lots were previously applied to New Providence's Third Round RDP.

THIRD ROUND RDP

During the Third Round, the Borough and the Fair Share Housing Center (“FSHC”) entered into negotiations to settle the Borough’s fair share obligation. A subsequent settlement agreement was executed by the Borough and FSHC on December 13, 2016, which included the results of a Third Round VLA. In an Order dated January 30, 2017, the Court approved the settlement agreement. The Borough adopted a Housing Element and Fair Share Plan on March 7, 2017, effectuating the Court-approved settlement agreement. New Providence originally calculated an RDP of 14 affordable units based on the four sites listed in the table below. That RDP was incorporated into the Borough’s 2017 Third Round Housing Element and Fair Share Plan.

Site	Block	Lot	Street Address	Owner	Zoning	Current Land Use	Developable Acreage	Total & Affordable Units
A	123	1	99 Division Ave	Clearwater Club Corp.	R-1	Vacant	3.4	20 total 4 affordable
B	310	2	550 South St	Lucent Technologies Inc.	A-2	Vacant	3.3	33 total 6 affordable
	311	3	450 Mountain Ave					
C	25	30	Central Ave	Union County	R-2	Vacant	0.9	7 total 1 affordable
D	362	1	335 Union Ave	Borough of New Providence	R-1	Vacant	2.7	16 total 3 affordable
	363	2	3 Chestnut St					
	363	1	1 Chestnut St					
	365	1	2 Chestnut St					
	366	2	385 Union Ave					
	372	8	2 Spruce St					
	372	7	395 Union Ave					

Subsequent to the 2016 settlement agreement with FSHC, the Borough entered into negotiations with C R Bard Inc., now Beckton Dickinson (“BD”), who objected to the December 13, 2016 Settlement Agreement with FSHC. The goal of the negotiations was to formulate an agreement on the appropriate zoning for Block 210 Lot 32 (the “Bard Site”) for the sake of providing a realistic affordable housing opportunity. Based on mediation sessions with BD, the Borough’s professionals, and the Court master, it was determined that it was in the parties’ best interest to include the Bard Site in the vacant land calculations at a density that

would produce 154 market rate units and 38 affordable units, effectively increasing the Borough's RDP by 38 units.

The Borough amended their agreement with FSHC, incorporating the agreed upon negotiations with BD and the amended VLA. The amended agreement was signed by the Borough on April 1, 2019, by FSHC on March 29, 2019, and by BD on April 1, 2019 (the "2019 agreement") and ultimately approved by the Court in the Borough's Final JOR. The 2019 agreement superseded the 2016 agreement with FSHC.

The table below outlines the affordable units provided by the 2019 agreement and as approved in the Borough's Final JOR. The Borough accepted an RDP of 52 units and an unmet need of 264 units for its Third Round.

Site	Total Units	Affordable Units
A	20 units	4 units
B	33 units	6 units
C	7 units	1 unit
D	16 units	3 units
Bard Site	192 units	38 units
Total Third Round RDP:		52

FOURTH ROUND RDP

The Borough reviewed its Third Round VLA and updated it in preparation of the Fourth Round Housing Element and Fair Share Plan (HEFSP). The conditions of the properties identified in the Third Round have not changed, and because the Third Round HEFSP addressed the RDP identified at that time, those properties are not applied again to the Fourth Round.

The VLA analysis did not identify any additional lots that are appropriate to provide adequate developable acreage to support the development of affordable housing.

VLA FINDINGS AND CONCLUSIONS

A total of 219 parcels in New Providence were reviewed as part of the 2025 VLA analysis. Eleven of those parcels were previously applied to New Providence's Third Round RDP and their conditions have not changed since that time. The remaining 208 parcels were either disqualified due to being permanently preserved, being used for legitimate activity, or because of insufficient developable acreage (Appendix A). The Bard Site has also not changed its residential capacity. As such, the Borough's Fourth Round RDP is zero (0) units and its unmet need is 201 units.

APPENDIX A

Non-Contributing VLA Lots

**Table 1: Vacant Land Inventory, Non-Contributing Lots
New Providence, 2025**

Block	Lot	Address	Zoning	Planning Area	SSA	Total Acres	Constrained Acres	Unconstrained Acres	Environmental Constraints	Reason for Exclusion
10	6	Union Ave	R-2	1	Yes	3.56	0.02	3.54	Wetlands, Steep Slopes	ROSI, Part of Passaic River Park
10	4	1801 Springfield Ave	C-2	1	Yes	0.60	0.02	0.58	Steep Slopes	Undersized, Power Lines
10	2	1819 Springfield Ave	C-2	1	Yes	0.32	0.00	0.32	None	ROSI, Part of Passaic River Park, Undersized
102	24	905 Springfield Ave	R-1	1	Yes	0.23	0.00	0.23	None	Undersized, Residential Use
103	18	39 Pittsford Way	R-1	1	Yes	0.12	0.12	0.00	Steep Slopes	Undersized
103	17	43 Pittsford Way	R-1	1	Yes	0.12	0.10	0.01	Steep Slopes	Undersized
103	25	36 Elwood Ave	R-1	1	Yes	11.35	3.83	7.52	Steep Slopes	ROSI, Part of Passaic River Park
103	16	47 Pittsford Way	R-1	1	Yes	0.12	0.10	0.02	Steep Slopes	Undersized
11	5	36 Earl Pl	R-2	1	Yes	0.86	0.11	0.75	Steep Slopes	Undersized, Power Lines
11	6	40 Earl Pl	R-2	8	Yes	3.09	1.95	1.15	Wetlands, Steep Slopes	ROSI, Part of Passaic River Park
110	14	60 Pitney Ave	R-2	1	Yes	4.13	3.79	0.34	Wetlands, Steep Slopes	ROSI, Undersized
111	29	32 Pine Way	R-1	1	Yes	0.82	0.02	0.79	Steep Slopes	Undersized, Residential Use
12	29	8 Delaware Ave	R-2	1	Yes	0.14	0.00	0.14	None	Undersized
121	34.01	812 Old Springfield Ave	R-2	1	Yes	1.15	0.75	0.40	Wetlands, Steep Slopes	Undersized, Side of Railroad
121	2	806 Springfield Ave	C-2	1	Yes	0.17	0.00	0.17	Steep Slopes	Undersized
121	32	1 Grove Terrace	R-2	1	Yes	4.47	1.59	2.88	Wetlands, Steep Slopes, Floodplain	ROSI
121	33	Rear 1 Grove Terrace	R-2	1	Yes	1.48	1.48	0.00	Wetlands, Steep Slopes, Floodplain	Undersized
124	2	75 Central Ave	R-1	1	Yes	12.08	10.96	1.12	Wetlands, Water, Steep Slopes, Floodplain	ROSI
125	4	886 Springfield Ave	R-1	1	Yes	3.07	1.79	1.27	Wetlands, Steep Slopes, Floodplain	Parking Lot
13	14	35 Earl Place	R-2	8	Yes	0.35	0.00	0.35	None	Undersized, Power Lines
13	13	45 Earl Pl	R-2	8	Yes	10.01	1.47	8.53	Wetlands, Steep Slopes, Floodplain	ROSI, Part of Passaic River Park
13	4	1020 Central Ave	R-2	8	Yes	2.28	0.00	2.27	Floodplain	Power Lines
13	1	1010 Central Ave	R-2	1	Yes	3.01	0.00	3.01	None	ROSI, Part of Passaic River Park
130	16	31 Primrose Dr	R-2	1	Yes	0.23	0.00	0.23	None	Undersized, Veteran Housing
134	55	50 End Of Ardsley Ct	R-2	1	Yes	0.03	0.00	0.03	None	Undersized, Footpath
136	17	101 Maple Street	R-2	1	Yes	0.14	0.08	0.06	Steep Slopes, Floodplain	ROSI, Undersized
136	11	111 Maple St	R-2	1	Yes	0.19	0.04	0.15	Steep Slopes, Floodplain	Undersized, Veteran Housing
14	2	1060 Central Ave	R-2	8	Yes	3.33	3.33	0.00	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
14	3	Rear 1060 Central Ave	R-2	8	Yes	0.04	0.04	0.00	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
14	1	1050 Central Ave	R-2	8	Yes	12.72	6.71	6.01	Wetlands, Steep Slopes, Floodplain	ROSI, Part of Passaic River Park, Power Lines
142	13	15 Fourth Street	R-2	1	Yes	0.32	0.00	0.32	None	Undersized, Senior Citizen Center
143	8	20 Fourth St	R-2	1	Yes	0.18	0.00	0.18	Steep Slopes	Undersized, Parking Lot
143	9	14 Fourth St	R-2	1	Yes	0.18	0.00	0.18	None	Undersized, Parking Lot
150	20	Rear 1272 Springfield Ave	CCD	1	Yes	0.04	0.00	0.04	None	Undersized, Parking Lot
151	7	1176 Springfield Ave	R-2	1	Yes	0.27	0.00	0.27	None	Undersized, Residential Use
151	6	1180 Springfield Ave	R-2	1	Yes	0.34	0.03	0.31	Steep Slopes	Undersized, Residential Use
151	3	1200 Springfield Ave	R-4	1	Yes	0.90	0.07	0.84	Steep Slopes	Residential Use
161	5	11 Third St	R-3	1	Yes	0.21	0.00	0.21	None	Undersized, Residential Use

Block	Lot	Address	Zoning	Planning Area	SSA	Total Acres	Constrained Acres	Unconstrained Acres	Environmental Constraints	Reason for Exclusion
162	10	28 Third St	R-3	1	Yes	0.28	0.03	0.24	Steep Slopes	Undersized, Residential Use
163	40	124 South St	OR	1	Yes	0.76	0.74	0.02	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
163	12	39 First St	R-3	1	Yes	1.98	1.98	0.00	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
163	41	128 South St	OR	1	Yes	0.08	0.00	0.07	Wetlands, Steep Slopes, Floodplain	ROSI, Undersized
163	39	100 South St	R-4	1	Yes	2.76	2.56	0.19	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
163	42	132 South St	OR	1	Yes	0.13	0.03	0.11	Wetlands, Steep Slopes, Floodplain	ROSI, Undersized
170	20	1 William St	R-3	1	Yes	0.04	0.00	0.04	None	Undersized
171	26	99-111 South St	R-2	1	Yes	4.79	0.99	3.80	Water, Steep Slopes, Floodplain	Church & School
171	13	1398 Springfield Ave	R-2	1	Yes	20.29	13.16	7.13	Wetlands, Water, Steep Slopes, Floodplain	ROSI
180	29	831 Central Ave	R-2	1	Yes	0.33	0.00	0.33	None	Undersized, Disabled Veteran Housing
180	41	917 Central Ave	R-2	1	Yes	0.28	0.00	0.28	None	Undersized
185	20	789 Central Ave	R-2	1	Yes	0.19	0.08	0.11	Steep Slopes, Floodplain	ROSI, Undersized
185	23.01	705 Central Ave-Unit #1	TB12	1	Yes	1.15	0.00	1.15	None	School
185	7	66 Coddington Dr	R-2	1	Yes	1.70	1.54	0.16	Steep Slopes, Floodplain	ROSI, Undersized
185	22	755 Central Ave	TB12	1	Yes	2.37	0.98	1.39	Steep Slopes, Floodplain	Industrial Use
185	23	705 Central Ave	TB12	1	Yes	2.86	0.18	2.68	Steep Slopes, Floodplain	School
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.03	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.01	0.02	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.01	0.01	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.01	0.04	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.05	0.00	0.05	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.02	0.01	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.03	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area

Block	Lot	Address	Zoning	Planning Area	SSA	Total Acres	Constrained Acres	Unconstrained Acres	Environmental Constraints	Reason for Exclusion
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.01	0.03	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.02	0.00	0.02	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.02	0.00	0.02	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.01	0.01	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.01	0.02	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.01	0.03	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.01	0.02	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.03	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.03	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.02	0.00	0.02	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.03	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.03	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.02	0.00	0.02	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.02	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.01	0.04	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.05	0.01	0.04	Steep Slopes	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.02	Steep Slopes	Undersized, Braemar Condos Drainage Area

Block	Lot	Address	Zoning	Planning Area	SSA	Total Acres	Constrained Acres	Unconstrained Acres	Environmental Constraints	Reason for Exclusion
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.03	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.03	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.04	0.00	0.04	None	Undersized, Braemar Condos Drainage Area
190	2	Rear 1818 Springfield Ave	R2A	1	Yes	0.03	0.00	0.03	Steep Slopes	Undersized, Braemar Condos Drainage Area
191	23	932 Central Ave	R-2	1	Yes	0.26	0.00	0.26	None	Undersized
191	9	19 Heather Court	R-2	1	Yes	0.39	0.03	0.36	Steep Slopes	Undersized, Church
191	2	1756-1776 Springfield Ave	R-2	1	Yes	1.43	0.11	1.32	Steep Slopes	Residential Use
192	27	50 Union Ave	A-2	1	Yes	0.75	0.05	0.71	Steep Slopes	Undersized, Residential Use
201	17	Morris Ave	R-2	1	Yes	1.58	1.32	0.26	Wetlands, Steep Slopes, Floodplain	ROSI, Undersized
202	9	281 Union Ave	R-2	1	Yes	0.40	0.01	0.39	Steep Slopes	Undersized, Veteran Housing
204	25	160 Pearl St	R-2	1	Yes	0.50	0.00	0.50	None	Undersized
210	24	Morris Ave	R-2	1	Yes	2.12	2.05	0.08	Wetlands, Steep Slopes, Floodplain	ROSI, Undersized
210	34	Rear 50 Hawthorne Dr	TB12	1	Yes	0.63	1.83	-1.19	Wetlands, Steep Slopes, Floodplain	ROSI, Undersized
210	20.01	730 Central Ave	A4	1	Yes	3.41	0.42	2.99	Wetlands, Steep Slopes, Floodplain	Soccer Field
220	20	195 South St	TB12	1	Yes	0.50	0.00	0.50	Steep Slopes	Undersized
220	20	535 Central Ave	TB12	1	Yes	3.70	1.33	2.37	Steep Slopes, Floodplain	Hotel
220	21	571 Central Ave	TB12	1	Yes	4.05	0.05	4.00	Steep Slopes	Medical Office
221	1	11 Floral Ave	TB12	1	Yes	1.02	0.00	1.02	None	Power Station
221	2.02	175 Floral Ave	TB12	1	Yes	0.71	0.00	0.71	None	Undersized, Fire Station
222	15	Murray Hill Manor	C-1	1	Yes	1.98	0.27	1.72	Steep Slopes	Residential Use
222	17	Murray Hill Square	C-1	1	Yes	1.51	0.06	1.45	Steep Slopes	Residential Use
222	13	Murray Hill Square	C-1	1	Yes	2.87	0.15	2.73	Steep Slopes	Residential Use
232	22	320 South St	R-2	1	Yes	1.18	1.15	0.03	Steep Slopes, Floodplain	ROSI, Undersized
233	11	264 South St	R3A	1	Yes	0.81	0.00	0.81	Steep Slopes	Undersized, Church
234	14	232 South St	R-3	1	Yes	1.27	0.36	0.91	Steep Slopes, Floodplain	Residential Use
234	17	35 Marion Ave	A-2	1	Yes	1.63	1.12	0.51	Steep Slopes, Floodplain	Undersized, Residential Use
234	13	The Arbors	R-3	1	Yes	1.16	0.17	0.98	Steep Slopes	Residential Use
236	15	175 Livingston Ave	R-3	1	Yes	0.01	0.01	0.00	Water, Steep Slopes, Floodplain	Undersized
239	1	60 Dunlap St	R-3	1	Yes	0.17	0.03	0.14	Floodplain	ROSI, Undersized
241	48	1 Wm Paca Place	R-2	1	Yes	0.71	0.01	0.70	Floodplain	Undersized, Club House
241	49	25 Constance Rd	R-2	1	Yes	9.00	3.96	5.04	Water, Steep Slopes, Floodplain	ROSI
243	12	134 Grant Ave	R-2	1	Yes	0.31	0.00	0.31	Steep Slopes	Undersized, Veteran Housing
244	26	Rear 40 Constance Rd	R-2	1	Yes	1.17	1.13	0.04	Water, Steep Slopes, Floodplain	ROSI, Undersized
244	7	40 Constance Rd	R-2	1	Yes	1.37	1.36	0.00	Water, Steep Slopes, Floodplain	ROSI, Undersized
25	25	1015 Central Ave	R-2	1	Yes	7.23	3.00	4.22	Floodplain	ROSI, Power Lines
25	23	389 Charmwood Road	R-2	1	Yes	8.36	7.83	0.53	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized, Power Lines
25	30	Central Ave	R-2	8	Yes	3.73	2.86	0.87	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Part of Passaic River Park, Power Lines

Block	Lot	Address	Zoning	Planning Area	SSA	Total Acres	Constrained Acres	Unconstrained Acres	Environmental Constraints	Reason for Exclusion
25	28	Central Ave	R-2	8	Yes	2.46	1.99	0.47	Wetlands, Steep Slopes, Floodplain	Undersized, Power Lines
263	3	1 Mountain Avenue	R-1	1	Yes	0.08	0.00	0.08	Steep Slopes	Undersized
270	31	251 Maple St	R-2	1	Yes	3.14	2.97	0.17	Wetlands, Steep Slopes, Floodplain	ROSI, Undersized
271	42	325 Maple St	R-2	1	Yes	0.99	0.55	0.44	Steep Slopes	ROSI, Undersized
271	46.02	340 Central Ave	R-2	1	Yes	4.41	0.52	3.89	Steep Slopes, Floodplain	ROSI
283	29	39 Hickory Pl	R-1	1	Yes	0.02	0.00	0.02	None	Undersized
283	41	350 Livingston Ave	R-1	1	Yes	12.72	2.26	10.46	Steep Slopes	ROSI
300	1	351 Livingston Ave	R-1	1	Yes	8.63	3.12	5.51	Water, Steep Slopes	ROSI
300	5	179 Oakwood Dr	R-1	1	Yes	0.82	0.54	0.28	Steep Slopes	Undersized
31	20	224 Runnymede Pkwy	R-2	1	Yes	0.61	0.00	0.61	None	Undersized, Parsonage
310	1	425 Mountain Ave	A-2	1	Yes	1.07	0.99	0.08	Wetlands, Steep Slopes	Undersized
310	4	524 South St	R-1	1	Yes	0.98	0.36	0.62	Steep Slopes	Undersized, Church
321	4	530 Mountain Ave	TB11	1	No	2.24	0.16	2.07	Steep Slopes	Historic, Bell Labs
321	1	600-700 Mountain Ave	TB11	1	Yes	10.51	0.42	10.10	Steep Slopes	Historic, Bell Labs
321	2	580 Mountain Ave	TB11	1	Yes	5.56	0.06	5.51	Steep Slopes	Historic, Bell Labs
321	3	550 Mountain Ave	TB11	1	Yes	5.19	0.18	5.01	Steep Slopes	Historic, Bell Labs
321	5	Rear 530 Mountain Ave	TB11	1	Yes	0.50	0.00	0.50	None	Historic, Undersized
330	1	15 Westerly Ave	R-4	1	Yes	0.76	0.28	0.48	Steep Slopes, Floodplain	Undersized, Residential Use
331	1	Foley Square	R-4	1	Yes	1.12	0.18	0.93	Steep Slopes	Residential Use
332	6	1 Southgate Rd	R-4	1	Yes	0.46	0.10	0.36	Steep Slopes	Undersized, Residential Use
333	13	4 Ethan Drive	R-1	1	Yes	0.41	0.09	0.32	Steep Slopes	Undersized, School
335	10	88 Candlewood Dr	R-1	1	Yes	0.46	0.00	0.46	None	Undersized, Veteran Housing
34	17	182 Runnymede Pkwy	R-2	1	Yes	0.20	0.00	0.20	None	Undersized, Residential Use
340	1.01	76 Floral Ave	C-1	1	Yes	0.01	0.00	0.01	None	Undersized, Residential Use
340	1.20	82 Floral Ave	C-1	1	Yes	0.01	0.00	0.01	None	Undersized, Residential Use
340	5	Gold & Green	TB12	1	Yes	2.44	0.10	2.34	Wetlands, Steep Slopes	Residential Use
340	1	64-82 Floral Ave	C-1	1	Yes	1.58	0.03	1.56	Steep Slopes	Residential Use
341	1	1 Foley Place	R-1	1	Yes	1.54	0.15	1.39	Steep Slopes	Parking Lot
341	25	18 Warner Place	R-1	1	Yes	2.52	0.00	2.52	None	ROSI
341	2	55-79 Southgate Rd	R-1	1	Yes	0.77	0.02	0.74	Steep Slopes	Undersized, Residential Use
35	14	185 Runnymede Pkwy	R-2	1	Yes	2.93	2.75	0.18	Wetlands, Steep Slopes, Floodplain	ROSI, Part of Passaic River Park, Undersized
353	4	17 Warner Pl	R-1	1	Yes	6.33	0.35	5.98	Wetlands, Steep Slopes	ROSI
354	6	16 Penwood Dr	R-1	1	Yes	0.38	0.07	0.32	Steep Slopes	Undersized, Veteran Housing
355	18	17 Colchester Rd	R-1	1	Yes	0.71	0.19	0.52	Steep Slopes	Undersized, Veteran Housing
366	1	2 Walnut St	R-1	1	Yes	0.07	0.07	0.00	Wetlands	Undersized
372	13	4 Spruce St	R-1	1	Yes	0.07	0.07	0.00	Wetlands, Steep Slopes	Undersized
372	14	6 Spruce St	R-1	1	Yes	0.07	0.07	0.00	Wetlands, Steep Slopes	Undersized
372	1.01	2 Farm Gate Rd	A-1	1	Yes	0.24	0.05	0.19	Steep Slopes	Undersized
373	16	464 Union Ave	R-1	1	Yes	1.58	0.55	1.03	Steep Slopes	ROSI
374	7	6 Farm Gate Rd	A-1	1	Yes	0.13	0.05	0.08	Steep Slopes	Undersized
375	3	9 Farm Gate Rd	A-1	1	Yes	0.66	0.27	0.40	Steep Slopes	Undersized

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375	1	1 Farm Gate Rd	A-1	1	Yes	1.63	0.52	1.11	Steep Slopes	Residential Use
376	1	Timothy Field Rd	A-1	1	Yes	1.33	0.43	0.90	Steep Slopes	Residential Use
38	12	255 Charnwood Road	R-2	1	No	3.07	3.07	0.00	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized, Power Lines
380	19	4 Possum Way	R-1	1	Yes	0.41	0.00	0.41	Steep Slopes	Undersized, Residential Use
380	20	15 Ryder Way	R-1	1	Yes	0.02	0.00	0.02	None	Undersized
382	4	800 Mountain Ave	TB11	1	No	8.49	0.64	7.86	Steep Slopes, Floodplain	Bell Labs
382	6	730 Mountain Ave	TB11	1	No	5.55	0.04	5.50	Steep Slopes	Historic, Bell Labs
382	5	750 Mountain Ave	TB11	1	No	5.21	0.01	5.20	Steep Slopes	Historic, Bell Labs
400	7	Floral Ave	C-1	1	Yes	0.18	0.01	0.17	Steep Slopes	Undersized, Side of Railroad
400	10	Floral Ave	C-1	1	Yes	22.61	7.92	14.69	Wetlands, Steep Slopes, Floodplain	Railroad
400	13	North Of Maple St	R-2	1	Yes	9.15	6.02	3.13	Wetlands, Steep Slopes, Floodplain	Railroad
41	36	Rear 98 Runnymede Pkwy	R-2	1	Yes	0.47	0.48	0.00	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
41	33	1341 Springfield Ave	R-2	1	Yes	3.20	3.20	0.00	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
41	35	Rear 1307 Springfield Ave	R-2	1	Yes	0.06	0.06	0.00	Wetlands, Floodplain	Undersized
41	31	1357 Springfield Ave	R-2	1	Yes	0.70	0.70	0.00	Wetlands, Steep Slopes, Floodplain	Undersized
41	34	1307 Springfield Ave	R-2	1	Yes	13.91	3.79	10.13	Wetlands, Steep Slopes, Floodplain	Historic, Cemetery
41	37	1371 Springfield Ave	R-2	1	Yes	4.31	3.50	0.81	Wetlands, Water, Steep Slopes, Floodplain	Undersized, Residential Use
41	32	1351 Springfield Ave	R-2	1	Yes	0.32	0.32	0.00	Steep Slopes, Floodplain	Undersized, Residential Use
44	16	114 Passaic St	R-2	1	Yes	0.55	0.55	0.00	Water, Steep Slopes, Floodplain	Undersized
44	7	164 Passaic St	R-2	1	Yes	0.27	0.27	0.00	Water, Steep Slopes, Floodplain	ROSI, Undersized
45	1	101 Charnwood Rd	R-2	1	Yes	11.13	10.77	0.36	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Part of Passaic River Park, Undersized
45	13	100 Charnwood Rd	R-2	1	Yes	5.57	5.47	0.10	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
50	8	400 Elkwood Ave	CCD-TH	1	Yes	0.33	0.00	0.33	None	Undersized, Parking Lot
50	14.02	101 Academy St	R-S	1	Yes	0.63	0.00	0.63	None	Undersized, Senior Housing
50	14.01	1243 Springfield Ave	R-S	1	Yes	1.21	0.00	1.21	None	Historic, Office Use
50	16	1275 Springfield Ave	CCD	1	Yes	1.50	0.01	1.48	Steep Slopes	Residential Use
51	1	360 Elkwood Avenue	R-2	1	Yes	3.94	0.01	3.93	Steep Slopes	ROSI
53	26	357 Elkwood Ave	R-2	1	Yes	0.45	0.01	0.43	Wetlands, Steep Slopes	Undersized, Club House
53	25	341 Elkwood Ave	R-2	1	Yes	4.65	0.39	4.26	Wetlands, Steep Slopes	ROSI
53	4	377 Elkwood Ave	R-2	1	Yes	9.67	5.26	4.41	Wetlands, Steep Slopes	ROSI
63	22	76 Madison Ave	R-2	1	Yes	0.68	0.46	0.22	Wetlands, Steep Slopes	ROSI, Undersized
63	43	1141 Springfield Ave	R-2	1	Yes	0.47	0.00	0.47	None	Undersized, Residential Use
63	17	260 Elkwood Ave	R-2	1	Yes	0.80	0.64	0.15	Wetlands, Steep Slopes	ROSI, Undersized
71	3	15 Commonwealth Ave	R-2	1	Yes	0.18	0.01	0.17	Steep Slopes	Undersized
76	35.01	10 Park Place	R-2	1	Yes	6.17	2.27	3.89	Wetlands, Water, Steep Slopes, Floodplain	Public Works
76	35.02	76 Park Place	R-2	1	Yes	15.34	2.74	12.60	Wetlands, Water, Steep Slopes, Floodplain	ROSI
76	1	2 Commonwealth Ave	R-2	1	Yes	0.84	0.71	0.13	Water, Steep Slopes, Floodplain	ROSI, Undersized
84	34	Woodbine Cir - Rear	R-2	1	Yes	0.22	0.16	0.06	Steep Slopes	Undersized, Landlocked
85	32	212 Woodbine Cir	R-2	1	Yes	5.63	3.50	2.13	Wetlands, Steep Slopes, Floodplain	ROSI
85	34	Woodbine Cir - Rear	R-2	1	Yes	4.26	3.84	0.42	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
85	33	Rear 212A Woodbine Circle	R-2	1	Yes	1.77	1.55	0.22	Wetlands, Steep Slopes, Floodplain	Undersized, Power Lines

Block	Lot	Address	Zoning	Planning Area	SSA	Total Acres	Constrained Acres	Unconstrained Acres	Environmental Constraints	Reason for Exclusion
90	14	60 Ashwood Rd	R-1	1	Yes	3.69	2.94	0.75	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Undersized
92	6	35 Elkwood Ave	R-1	1	Yes	10.71	4.72	5.99	Wetlands, Water, Steep Slopes, Floodplain	ROSI, Part of Passaic River Park

APPENDIX H

Extension of Affordability Controls Documentation

- Elizabeth Barabash Manor
 - Murray Hill Farms
- Southgate at Murray Hill

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2023-210

Council Meeting Date: 07-18-2023

Date Adopted: 07-18-2023

TITLE: A RESOLUTION OF THE BOROUGH OF NEW PROVIDENCE
EXTENDING AFFORDABLE HOUSING RESTRICTIONS ON CERTAIN
EXISTING AFFORDABLE HOUSING UNITS IN THE MURRAY HILL
FARMS CONDOMINIUM DEVELOPMENT

Councilperson McKnight submitted the following resolution, which was duly seconded
by Councilperson Geoffroy.

WHEREAS, the Uniform Housing Affordability Controls (“UHAC”), specifically N.J.A.C. 5:80-26.25(a), “Municipal Rejection of Repayment Option on 95/5 Units,” provides that “a municipality shall have the right to determine that the most desirable means of promoting an adequate supply of low- and moderate-income housing is to prohibit the exercise of the repayment option and maintain controls on lower-income housing units sold within the municipality beyond the period required by N.J.A.C. 5:93-9.2, “Length of Controls”; and

WHEREAS, such a determination shall be made by resolution of the municipal governing body and shall be effective upon filing within the New Jersey Council on Affordable Housing (“COAH”) and/or the New Jersey Superior Court pursuant to the New Jersey Superior Court’s decision in In re: Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015); and

WHEREAS, the municipality’s resolution must specify the time period for which the repayment option shall not be applicable, and that during such period, no seller in the municipality may utilize the repayment option permitted by N.J.A.C. 5:93-9.8 “Seller Option; Sales Units”; and

WHEREAS, pursuant to N.J.A.C. 5:80-26.25(b), a municipality that exercises the option outlined above shall: 1) provide public notice in a newspaper of general circulation; and 2) notify the administrative agent and COAH and/or the Superior Court of its governing body’s action; and

WHEREAS, the municipality’s administrative agent shall ensure that the deed restriction on all affected housing units reflects the extended period of controls; and

WHEREAS, N.J.A.C. 5:80-26.25 is the successor regulation to the regulations COAH adopted in 1989 pursuant to which COAH recognized an affordable unit as a “precious resource and efforts should be made to retain or supplement affordable housing, and that municipalities should have the first option to structure programs that accomplish this goal. Therefore, the Council structured the amendment’s rules to give municipalities the ability to render decisions on each affordable unit prior to the State exercising any option” (21 N.J.R. 2020); and

WHEREAS, pursuant to these principals, COAH empowered municipalities: a) to capture 95% of the differential between the fair market value of an affordable unit and a maximum restricted price of the affordable unit at the first non-exempt price of the unit following the expiration of affordable housing restrictions; or b) to forego the differential and to keep the unit restricted to low- or moderate-income households (hereinafter “95/5 Protocols”); and

WHEREAS, COAH incorporated the 95/5 Protocols established in its 1989 regulations in Subchapter 9 of the Round Two Regulations COAH adopted on June 6, 1994 (N.J.A.C. 5:93-9.1, et seq.); and

WHEREAS, the New Jersey Housing and Finance Agency adopted the UHAC regulations in 2001 and amended those regulations in 2004 wherein it incorporated the 95/5 Protocols COAH had previously established; and

WHEREAS, the Master Deed for the Murray Hill Farms condominium development is dated February 1, 1994, and it was filed with the Union County Clerk’s Office on February 4, 1994, in Book 4055, Page 0116 (“Master Deed”); and

WHEREAS, the Murray Hill Farms development includes thirteen low- and moderate-income restricted units, which low- and moderate-income restricted units are identified below:

Address	Block	Lot	Date of Initial Sale	Initial Exp. Date of Affordable Controls	Extended Exp. Date of Affordable Controls
1 Timothy Field	376	1.01	6/7/94	6/7/24	6/7/54
3 Timothy Field	376	1.02	4/28/94	4/28/24	4/28/54
5 Timothy Field	376	1.03	9/1/94	9/1/24	9/1/54
7 Timothy Field	376	1.04	10/7/94	10/7/24	10/7/54
9 Timothy Field	376	1.05	10/3/94	10/3/24	10/3/54
11 Timothy Field	376	1.06	9/30/94	9/30/24	9/30/54
15 Timothy Field	376	1.07	9/30/94	9/30/24	9/30/54
17 Timothy Field	376	1.08	10/3/94	10/3/24	10/3/54
19 Timothy Field	376	1.09	9/30/94	9/30/24	9/30/54
21 Timothy Field	376	1.10	6/9/94	6/9/24	6/9/54
23 Timothy Field	376	1.11	4/13/94	4/13/24	4/13/54
25 Timothy Field	376	1.12	4/29/94	4/29/24	4/29/54
27 Timothy Field	376	1.13	4/8/94	4/8/24	4/8/54

(hereafter the “Affordable Units”);

WHEREAS, Paragraph 18 of the Murray Hill Farms Master Deed mandates that the affordable units are “subject to the restrictions set forth in the Affordable Housing Plan” that is attached as an exhibit to the Master Deed; and

WHEREAS, Paragraph 6, 18.04 of the Affordable Housing Agreement attached as an exhibit to the Master Deed and Paragraph 18.04 of the Master Deed provide that

the restrictions set forth therein extend for a minimum period of 30 years (the “Affordability Controls”); and

WHEREAS, Section III(C) of the Declaration of Covenants, Conditions and Restrictions also provides that “the terms, restrictions and covenants of this Affordable Housing agreement may be extended by municipal resolution as provides for in N.J.A.C. 5:92.1, et seq. Such municipal resolution shall provide for a period of extended restrictions and shall be effective upon filing with the Council and the Authority”; and

WHEREAS, the individual deeds associated with each of the affordable units each contain a restricted covenant that the ownership and use of the units shall be “in accordance with and subject to the terms, conditions, covenants, restrictions and other provisions of the Master Deed dated November 4, 1994 and recorded on November 10, 1994 in Book 4177, Page 0058, in the office of the Clerk of Union County, New Jersey, creating and establishing said condominium (collectively the “Master Deed” and as amended”); and

WHEREAS, the individual deeds associated with each of the affordable units also each contain a restrictive covenant that “the grantee’s right, title and interest in this unit and the use, sale, resale and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in the Affordable Housing Plan which is filed in the Union County Clerk’s office and is also on file with the Housing Authority of Union County; and

WHEREAS, it is the intention of the Borough of New Providence to extend the affordability controls for all of the affordable units for an additional period of 30 years from the date of expiration of the initial 30-year control period; and

WHEREAS, the Affordable Housing Agreement further provides that the “provisions of this Affordable Housing Agreement shall constitute covenants running with the land with respect to each affordable housing unit affected hereby, and shall bind all purchasers and owners of each affordable housing unit, their heirs, assigns and all persons claiming by, through and under their heirs, executors, administrators and assigns for the duration of this Agreement as if set forth herein”; and

WHEREAS, because the Master Deed, the individual deeds for the affordable units and the Affordable Housing Agreement specifically grant the Borough the authority to extend the period of restrictions by resolution, and that right constitutes a covenant running with the land, which binds all owners, the Borough is authorized to extend the period of controls on the affordable units by way of adoption of a resolution extending controls, which is consistent with the Court’s holding in Society Hill at Piscataway, et als. v. Township of Piscataway, 445 N.J. Super. 435 (Law Div. 2016); and

WHEREAS, N.J.A.C. 5:94-4.16 requires that in order to extend the affordability controls of an affordable unit, the “municipality must be required to obtain a continuing certificate of occupancy or a certified statements from the municipal building inspector stating that the restricted ownership unit meets all code standards upon the first transfer of title following” the expiration of the original period of restrictions, and N.J.S.C. 5:97-6.14 contains a similar requirement; and

WHEREAS, the Borough has determined that the most desirable means of promoting an adequate supply of low- and moderate-income housing in the Borough of New Providence is to prohibit the exercise of any repayment option on the thirteen for-sale affordable units and to maintain the affordability controls on the thirteen affordable units for an additional 30-year term;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of New Providence, County of Union, State of New Jersey as follows:

The repayment option applicable to the affordable units shall not be permitted from the date of this Resolution until the expiration of the affordability controls shown in the chart below. The affordability controls are extended as follows:

Address	Block	Lot	Date of Initial Sale	Initial Exp. Date of Affordable Controls	Extended Exp. Date of Affordable Controls
1 Timothy Field	376	1.01	6/7/94	6/7/24	6/7/54
3 Timothy Field	376	1.02	4/28/94	4/28/24	4/28/54
5 Timothy Field	376	1.03	9/1/94	9/1/24	9/1/54
7 Timothy Field	376	1.04	10/7/94	10/7/24	10/7/54
9 Timothy Field	376	1.05	10/3/94	10/3/24	10/3/54
11 Timothy Field	376	1.06	9/30/94	9/30/24	9/30/54
15 Timothy Field	376	1.07	9/30/94	9/30/24	9/30/54
17 Timothy Field	376	1.08	10/3/204	10/3/24	10/3/54
19 Timothy Field	376	1.09	9/30/94	9/30/24	9/30/54
21 Timothy Field	376	1.10	6/9/94	6/9/24	6/9/54
23 Timothy Field	376	1.11	4/13/94	4/13/24	4/13/54
25 Timothy Field	376	1.12	4/29/94	4/29/24	4/29/54
27 Timothy Field	376	1.13	4/8/94	4/8/24	4/8/54

1. During the period of extended affordability controls, no seller of the thirteen affordable units may utilize the repayment option shown in N.J.A.C. 5:93-9.8;

2. The Borough Construction Official is hereby directed, authorized and empowered to inspect the affordable units to comply with the requirements of N.J.A.C. 94:4.16 and N.J.A.C. 5:97-6.14;

3. The Borough Clerk is authorized and directed to print this Resolution in full in the official newspaper of the Borough, and to notify the Affordable Housing Administration agent, COAH and the Superior Court of the Borough's action;

4. The Affordable Housing Administrative agent shall ensure that the deed restriction enforced affordability controls on the thirteen affordable units extends until the dates shown in the above chart;

5. This Resolution shall evidence pursuant to N.J.A.C. 5:94-4.16(a) and N.J.A.C. 5:97-6.14(b)(2) (extension expiring controls) that the affordability controls have been extended in accordance with UHAC and that the Borough of New Providence is entitled to bonuses based upon such to address a portion of its fourth round fair share obligation to the extension of the affordability controls in accordance with N.J.A.C. 5:97-9, UHAC and the New Jersey Supreme Court's decision in In re: Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015); and

6. All of the affordable units shall remain subject to the requirements of UHAC and the affordability controls, as may be amended and supplemented from time to time, during the extended affordability control period and until the Borough of New Providence elects to release the affordable units from such requirements.

This Resolution shall take effect immediately.

APPROVED, this 18th day of July, 2023.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
BILICKA	X			
CUMISKEY	X			
DESARNO	X			
GEOFFROY	X			
KOGAN	X			
MCKNIGHT	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 18th day of July, 2023.

Wendi B. Barry, Borough Clerk

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2023-211

Council Meeting Date: 07-18-2023

Date Adopted: 07-18-2023

TITLE: A RESOLUTION OF THE BOROUGH OF NEW PROVIDENCE
EXTENDING AFFORDABLE HOUSING RESTRICTIONS ON CERTAIN
EXISTING AFFORDABLE HOUSING UNITS IN THE SOUTHGATE AT
MURRAY HILL CONDOMINIUM DEVELOPMENT

Councilperson McKnight submitted the following resolution, which was duly seconded
by Councilperson Geoffroy.

WHEREAS, the Uniform Housing Affordability Controls (“UHAC”), specifically N.J.A.C. 5:80-26.25(a), “Municipal Rejection of Repayment Option on 95/5 Units,” provides that “a municipality shall have the right to determine that the most desirable means of promoting an adequate supply of low- and moderate-income housing is to prohibit the exercise of the repayment option and maintain controls on lower-income housing units sold within the municipality beyond the period required by N.J.A.C. 5:93-9.2, “Length of Controls”; and

WHEREAS, such a determination shall be made by resolution of the municipal governing body and shall be effective upon filing within the New Jersey Council on Affordable Housing (“COAH”) and/or the New Jersey Superior Court pursuant to the New Jersey Superior Court’s decision in In re: Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015); and

WHEREAS, the municipality’s resolution must specify the time period for which the repayment option shall not be applicable, and that during such period, no seller in the municipality may utilize the repayment option permitted by N.J.A.C. 5:93-9.8 “Seller Option; Sales Units”; and

WHEREAS, pursuant to N.J.A.C. 5:80-26.25(b), a municipality that exercises the option outlined above shall: 1) provide public notice in a newspaper of general circulation; and 2) notify the administrative agent and COAH and/or the Superior Court of its governing body’s action; and

WHEREAS, the municipality’s administrative agent shall ensure that the deed restriction on all affected housing units reflects the extended period of controls; and

WHEREAS, N.J.A.C. 5:80-26.25 is the successor regulation to the regulations COAH adopted in 1989 pursuant to which COAH recognized an affordable unit as a “precious resource and efforts should be made to retain or supplement affordable housing, and that municipalities should have the first option to structure programs that accomplish this goal. Therefore, the Council structured the amendment’s rules to give municipalities the ability to render decisions on each affordable unit prior to the State exercising any option” (21 N.J.R. 2020); and

WHEREAS, pursuant to these principals, COAH empowered municipalities: a) to capture 95% of the differential between the fair market value of an affordable unit and a maximum restricted price of the affordable unit at the first non-exempt price of the unit following the expiration of affordable housing restrictions; or b) to forego the differential and to keep the unit restricted to low- or moderate-income households (hereinafter “95/5 Protocols”); and

WHEREAS, COAH incorporated the 95/5 Protocols established in its 1989 regulations in Subchapter 9 of the Round Two Regulations COAH adopted on June 6, 1994 (N.J.A.C. 5:93-9.1, et seq.); and

WHEREAS, the New Jersey Housing and Finance Agency adopted the UHAC regulations in 2001 and amended those regulations in 2004 wherein it incorporated the 95/5 Protocols COAH had previously established; and

WHEREAS, the Master Deed for the Southgate at Murray Hill condominium development is dated November 4, 1994, and it was filed with the Union County Clerk’s Office on November 10, 1994 in Book 4177, Page 0058 (“Master Deed”); and

WHEREAS, the Southgate development includes two low- and moderate-income restricted units, which low- and moderate-income restricted units are identified below:

Address	Block	Lot	Date of Initial Sale	Initial Exp. Date of Affordable Controls	Extended Exp. Date of Affordable Controls
77 Southgate Rd.	341	2.09	6/29/04	11/11/24	11/11/54
79 Southgate Rd.	341	2.10	5/18/04	11/11/24	11/11/54

(hereafter the “Affordable Units”);

WHEREAS, paragraph 3 of the Southgate Master Deed mandates that the affordable units are “subject to the terms and conditions, restrictions, limitations and provisions as set forth in the Affordable Housing Plan” that is attached as an exhibit to the Master Deed; and

WHEREAS, Section III of the Affordable Housing Agreement attached as an exhibit to the Master Deed sets forth that the restrictions set forth therein extend for a minimum period of 20 years (the “Affordability Controls”); and

WHEREAS, Section III(C) also provides that “the terms, restrictions and covenants of this Affordable Housing agreement may be extended by municipal resolution as provided for in N.J.A.C. 5:92.1, et seq. Such municipal resolution shall provide for a period of extended restrictions and shall be effective upon filing with the Council and the Authority”; and

WHEREAS, the individual deeds associated with each of the affordable units each contain a restricted covenant that the ownership and use of the units shall be “in accordance with and subject to the terms, conditions, covenants, restrictions and other provisions of the Master Deed dated November 4, 1994 and recorded on November 10, 1994 in Book 177, Page 00058, in the office of the Clerk of Union County, New Jersey,

creating and establishing said condominium (collectively the “Master Deed” and as amended”); and

WHEREAS, the individual deeds associated with each of the affordable units also each contain a restrictive covenant that “the grantee’s right, title and interest in this unit and the use, sale, resale and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in the Affordable Housing Plan which is filed in the Union County Clerk’s office and is also on file with the Housing Authority of Union County; and

WHEREAS, it is the intention of the Borough of New Providence to extend the affordability controls for all of the affordable units for an additional period of 30 years from the date of expiration of the initial 30-year control period; and

WHEREAS, the Affordable Housing Agreement further provides that the “provisions of this Affordable Housing Agreement shall constitute covenants running with the land with respect to each affordable housing unit affected hereby, and shall bind all purchasers and owners of each affordable housing unit, their heirs, assigns and all persons claiming by, through and under their heirs, executors, administrators and assigns for the duration of this Agreement as if set forth herein”; and

WHEREAS, because the Master Deed, the individual deeds for the affordable units and the Affordable Housing Agreement specifically grant the Borough to authority to extend the period of restrictions by resolution, and that right constitutes a covenant running with the land, which binds all owners, the Borough is authorized to extend the period of controls on the affordable units by way of adoption of a resolution extending controls, which is consistent with the Court’s holding in Society Hill at Piscataway, et als. v. Township of Piscataway, 445 N.J. Super. 435 (Law Div. 2016); and

WHEREAS, N.J.A.C. 5:94-4.16 requires that in order to extend the affordability controls of an affordable unit, the “municipality must be required to obtain a continuing certificate of occupancy or a certified statements from the municipal building inspector stating that the restricted ownership unit meets all code standards upon the first transfer of title following” the expiration of the original period of restrictions, and N.J.S.C. 5:97-6.14 contains a similar requirement; and

WHEREAS, the Borough has determined that the most desirable means of promoting an adequate of low- and moderate-income housing in the Borough of New Providence is to prohibit the exercise of any repayment option on the two for-sale affordable units and to maintain the affordability controls on the two affordable units for an additional 30-year term;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of New Providence, County of Union, State of New Jersey as follows:

The repayment option applicable to the affordable units shall not be permitted from the date of this Resolution until the expiration of the affordability controls shown in the chart below. The affordability controls are extended as follows:

Address	Block	Lot	Date of Initial Sale	Initial Exp. Date of Affordable Controls	Extended Exp. Date of Affordable Controls
77 Southgate Rd.	341	2.09	6/29/04	11/11/24	11/11/54
79 Southgate Rd.	341	2.10	5/18/04	11/11/24	11/11/54

1. During the period of extended affordability controls, no seller of either of the two affordable units may utilize the repayment option shown in N.J.A.C. 5:93-9.8;

2. The Borough Construction Official is hereby directed, authorized and empowered to inspect the affordable units to comply with the requirements of N.J.A.C. 94:4.16 and N.J.A.C. 5:97-6.14;

3. The Borough Clerk is authorized and directed to print this Resolution in full in the official newspaper of the Borough, and to notify the Affordable Housing Administration agent, COAH and the Superior Court of the Borough's action;

4. The Affordable Housing Administrative agent shall ensure that the deed restriction enforced affordability controls on both of the two affordable units extends until the dates shown in the above chart;

5. This Resolution shall evidence pursuant to N.J.A.C. 5:94-4.16(a) and N.J.A.C. 5:97-6.14(b)(2) (extension expiring controls) that the affordability controls have been extended in accordance with UHAC and that the Borough of New Providence is entitled to bonuses based upon such to address a portion of its fourth round fair share obligation to the extension of the affordability controls in accordance with N.J.A.C. 5:97-9, UHAC and the New Jersey Supreme Court's decision in In re: Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015); and

6. All of the affordable units shall remain subject to the requirements of UHAC and the affordability controls, as may be amended and supplemented from time to time, during the extended affordability control period and until the Borough of New Providence elects to release the affordable units from such requirements.

This Resolution shall take effect immediately.

APPROVED, this 18th day of July, 2023.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
BILICKA	X			
CUMISKEY	X			
DESARNO	X			
GEOFFROY	X			
KOGAN	X			
MCKNIGHT	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 18th day of July, 2023.

Wendi B. Barry, Borough Clerk

BOROUGH OF NEW PROVIDENCE
ORDINANCE 2025-03

**AN ORDINANCE APPROVING AN EXTENSION OF 30 YEARS FOR
THE LEASE OF PUBLIC PROPERTY KNOWN AS
LOT 14.02 IN BLOCK 50 BY NEW PROVIDENCE AFFORDABLE HOUSING
AND URBAN RENEWAL ASSOCIATES, L.P.**

WHEREAS, the Borough of New Providence is the owner of property identified as Lot 14.02 in Block 50 on the official Tax Map of the Borough; and

WHEREAS, the Borough and Church Council for New Providence Affordable Housing, a non-profit corporation, entered into an Agreement of Lease on June 27, 1994 pursuant to which the Borough leased a portion of what was known as Lot 14 in Block 50 on the Tax Map of the Borough, now know as Lot 14.02, to the corporation for a period of 30 years for purposes of construction and operation of 22 apartment units and appurtenances to benefit low-income senior citizens; and

WHEREAS, in 1995, the corporation assigned its interest in the Lease to New Providence Affordable Housing and Urban Renewal Associates, L.P., a New Jersey limited partnership, which has continued the operation on the subject property; and

WHEREAS, the parties executed a First Amendment of Lease Agreement in July 2020, which deleted paragraph 11 of the original Agreement of Lease; and

WHEREAS, the Agreement of Lease expires as of February 28, 2025; and

WHEREAS, the Governing Body of the Borough of New Providence find it to be in the best interests of the Borough and its residents to authorize renewal of the Lease for continued use of the premises for the benefit of low-income senior citizens and wish to extend the lease an additional 30 years;

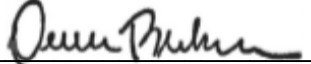
NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey that the Borough hereby authorizes the renewal of the Lease to New Providence Affordable Housing and Urban Renewal Associates, L.P. of a portion of the property known as Lot 14.02 in Block 50 on the Tax Map of the Borough commonly known as Elizabeth Barabash Manor in connection with its charitable purposes pursuant to the terms and conditions previously agreed upon and set forth in the written Lease Agreement of June 27, 1994; and

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Second Amendment of Lease Agreement in the form as attached hereto.

Introduction: February 11, 2025
Public Hearing: February 25, 2025
Adopted: February 25, 2025

BOROUGH OF NEW PROVIDENCE
COUNTY OF UNION
STATE OF NEW JERSEY

Attest:



Denise Brinkofski, Borough Clerk



Allen Morgan, Mayor

APPENDIX I

Draft Ordinance Amending the Density of the A-2 Zone

**BOROUGH OF NEW PROVIDENCE
ORDINANCE NO. 2025-XX**

AN ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY AMENDING CHAPTER 310, ENTITLED "ZONING & LAND USE ORDINANCE," OF THE BOROUGH'S REVISED GENERAL CODE, TO AMEND THE CERTAIN STANDARDS OF THE A2 AFFORDABLE HOUSING ZONING DISTRICT

WHEREAS, the Municipal Land Use Law ("MLUL") (N.J.S.A. 40:55D-1 et seq.) enables municipalities to adopt, and subsequently amend, zoning ordinances relating to the nature and extent of the uses of land, buildings, and structures within a municipalities; and

WHEREAS, as part of the Borough's Prior Round compliance, three inclusionary housing zones were adopted, known as the A1, A2, and A3 Zones; and

WHEREAS, these inclusionary zones have been built out with the exception of three (3) lots in the A2 Zone, known as Block 310 Lots 1 and 2 and Block 311 Lot 3 (hereafter known as the "subject properties"); and

WHEREAS, the subject properties are surrounded on the New Providence side of the municipal boundary by lots in the R1 Zone, which permits the development of one (1) unit per 18,000 square feet, or one (1) unit per 2.42 acres; and

WHEREAS, the subject properties are located across the street from a non-residential development and an assisted living facility located within the TBI-1 Technology and Innovation Zone 1; and

WHEREAS, the A2 Zone currently allows for inclusionary development at a density of 10 dwelling units per acre with a required 20% affordable housing set-aside; and

WHEREAS, the Mayor and Council wish to amend the A2 Zone to increase the density on the subject properties in an appropriate manner so as to encourage development but also act as an appropriate transition area between the more intense commercial development/assisted living facility and the adjacent single-family residential zone.

BE IT ORDAINED by the Mayor and Council of the Borough of New Providence, County of Union and State of New Jersey, as follows:

SECTION 1.

Article IV Section 310-28 of Chapter 310 of the Code of the Borough of New Providence, entitled "A2 Affordable Housing District," subparagraph E., entitled "Bulk Standards" shall be amended to read as follows:

§310.28.E.

A2 Affordable Housing District Bulk Standards	
Maximum Gross Residential Density	Block 310, Lots 1 and 2; and Block 311, Lot 3: 13 units per acre Remainder of A2 Zoning District: 10 units per acre

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SECTION 2.

Schedule II of Chapter 310 of the Code of the Borough of New Providence, entitled "Residential Bulk Requirements," shall be amended pursuant to Attachment A of this Ordinance.

SECTION 3.

If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION 4.

To the extent that any provision of the Code of the Borough of New Providence is found to conflict with this Ordinance, in whole or in part, this Ordinance shall control. In all other respects, the Zoning and Land Use Regulations Ordinance of the Borough of New Providence shall remain unchanged.

SECTION 5.

In order to avoid accidental repeal of existing provisions, the Borough Clerk and the Borough Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION 6.

This Ordinance shall take effect upon passage and publication as required by law. This Ordinance shall only apply prospectively from its effective date and shall not be applied retroactively.

INTRODUCTION:

PUBLIC HEARING:

ADOPTION:

BOROUGH OF NEW PROVIDENCE
COUNTY OF UNION
STATE OF NEW JERSEY

Allen Morgan, Mayor

Attest:

Denise Brinkofski, Borough Clerk

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ATTACHMENT A:
Schedule II Residential Requirements

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**SCHEDULE II
RESIDENTIAL BULK REQUIREMENTS**

Zone	Minimum Area (sf)	Interior Lot Width (Minimum)		Corner Lot Width (Minimum)		Lot Depth (Minimum) (feet)	Setbacks (Minimum) (9)				Building Coverage (Maximum)			Lot Coverage (Maximum) (%)	Building Height		Maximum Residential Density (units / acre)
		At Setback Line (feet) (1)	At ROW Line (feet)	At Setback Line (feet)	At ROW Line (feet)		Front (feet) (2)	Side (One) (feet)	Side (Both) (feet)	Rear (feet)	One-story principal Building (%)	More than one story principal building (%)	Accessory Building (%)		Principal structure	Accessory structure (feet)	
R1	All uses	18,000	120	75	130	85	40 or prevailing (3)	(4) (5)	30% of lot width	The greater of 40 ft or 35% lot depth (6)	25	(7)	5	40	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	-
R2	All uses	15,000	110	60	110	70	40 or prevailing (3)	(4) (5)	30% of lot width	The greater of 40 ft or 35% lot depth (6)	25	(7)	5	40	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	-
R2A	All uses	18,000	80	60	110	70	40 or prevailing (3)	(4) (5)	30% of lot width	The greater of 40 ft or 35% lot depth (6)		(7)	5	40	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	-
R3	Two-Family	10,000	75	50	85	60	30	8 (5)	20	40 (6)		25	5	50	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	-
	All other uses	8,000	75	50	85	60	40 or prevailing (3)	(4) (5)	30% of lot width	The greater of 40 ft or 35% lot depth (6)		25	5	50	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	-
R3A	Two-Family	15,000	100	100	100	100	30	12 (5)	30	40 (6)		25	5	50	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	-
	All other uses	10,000	80	80	80	80	40 or prevailing (3)	(4) (5)	30% of lot width	The greater of 40 ft or 35% lot depth (6)		25	5	50	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	-
R4	Single-Family Detached	8,000	-	100	-	100	40 or prevailing (3)	(4) (5)	30% of lot width	The greater of 40 ft or 35% lot depth (6)		30		50	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	14
	All other uses	25,000	-	100	-	100	30	15 (5)	35	40		30		70	2.5 stories / 30 ft avg grade to mean; 35 ft max	14	14
A1	All uses	10,000	-	-	-	-	30	15	35	20		30		50	2.5 stories / 30 ft avg grade to mean; 35 ft max	14 (8)	6
A2	All uses	10,000	-	-	-	-	30	15	35	20		30		50	2.5 stories / 30 ft avg grade to mean; 35 ft max	14 (8)	B 310, L 1 and 2; B 311, L 3: Zone: 13 Rest of Zone: 10
A3	All uses	10,000	-	-	-	-	30	15	35	20		30		50	2.5 stories / 30 ft avg grade to mean; 35 ft max	14 (8)	
RS	All uses	-	-	-	-	-	-	-	-	-		50		90	3 stories / 35 ft	-	16

SCHEDULE II
RESIDENTIAL BULK REQUIREMENTS

A4 AH-ARO AHO PACO CCRCO	As approved by the Court in the Borough's Final Compliance of Judgment and Repose issued via Court Order dated August 25, 2020. See Article IV for standards.
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Notes

- (1) The specified width shall be maintained from the setback line for an additional 40 feet toward the rear lot line.
Setback line shall be measured to the front principal building wall.
- (2) If front yard encroachments of porches, porticos, stoops and similar structures exist, said encroachments shall be permitted pursuant to the "yard encroachments" (§310-17) standards of this Chapter.
- (3) 40 feet or prevailing of existing dwellings located within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, whichever is less, but in no event less than 10 feet.
- (4) For lots wider than 75 feet, the setback shall be 12 feet and for lots 75 feet wide or less, the setback shall be 8 feet.
- (5) In no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, as measured pursuant to the definition of "Yard, Side"
- (6) Decks shall have a minimum rear setback of 40 feet.
- (7) 20% of the first 7,500 square feet of lot area and 10% of each additional square foot of lot area in excess of 7,500 square feet.
- (8) Recreational buildings and facilities shall be governed by the height limitations of principal structures.
- (9) See 310-14 "Buildings and Structures" for enhanced setback standards.

APPENDIX J

Additional Affordable Housing Regulations

- Resolution 2025-4 – Appointing Keith Lynch as the Borough's
Municipal Housing Liaison
- Resolution 2025-5 – Appointing CGP&H as the Borough's
Administrative Agent

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2025-4

Council Meeting Date: 01-07-2025

Date Adopted: 01-07-2025

TITLE: RESOLUTION APPOINTING KEITH LYNCH AS MUNICIPAL HOUSING LIAISON FOR THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION AND STATE OF NEW JERSEY FOR THE YEAR 2025

Councilperson Cumiskey submitted the following resolution, which was duly seconded by Councilperson McKnight.

WHEREAS, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq., the Borough of New Providence is implementing a program to provide affordable housing units to low- and moderate-income households within the Borough; and

WHEREAS, the Borough's Affordable Housing Ordinance sets forth the duties of the Municipal Housing Liaison that requires a Municipal Housing Liaison oversee the Borough's affordable housing program; and

WHEREAS, pursuant to N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq., New Providence is required to appoint a Municipal Housing Liaison for administration of New Providence's Affordable Housing Program to enforce the requirements of N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq.

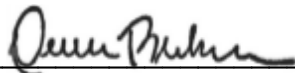
NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of New Providence in the County of Union, and the State of New Jersey that Keith Lynch is hereby appointed by the Borough Council of New Providence as the Municipal Housing Liaison for the administration of the affordability controls of the Borough's housing program for the year 2025.

APPROVED, this 7th day of January, 2025.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
BILICKA	X			
CUMISKEY	X			
DOLAN	X			
GEOFFROY	X			
KOGAN	X			
MCKNIGHT	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 7th day of January, 2025.



 Denise Brinkofski, Borough Clerk

Borough Of New Providence
 County Of Union
 State Of New Jersey



 Allen Morgan, Mayor

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2025-5

Council Meeting Date: 01-07-2025

Date Adopted: 01-07-2025

TITLE: RESOLUTION APPOINTING CGP&H LLC AS THE ADMINISTRATIVE AGENT FOR THE ADMINISTRATION OF AFFORDABLE HOUSING UNITS THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION AND STATE OF NEW JERSEY FOR THE YEAR 2025

Councilperson Cumiskey submitted the following resolution, which was duly seconded by Councilperson McKnight.

WHEREAS, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq., the Borough of New Providence is implementing a program to provide affordable housing units to low- and moderate-income households within the Borough; and

WHEREAS, the Borough's Affordable Housing Ordinance, found in Chapter 275 of the Borough's Code, sets forth the duties of the administrative agent pursuant to N.J.A.C. 5:80-26.14, 16 and 18, that requires the affordability controls of affordable housing units be administered by an administrative agent acting on behalf of a municipality; and

WHEREAS, the Borough of New Providence approved a contract with CGP&H LLC via Resolution 2024-228 adopted August 13, 2024, to be the administrative agent for the purposes of providing affordability control services for all affordable housing within the Borough.

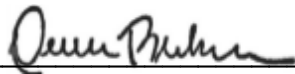
NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of New Providence in the County of Union, and the State of New Jersey that CGP&H LLC is hereby appointed by the Borough Council of New Providence as the Municipal Housing Liaison for the administration of the affordability controls of the Borough's housing program for the year 2025.

APPROVED, this 7th day of January, 2025.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
BILICKA	X			
CUMISKEY	X			
DOLAN	X			
GEOFFROY	X			
KOGAN	X			
MCKNIGHT	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 7th day of January, 2025.


 Denise Brinkofski, Borough Clerk

Borough Of New Providence
 County Of Union
 State Of New Jersey


 Allen Morgan, Mayor

APPENDIX K

Draft of Fourth Round Spending Plan

AFFORDABLE HOUSING TRUST FUND SPENDING PLAN DRAFT

May 23, 2025
Approved by Borough Council Month XX, 2025

Borough of New Providence
Union County, New Jersey

Prepared By:



Heyer, Gruel & Associates

Community Planning Consultants 236 Broad Street,
Red Bank, NJ 07701
(732) 741-2900

The original of this report was signed and sealed in
accordance with N.J.S.A. 45:14A-12

M. McKinley Mertz, AICP, P.P. #6368

With contributions by Megan Adam, Associate Planner

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INTRODUCTION

The Borough of New Providence, Union County has prepared and will adopt a Fourth Round Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and the Fair Housing Act (N.J.S.A. 52:27D-301) as amended.

The Borough received First Round certification from the Council on Affordable Housing ("COAH") on September 18, 1989. New Providence participated in the Second Round and petitioned COAH for substantive certification on July 7, 1997, and received their substantive certification on August 5, 1998, with an extended certification date of May 11, 2005. The Borough petitioned twice for Third Round substantive certification as a result of COAH's revised methodologies, on December 30, 2008, and again on July 16, 2010; the Borough was deemed complete on October 4, 2010. Subsequent to Mount Laurel IV, a Conditional Judgment of Compliance and Repose for the Borough was granted on November 13, 2019, and the Final Judgment of Compliance and Repose was granted on August 25, 2020.

A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH on January 4, 2008, and adopted by the Borough on March 10, 2008. This ordinance was subsequently amended by Ordinance 2017-07 (adopted May 22, 2017) and again by Ordinance 2019-10 (adopted October 15, 2019). In response to the 2024 amendment to the Fair Housing Act and any subsequent changes to the substantive rules, New Providence will once again amend its development fee ordinance if necessary to ensure it meets current standards.

As part of the Borough's efforts to address its Third Round obligation, New Providence's first Third Round Spending Plan was adopted on August 9, 2019. The Plan was subsequently amended in October of 2019 and in September of 2023. Resolution 2023-280, which outlines the adoption of the most recent Spending Plan, was adopted by the Borough Council on October 10, 2023 and approved by the Court on March 28, 2024. Pursuant to the settlement agreement with Fair Share Housing Center (FSHC) which was executed on April 1, 2019, annual monitoring reports were submitted to the New Jersey Department of Community Affairs, FSHC, and posted to the Borough website. These reports provided updates on the Borough's Affordable Housing Trust Fund. This 2025 Spending Plan supersedes all prior Spending Plans.

Since the inception of the trust fund in 2006, the Borough had collected more than \$1.7 million in development fees, payments in lieu of construction, interest, and other income. New Providence has spent nearly \$1 million on administrative costs, housing activity, and affordability assistance. The balance of the Borough's Trust Fund was \$790,936, as of April 30, 2025.

All development fees, payments in lieu of constructing affordable units on site, interest generated by the fees as well as any other source of income are deposited into this separate, interest-bearing affordable

housing trust fund for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:93, or applicable regulations, as described in the sections that follow.

This Fourth Round Spending Plan is submitted for approval to expend all current and future affordable housing trust fund monies, as necessary, that will contribute to the development of new affordable housing units.

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1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of Fourth Round "Substantive Certification," the Borough of New Providence considered the following:

(a) Development fees

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL)

Actual and committed payments in lieu (PIL) of construction from developers.

(c) Other funding sources

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units.

(d) Projected interest

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate.

(e) Projected Revenues

Projected Revenues – Housing Trust Fund – June 2025 through June 2035				
	Current Balance	(a) Projected Development Fees:	(d) Interest	TOTAL
Trust Fund Balance as of 4/30/2025	\$790,936	-	-	\$790,936
2025	-	\$100,000	\$450	\$100,450
2026	-	\$200,000	\$900	\$200,900
2027	-	\$200,000	\$900	\$200,900
2028	-	\$200,000	\$900	\$200,900
2029	-	\$200,000	\$900	\$200,900
2030	-	\$200,000	\$900	\$200,900
2031	-	\$200,000	\$900	\$200,900
2032	-	\$200,000	\$900	\$200,900
2033	-	\$200,000	\$900	\$200,900
2034	-	\$200,000	\$900	\$200,900
2035	-	\$100,000	\$450	\$100,450
TOTAL	\$790,936	\$2,000,000	\$9,000	\$2,799,936

To calculate the projection of revenue anticipated from the general development fees, 11 years (2013 through 2023) of construction data (for both residential and non-residential construction) for the Borough, acquired from the New Jersey Department of Community Affairs, was examined. The historic activities of Borough's existing affordable housing trust fund were also analyzed, and the projected development fees reflect both trends.

The Borough projects a total of \$2,000,000 will be collected between July 1, 2025, and June 30, 2035. An additional \$9,000 in interest is projected to be earned through June of 2035. Interest calculations are based on a historic average of the interest earned in the Borough's trust fund. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing. Including the existing trust fund balance, the Borough projects a total of \$2,799,936 through June 30, 2035.

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2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of New Providence:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with New Providence's development fee ordinance for both residential and non-residential developments.

(b) Distribution of development fee revenues:

The Administrative Agent and the Municipal Housing Liaison will manage the projects outlined in this Spending Plan and the Housing Element and Fair Share Plan.

The release of funds requires the adoption of a resolution by the Borough Council. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the Borough Council resolution.

(c) Collection and distribution of barrier free funds:

Collection and distribution of barrier free funds shall be consistent with the Borough's Affordable Housing Ordinance (Chapter 225 of the Borough's Revised General Code) and in accordance with applicable regulations. A process describing the collection and distribution procedures for barrier free escrow is detailed within the Borough's Affordable Housing Ordinance.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

The following sections represent the anticipated affordable housing expenditures within the Borough of New Providence, that will utilize trust fund monies.

(a) Rental Rehabilitation Program and New Construction Projects (N.J.A.C. 5:93-8.16)

Additional information on each of the programs and projects below can be found in the Housing Element and Fair Share Plan.

As part of New Providence's Third Round Compliance, the Borough agreed to implement a rental rehabilitation program to supplement the County owner rehabilitation program. New Providence will continue to administer this rental rehabilitation program in the Fourth Round through its Administrative Agent, CGP&H. As there has not been significant interest in the rental rehabilitation program since it was implemented during the Third Round, the Borough will dedicate any additional funds to support the rehabilitation of owner-occupied units as well.

Further, the Borough is interested in supporting ongoing operations of alternative living arrangements/group homes. As outlined in the Fair Share Plan, several group homes have been operating in New Providence for decades. The Borough will prioritize spending funds on necessary renovations to existing group homes and the creation of new alternative living arrangements within the Borough.

The Borough will dedicate \$1,633,674 to the rehabilitation of substandard units and new construction within the Borough.

(b) Affordability Assistance (N.J.A.C. 5:93-8.16)

As per the requirements regarding the use of funds for affordability assistance laid out in N.J.A.C. 5:93-8.16, the Borough is required to dedicate at least 30% of all development fees collected and interest earned to provide affordability assistance to low-, and moderate-income households. In addition, at least one-third of the affordability assistance shall be used to provide affordability assistance to very-low-income households.

The calculation of available affordability assistance funds is performed by considering the lifetime of the trust fund. To project the funding amount that is dedicated to affordability assistance, all actual expenditures spent on new construction activities as well as any rehabilitation activities from the inception of the fund are subtracted from the sum of the actual and projected development fees and interest. That total is multiplied by 30% to determine the 30% requirement. The actual affordability assistance expenditures from the inception of the fund are then subtracted from the overall 30% requirement. This final outcome is the total remaining funds that must be dedicated to affordability assistance for the period moving forward.

The Borough of New Providence has collected \$1,776,966 in development fees and interest through April 30, 2025. The Borough projects an additional \$2,000,000 in development fees and \$9,000 in interest through 2035. The Borough has spent \$748,845 on housing activities to date. The Borough's appointed Administrative Agent, Community Planning Grants & Housing (CGP&H) is in the process of completing an updated Affordability Assistance Manual. Until such time as an updated manual is completed and adopted, the previous manual, adopted in 2019 and 2023 and approved by the Court, remains in effect.

Affordability Assistance Projection

Affordability Assistance		
Actual development fees collected, and interest earned through 4/30/2025		\$1,776,966
Projected Development Fees June 2025-2035	+	\$2,000,000
Projected Interest June 2025-2035	+	\$9,000
Less Housing Activity Through 4/30/2025	-	\$748,845
Total	=	\$3,037,121
30 percent requirement	x 0.30=	\$911,136
Minimum Affordability Assistance	=	\$911,136
Less Affordability Assistance Expenditures through 4/30/2025	-	\$12,701
Remaining Affordability Assistance Requirement		\$898,435
Minimum Very Low-Income Requirement	÷ 3 =	\$299,478

Housing Activity History

Since the inception of the trust fund in 2006, the Borough has spent \$748,845 on housing activity. This includes new construction, property acquisition, affordability assistance, and renovations. Since the previous Court-approved Spending Plan, the Elizabeth Barabash Manor has undergone extensive renovations. Funds from the Borough's Affordable Housing Trust Fund were expended in March 2024 for the rehabilitation of the building's roof, and in July of 2024 to add new refrigerators, stoves, and range hoods within each apartment. In May of 2024, the facility's mortgage was paid off. Further, New Providence has received grant money toward the replacement of the facility's elevator, and is currently in the process of bidding the new elevator.

(c) Administrative Expenses (N.J.A.C. 5:93-8.16)

No more than 20% of revenues collected from development fees shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop and implement: a new construction program; a housing element; and an affirmative marketing

program. Administrative funds may be used for: income qualification of households; monitor the turnover of sale and rental units; and compliance with monitoring requirements.

The calculation of allowable administrative expenses is performed by considering the lifetime of the trust fund. To project the funding amount that will be available for administrative costs, the sum of all development fees actually collected, and all interest earned since the inception of the account will be added to the sum of all projected development fees and interest projected to be collected through the remainder of this round. From this amount, any Regional Contribution Agreement (RCA) expenditures made or contractually obligated from the inception of the account are subtracted. This final amount is multiplied by 20% and then actual administrative expenditures made from inception is subtracted out. The final outcome of this calculation, as depicted in the following table, is the total remaining funds that will be available for administrative expenses through the end of this Round.

The Borough has collected \$1,776,966 in development fees and interest from inception through April 30, 2025. The Borough projects an additional \$2,000,000 in development fees and \$9,000 in interest through 2035. The Borough has never taken part in an RCA. New Providence has spent \$258,331 on administrative expenses through April 30, 2025.

Administrative Expenses		
Actual development fees collected, and interest earned through 4/30/2025		\$1,776,966
Projected Development Fees June 2025-2035	+	\$2,000,000
Projected Interest June 2025-2035	+	\$9,000
RCA expenditures	-	\$0.00
Total	=	\$3,785,966
20 percent maximum permitted on administrative expenses based on total projection	x 0.20 =	\$757,193
Less Administrative Expenditures through 12/31/2024	-	\$258,331
Projected Allowed Admin. Expenditures	=	\$498,862

Moving forward, the Borough projects that \$498,962 will be available from the affordable housing trust fund for administrative expenses for the time period of June 1, 2025, through June 30, 2035. Because the actual administrative expense maximum is calculated on an ongoing basis based on actual revenues, the Borough shall be permitted to spend 20% of the actual balance at any given time on administrative fees. Money becomes available for administrative expenses as additional income is collected.

Projected administrative expenditures, subject to the 20 percent cap, include but are not limited to:

- Administration and expenses associated with the Borough's affordable housing units;
- Expenses associated with the preparation and implementation of the Housing and Fair Share Plan and monitoring of the current and future housing programs for the Borough of New Providence
- Affirmative Marketing;
- Income qualification; and
- Administration of the Borough's affordable housing units.

Legal or other fees related to litigation opposing affordable housing sites are not eligible uses of the affordable housing trust fund.

4. EXPENDITURE SCHEDULE

Projected Expenditure Schedule – Housing Trust Fund – June 2025 through June 2035					
	Rental Program	Rehabilitation	Affordability Assistance	Administration	TOTAL
2025	\$70,132		\$44,922	\$24,943	\$139,997
2026	\$140,264		\$89,844	\$49,886	\$279,994
2027	\$140,264		\$89,844	\$49,886	\$279,994
2028	\$140,264		\$89,844	\$49,886	\$279,994
2029	\$140,264		\$89,844	\$49,886	\$279,994
2030	\$140,264		\$89,844	\$49,886	\$279,994
2031	\$140,264		\$89,844	\$49,886	\$279,994
2032	\$140,264		\$89,844	\$49,886	\$279,994
2033	\$140,264		\$89,844	\$49,886	\$279,994
2034	\$140,264		\$89,844	\$49,886	\$279,994
2035	\$70,132		\$44,922	\$24,943	\$139,997
TOTAL	\$1,402,639		\$898,435	\$498,862	\$2,799,936

5. EXCESS OR SHORTFALL OF FUNDS

In the event funding sources as identified within this Spending Plan for the projects detailed in the Housing Element and Fair Share Plan prove inadequate to complete the affordable housing programs, the Borough shall provide sufficient funding to address any shortfalls through bonding.

In the event that more funds than anticipated are collected or projected funds exceed the amount necessary to implement the Borough's affordable housing projects, these excess funds will be used to fund eligible affordable housing activity pursuant to applicable rules and regulations.

SUMMARY

The Borough of New Providence intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:93 and consistent with the housing programs outlined in its adopted Housing Element and Fair Share Plan.

The Borough's trust fund has a balance of \$790,936 as of April 30, 2025. New Providence anticipates an additional \$2,799,936 in revenues and interest by June 30, 2035. The Borough will expend:

- Rental rehabilitation program and new construction: \$1,402,639
- Affordability Assistance: \$898,435, which includes \$299,478 for the very low-income requirement
- Administration: \$498,862

SPENDING PLAN SUMMARY	
Balance as of April 30, 2025	\$790,936
Projected REVENUE June 1, 2025 to June 30, 2035	
Development fees	+ \$2,000,000
Payments in lieu of construction	+ \$0
Other funds	+ \$0
Interest	+ \$9,000
TOTAL REVENUE + CURRENT BALANCE	= \$2,799,936
EXPENDITURES	
Funds used for New Construction/Accessory Apartments	- \$1,402,639
Affordability Assistance	- \$898,435
Administration	- \$498,862
Excess Funds for Additional Housing Activity	= \$0
TOTAL PROJECTED EXPENDITURES	= \$2,799,936
REMAINING BALANCE	= \$0