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March 13, 2026

VIA ECOURTS

Honorable Aldo J. Russo, J.S.C.
Essex County Courthouse
350 University Avenue
Newark, New Jersey 07207

RE: In the Matter of the Application of the Borough of North Caldwell
Docket No. ESX-L-792-25

Dear Judge Russo:

This office represents the Borough of North Caldwell as Special Affordable Housing Counsel in the above matter. The Borough hereby files this letter and attached documentation to meet the March 15, 2026 deadline in the Fair Housing Act (“FHA”), N.J.S.A. 52:27D-304.1(f)(2)(c), the Program Order entered on January 13, 2026, the Court Order entered on February 18, 2026, and the March 15, 2026 deadlines established in the Mediation Agreement entered into between the Borough and Fair Share Housing Center (“FSHC”), which was filed with the Program and the Court in this matter on December 18, 2025 (hereinafter “FSHC Mediation Agreement”).

To that end, please see the following documentation that is being submitted on behalf of the Borough to the Court and FSHC for review:

1. **Amended Housing Element and Fair Share Plan**: The Borough’s Amended Fourth Round Housing Element and Fair Share Plan was adopted by the Borough’s Planning Board on March 9, 2026, and was endorsed by the Borough Council on March 10, 2026. See attached Exhibit A.
2. **Overlay Zone Ordinance**: To partially address the Borough’s unmet need, the Borough Council adopted an ordinance on March 10, 2026 amending the existing BAO

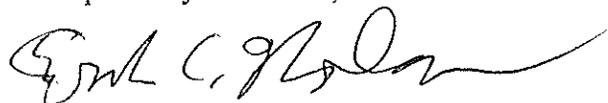
Bloomfield Avenue Overlay District and the FRO Fairfield Road Overlay District. See attached Exhibit B.

3. **Existing Group Home**: Attached as Exhibit C is some of the required documentation for the Universal Institute Inc. group home located on 1 Oak Ridge Road. The Borough is in the process of trying to collect the rest of the required documentation and will turn it over for review once it is collected.
4. **Affordable Housing Ordinance and Development Fee Ordinance**: The Borough Council adopted an updated Affordable Housing Ordinance and Development Fee Ordinance on March 10, 2026. See attached Exhibit D.
5. **Affirmative Marketing Plan**: The Borough's Fourth Round Affirmative Marketing Plan was adopted on March 10, 2026, and is attached hereto as Exhibit E.
6. **Spending Plan**: The Borough's Fourth Round Spending Plan was adopted on March 10, 2026, and is attached hereto as Exhibit F.

To date the Borough has worked diligently to meet all of the deadlines required by the FHA, the Program, the Court, and the Mediation Agreement with FSHC, and will continue to do so. This has resulted in a multitude of compliance documentation being provided. Should any documentation need to be corrected or amended, the Borough will do so in a timely fashion, and in accordance with the instructions of the Court and in collaboration with FSHC.

I thank Your Honor for your time and attention to this matter.

Respectfully submitted,



Erik C. Nolan

ECN/sp
Enclosures

cc: All counsel of record (*via eCourts*)
Ariela Rutbeck-Goldman, Esq. (*via eCourts and email*)
Tom Behrens, PP, AICP (*via email*)

EXHIBIT A

RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF NORTH CALDWELL ADOPTING AN AMENDED FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the New Jersey Fair Housing Act and established the Affordable Housing Dispute Resolution Program (the “Program”); and

WHEREAS, in accordance with the Amended Fair Housing Act, the Township timely submitted its Fourth Round Housing Element and Fair Share Plan (“HEFSP”) to the Program for review in June of 2025; and

WHEREAS, the Borough received challenges to its Fourth Round Plan from Fair Share Housing Center, La Serra Farms, LLC, and resident objectors in August of 2025; and

WHEREAS, the Borough went through mediation with the Program to resolve Fair Share Housing Center’s challenge, which resulted in a Mediation Agreement being entered into on December 17, 2025; and

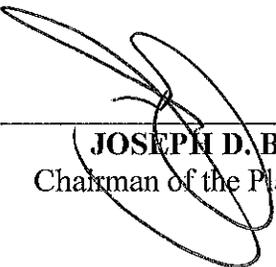
WHEREAS, as per the FHA and the Mediation Agreement with FSHC, the Borough is required to amend its Fourth Round Plan to include the terms and conditions agreed upon in the Mediation Agreement; and

WHEREAS, the Borough has prepared an Amended Fourth Round Housing Element and Fair Share Plan (“Amended Fourth Round Plan”), which is attached hereto as Exhibit A; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Amended Fourth Round Plan on March 9, 2026; and

WHEREAS, the Planning Board determined that the attached Amended Fourth Round Plan is consistent with the goals and objectives of the Borough’s current Master Plan, and that adoption and implementation of the Amended Fourth Round Plan is in the public interest and protects public health and safety and promotes the general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of North Caldwell, County of Essex, State of New Jersey, that the Planning Board hereby adopts the Borough’s Amended Fourth Round Housing Element and Fair Share Plan attached hereto as Exhibit A.



JOSEPH D. BROWER
Chairman of the Planning Board

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Planning Board of the Borough of North Caldwell at a regular meeting held on the 9th day of March, 2026.



GLENN DOMENICK
Planning Board Secretary

RESOLUTION

R-57-2026

BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY

TITLE: A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF NORTH CALDWELL ENDORSING AN AMENDED FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the New Jersey Fair Housing Act and established the Affordable Housing Dispute Resolution Program (the "Program"); and

WHEREAS, in accordance with the Amended Fair Housing Act, the Borough timely submitted its Fourth Round Housing Element and Fair Share Plan ("HEFSP") to the Program and the Court for review in June of 2025; and

WHEREAS, the Borough received challenges to its Fourth Round Plan from Fair Share Housing Center, La Serra Farms, LLC, and resident objectors in August of 2025; and

WHEREAS, the Borough went through mediation with the Program to resolve Fair Share Housing Center's challenge, which resulted in a Mediation Agreement being entered into on December 17, 2025; and

WHEREAS, as per the FHA and the Mediation Agreement with FSHC, the Borough is required to amend its Fourth Round Plan to include the terms and conditions agreed upon in the Mediation Agreement; and

WHEREAS, the Borough has prepared an Amended Fourth Round Housing Element and Fair Share Plan ("Amended Fourth Round Plan"), which is attached hereto as Exhibit A; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board adopted the Amended Fourth Round Plan after a public hearing was held on March 9, 2026; and

WHEREAS, the Borough Council has reviewed the Amended Fourth Round Plan and agrees with the Planning Board's determination that the Plan is consistent with the goals, objectives, and policies of the Borough's Master Plan, promotes the public health, safety, and general welfare, and is in the best interests of the Borough.

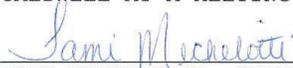
NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of North Caldwell, County of Essex, State of New Jersey, that the Borough Council hereby endorses the Borough's Amended Fourth Round Housing Element and Fair Share Plan attached hereto as Exhibit A.

Moved by: Councilwoman Stroevert

Seconded by: Councilman Atlas

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ATLAS	X				REES	X			
CORBO	X				STROEVER	X			
FLORIA-CALLORI	X				TILTON	X			

IT IS HEREBY CERTIFIED THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF NORTH CALDWELL AT A MEETING OF SAID COUNCIL HELD ON MARCH 10, 2026.


TAMI MICHELOTTI, BOROUGH CLERK


JOSHUA H. RAYMOND, MAYOR

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Borough Council of the Borough of North Caldwell at a regular meeting held on the 10th day of March, 2026.


TAMI MICHELOTTI, BOROUGH CLERK

2026 Amended Housing Element & Fair Share Plan

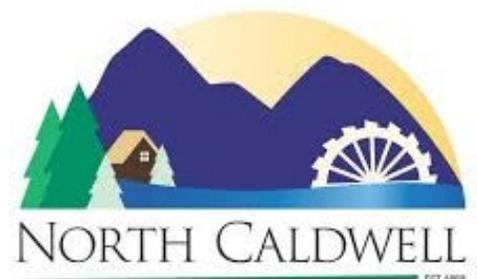
**Borough of North Caldwell
Essex County, New Jersey**

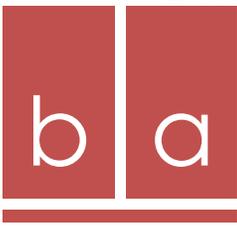
June 5, 2025

Adopted June 16, 2025

Amended February 26, 2026

Amendments Adopted March 9, 2026





Community Planning
Land Development and Design
Landscape Architecture

B U R G I S
A S S O C I A T E S , I N C .

Principals:

Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA
David Novak PP, AICP

2026 AMENDED HOUSING ELEMENT & FAIR SHARE PLAN

BOROUGH OF NORTH CALDWELL
ESSEX COUNTY, NEW JERSEY

PREPARED FOR:

BOROUGH OF NORTH CALDWELL PLANNING BOARD

BA# 4154.07

The original document was appropriately signed and sealed on February 26, 2026 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

Thomas Behrens, Jr., P.P., AICP
Professional Planner #6323

MEMBERS OF THE BOROUGH OF NORTH CALDWELL PLANNING BOARD

Joseph Brower, Chairman
Ted Roth, Vice Chairman
Joshua Raymond, Mayor
Glenn Domenick, Borough Administrator
James Campbell
Scott Fishbone
Sandra Nathans
Arthur Rees
Ankim Shah

PLANNING BOARD SECRETARY & BOROUGH BUSINESS ADMINISTRATOR

Glenn Domenick

PLANNING BOARD ATTORNEY

John Dusinberre, Esq.
John R. Dusinberre, Esq., LLC

AFFORDABLE HOUSING COUNSEL

Erik C. Nolan, Esq.
Jeffrey R. Surenian and Associates, LLC

BOROUGH ENGINEER

Paul Ferriero, P.E., P.P., CME, CFM, LEED AP
Boswell Engineering

BOROUGH PLANNER

Tom Behrens, P.P., A.I.C.P.
Burgis Associates, Inc.

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December 2025 Mediation Agreement w/ Fair Share Housing Center
Fourth Round Program Decision Recommendation
Fourth Round Vicinage Judge Decision & Order

Executive Summary

This 2026 Amended Housing Element and Fair Share Plan of the Master Plan has been prepared for North Caldwell, Essex County, New Jersey to address its Fourth Round affordable housing obligation in accordance with P.L. 2024, c.2, commonly referred to as the “Fair Housing Act - 2” or “2024 Fair Housing Act Amendments”. As detailed herein, the Borough’s Fourth Round and prior round (First, Second and Third Round) affordable housing obligations are derived from several sources. These sources include the regulatory provisions of the Council on Affordable Housing (“COAH”), prior Court-approved Judgments of Compliance and Repose, Amended Fair Housing Act and corresponding 4th Round housing need numbers calculated by the Department of Community Affairs (“DCA”) and Borough’s 4th Round mediation agreement with Fair Share Housing Center (“FSHC”) executed December 17, 2026 (see Appendix).

The Borough’s HE&FSP has been amended to incorporate the terms of the Borough’s mediation agreement with FSHC. The assigned program judge, the Honorable Julio L. Mendez, J.S.C. (ret.), issued his program decision recommendation (see Appendix) on January 13, 2026 in support of this agreement. On February 18, 2026, the Mount Laurel vicinage judge, the Honorable Aldo J. Russo, J.S.C. issued his decision and order (see Appendix) approving the Borough’s amended HE&FSP to address its 4th Round affordable housing obligation. A fairness hearing will be scheduled upon submission to the Program of the Borough’s amended HE&FSP and implementing ordinances by the March 15, 2026 statutory deadline. The details of the Borough’s 4th Round plan mechanisms are discussed herein.

The Borough’s affordable housing obligations are summarized as follows:

TABLE 1 – NORTH CALDWELL AFFORDABLE HOUSING OBLIGATIONS SUMMARY

Round	Obligation
Present Need (Rehabilitation Obligation)	0 units
First & Second Round Obligation (1987-1999)	63 units
Third Round Obligation (1999 – 2025)	360 units
Third Round Realistic Development Potential (RDP)	64 units
Fourth Round Obligation (2025-2035)	118 units
Fourth Round Realistic Development Potential (RDP)	5 units
Fourth Round Unmet Need	113 units

Prior Round Obligations

North Caldwell did not receive substantive certifications for COAH's First or Second Round Obligations given the Borough is a fully developed community. In accordance with the Amended Settlement Agreement between the Borough and FSHC dated December 11, 2018 (original Settlement Agreement dated September 2017) establishing the Borough's Third Round Affordable Housing Obligation, the Borough's Prior Round Obligation for the period 1987 to 1999 was 63 units and Third Round obligation of 360 units for a combined obligation of 423 units. The Borough's calculated Third Round Realistic Development Potential ("RDP") was 64 units resulting in an Unmet Need of 359 units. The Borough adopted a Third Round Housing Element and Fair Share Plan (HE&FSP") on August 12, 2019 and was granted a Final Judgment of Compliance and Repose (Third Round "JOR") by Judge Gardner on August 3, 2020.

The 2018 Settlement Agreement with FSHC includes a provision that in the event the Green Brook Golf Course ceases to remain a golf course and development of the property is initiated the Borough would be required to revisit its Third Round RDP obligation, accept an RDP on the golf course property and satisfy the increased Third Round RDP with units from the golf course development and/or other appropriate mechanisms. In accordance with the Borough's Third Round JOR, the Inclusionary Residential Overlay (IRO) Zone created July 21, 2020 by Ordinance No. O-8-20 to facilitate inclusionary development on the golf course site. The IRO Zone was amended December 19, 2023 by Ord. No. O-25-2023 to create the Senior Inclusionary Residential Overlay (SIRO) Zone for the site.

In 2025, a preliminary site plan application was filed with the North Caldwell Planning Board in accordance with the SIRO Zone that has yet to be deemed complete as of the preparation of this document. The development application includes 271 total units with 50 affordable units, including 25 affordable family rental units and 25 senior rental units as contemplated in the 2018 Settlement Agreements. This represents an affordable housing set-aside of 18.5% which is increased from the prior IRO Zone designation. It is also consistent with the terms of the 2018 and 2020 Settlement Agreements between the Borough and developer. Therefore, the Borough's Third Round RDP has increased from 64 units to 118 units (271 units x 20% set-aside = 54 units).

The plan mechanisms that satisfy the entirety of North Caldwell's Third Round RDP include a 50-unit 100% affordable development and Green Brook Country Club inclusionary development as summarized in Table 2.

TABLE 2 – NORTH CALDWELL PLAN MECHANISMS TO ADDRESS THIRD ROUND RDP

Plan Mechanism	# Units	Bonus Credit Multipliers	Bonus Credits	Total Credits	Status
RPM 100% Affordable Rental Development (50 units)	39	x 2 ⁽¹⁾	29 ⁽²⁾	68	Completed
Green Brook Golf Course (SIRO Zone)	50		-	50	Application In Review
Total	89	-	29 ⁽²⁾	118	-

(1) Rental bonus credits per COAH rules.

(2) Regulations permit a maximum number of bonus credits not to exceed 25% of RDP.

Fourth Round Obligation

Governor Murphy signed the A-40/S-50 Bill into law on March 20, 2024 after the Senate and Assembly adopted it. This legislation (FHA-2) amended the Fair Housing Act (FHA or the Act) by abolishing COAH and created a new process that involved the creation of an entity known as the Affordable Housing Dispute Resolution Program (“The Program”), which is overseen by seven retired Mount Laurel judges. The Program has taken the place of the trial courts and COAH regarding the approval process involving municipal HE&FSPs. The DCA and the Administrative Office of the Courts (AOC) are both also involved in assisting the Program with this process.

FHA-2 directed the DCA to calculate the Present Need (also referred to as the Rehabilitation obligation) and the Prospective Need (also known as the new construction obligation) for Round Four based upon the standards set forth in the Act. The DCA in its October 18, 2024 publication “Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background” made public October 18, 2024 issued North Caldwell a Fourth Round Prospective Need Obligation of 118 units and Present Need (Rehabilitation Obligation of 0 units). In accordance with the FHA-2, the DCA report made clear that the obligations generated by the report were advisory only and were non-binding. Since the DCA report calculations are non-binding, North Caldwell conducted an analysis to determine the extent to which the DCA calculations could be modified. The Borough ultimately accepted its DCA assigned Fourth Round Obligations by Resolution No. R-41-2025 dated January 28, 2025 that was fixed by Order of Judge Russo dated March 24, 2025.

The Borough’s January 2025 Resolution also noted that the Borough reserved the right to seek an adjustment of its Fourth Round Prospective Need number based upon a lack of vacant, developable and suitable land. Accordingly, the Borough conducted a Fourth Round VLA which concluded that the Borough has a Fourth Round RDP of 0 units and therefore an Unmet Need (difference between Prospective Need and RDP) of 118 units.

Subsequent to the Planning Board’s adoption of the Borough’s June 2025 HE&FSP, FSHC submitted a challenge to the Borough’s plan to the Program by the August 31, 2025 statutory deadline as FSHC did for over 400 municipalities throughout the State. Through the Program, the Borough reached a mediation agreement with FSHC executed on December 17, 2025 which describes the terms for the Borough to amend its 4th Round HE&FSP as detailed herein. Representatives of LaSerra Farms submitted a separate challenge to the Program that was ultimately dismissed by the Program and Mount Laurel judges. Among the settlement terms, the Borough accepted an RDP on the LaSerra Farms site of 5 units that is being satisfied by an existing group home. Therefore, the Borough’s VLA remains valid as the previously calculated RDP of 0 has been adjusted to a RDP of 5 resulting in an Unmet Need of 113 (Prospective Need of 118 – RDP of 5). The Borough will address its 4th Round 5-unit RDP as indicated in the table below.

TABLE 3 – NORTH CALDWELL PLAN MECHANISMS TO ADDRESS UNMET NEED

Plan Mechanism	Type	# Units	Bonus Credits	Tenure	Status
Group Home – 1 Oak Ridge	Supportive & Special Needs	4	1	Rental	Existing

The Borough’s Unmet Need Obligation will be addressed by the several mechanisms listed below including surplus units from the RPM 100% affordable development that is now occupied, two overlay zones, group home and mandatory affordable set-aside ordinance. The Borough will also continue to consider emergent opportunities to create new affordable housing, including group homes, in appropriate locations consistent with the Borough’s Master Plan and Zoning Ordinance.

TABLE 4 – NORTH CALDWELL PLAN MECHANISMS TO ADDRESS UNMET NEED

Plan Mechanism	Location	Type	# Units	Tenure	Status
RPM 100% Affordable Rental Development (50 units)	B 104 L 1	100% Affordable Family Rentals	11	Rental	Completed
Fairfield Road Overlay Zone (15 du/ac x 20% set-aside)	B 2200 L 3,4,5,6 B 2201 L 1,2	Inclusionary	15	TBD	To be amended
Bloomfield Avenue Overlay Zone (20 du/ac x 20% set-aside)	Block 100 L 1-11	Inclusionary	18	Rental	To be amended
Mandatory Affordable Set-Aside Ord. (20% sale & rental)	Borough-wide	Inclusionary	-	TBD	To be amended
Mixed-use Inclusionary Development	25 Bloomfield Ave.	Inclusionary	1	Rental	Approved
Additional group home	TBD	Supportive housing	4-5	Rental	Proposed

The Borough's 2026 Amended HE&FSP addressing its Fourth Round affordable housing obligations is divided into the following sections:

- Section 1: Introduction

The first section of the 2026 Amended HE&FSP provides an introduction to affordable housing. It summarizes what affordable housing is, offers an overview of the history of affordable housing in the state, and explains the role of a housing element and fair share plan.

- Section 2: Housing Element

Section 2 contains the Housing Element for the Borough of North Caldwell. It offers a community overview of the Borough, as well as background information regarding its population, housing, and employment characteristics. It also provides projections of the Borough's housing stock and employment.

- Section 3: Fair Share Obligation

Section 3 provides an overview of the Borough's fair share obligation and vacant land analysis. It includes a brief history of the methodologies utilized to calculate affordable housing obligations throughout the state.

- Section 4: Fair Share Plan

Section 4 details the manner in which the Borough has addressed its prior First, Second and Third Round obligations, how it will address its Fourth Round Prospective Need Obligation, and how same is consistent with the FHA, applicable COAH and UHAC regulations, and state planning initiatives.

Section 1: Introduction

The following section provides an overview of affordable housing in New Jersey, the role of a housing element and fair share plan and the Borough's previous compliance efforts.

1.1 Defining Affordable Housing

Affordable housing is income-restricted housing that is available for sale or rent at varying income thresholds generally characterized as very-low (30%), low (50%) and moderate-income (80%) households in relation to the respective housing region's median income. New Jersey is divided into six housing regions. North Caldwell is located in Region 2 which includes Essex, Morris, Union and Warren Counties.

The State's regional income limits are updated annually with different categories based on income levels and household size. Table 5 provides a sample of the 2025 regional income limits for Region 2. For example, a four-person household with a maximum income of \$108,240 could qualify for affordable housing in North Caldwell. The complete 2025 NJHMFA income table is provided in the Appendix.

TABLE 5– 2025 REGION 2 INCOME LIMITS

Income Level	2 Person	3 Person	4 Person	5 Person
Median (100%)	\$108,300	\$121,800	\$135,300	\$146,200
Moderate (80%)	\$86,640	\$97,440	\$108,240	\$116,960
Low (50%)	\$54,150	\$60,900	\$67,650	\$73,100
Very-Low (30%)	\$32,490	\$36,540	\$40,590	\$43,860

Source: NJHMFA UHAC 2025 Affordable Housing Regional Income Limits by Household Size effective May 16, 2025.

Affordable housing exists in several forms which may be available for sale or rent including 100% affordable developments, deed-restricted accessory apartments, special needs/supportive housing or group homes, assisted living facilities, age-restricted housing and inclusionary development in which a certain percentage of the housing units are reserved for affordable housing while the remaining units are market rate.

1.2 History of Affordable Housing in New Jersey

Municipal affordable housing requirements in New Jersey began in 1975 when the New Jersey Supreme Court rendered its 'Mount Laurel I' decision which established that every developing municipality in the State has a constitutional obligation to provide a realistic opportunity for the creation of affordable housing. The Mount Laurel I decision was followed by a series of New Jersey Supreme Court decisions known as the 'Mount Laurel Doctrine' and State legislation which provided further clarity regarding municipal housing need calculations, compliance requirements and administrative review. Most recently, in March 2024, the State Legislature adopted amendments to the Fair Housing Act originally enacted in 1985 to create a new Fourth Round municipal compliance program for the period 2025 to 2035.

- **Mount Laurel I** In 1975, the New Jersey Supreme Court in its So. Burlington Cty. NAACP v. Township of Mount Laurel decision, commonly referred to as 'Mount Laurel I', determined that every developing municipality in New Jersey has a constitutional obligation to provide a realistic opportunity for the construction its fair share of affordable housing. A 'realistic opportunity' means that municipalities cannot have exclusionary zoning that prohibits the development of affordable housing. Municipalities initially disregarded this obligation given the decision's general lack of guidance including regulatory standards, housing need numbers and an agency to administer such a program.
- **Mount Laurel II** The New Jersey Supreme Court's 1983 decision known as 'Mount Laurel II' clarified that all municipalities, whether developing or not, have a constitutional obligation to provide for their fair share of affordable housing. The Mount Laurel II decision called upon the State Legislature to enact legislation that would shift the responsibility of the courts from having to administer the affordable housing process and determine municipal housing need numbers. The decision also introduced the concept of the 'builder's remedy' suit whereby developers could challenge municipal zoning to develop affordable housing where municipalities did not otherwise meet their fair share obligation.
- **Fair Housing Act** The State Legislature responded to the Mount Laurel II decision by passing the Fair Housing Act in 1985 which established the framework for an administrative affordable housing process and creation of the Council on Affordable Housing (COAH), the agency intended to implement the process. COAH would be responsible for assigning municipal fair share housing obligations, reviewing municipal affordable housing plans and issuing substantive certification for compliant plans. A town in receipt of substantive certification would be immune from builder's remedy suits.
- **Mount Laurel III** The New Jersey Supreme Court affirmed the validity of the Fair Housing Act in its 1986 'Mount Laurel III' decision.
- **First Round** The First Round of affordable housing governed by COAH covered the period 1987 to 1993 utilizing a "fair shar" methodology.
- **Second Round** The Second Round of affordable housing spanned from 1993 to 1999 utilizing a "fair share" methodology.

- **Third Round** While the First and Second Rounds utilized a ‘fair share’ methodology, COAH utilized a new ‘growth share’ methodology in preparing the Third Round substantive and procedural rules and affordable housing need numbers first adopted in 2004, 5 years after the expiration of the Second Round, intending to cover the period from 1999 to 2014. However, these rules were challenged and ultimately invalidated by the Appellate Division in 2007 which directed to adopt revised rules. COAH adopted its second iteration of the Third Round rules in 2008 that were also challenged and again invalidated by the Appellate Division in 2010 which directed COAH to revert back to the original ‘fair share’ methodology. This decision was affirmed by the New Jersey Supreme Court in 2013. COAH published its third iteration of Third Round rules in 2014 but failed to adopt the regulations in a deadlocked 3-3 vote.
- **Mount Laurel IV** In the New Jersey Supreme Court’s 2015 ‘Mount Laurel IV’ decision, the Court decided that COAH had become dysfunctional and returned jurisdiction of municipal affordable housing administration to the trial courts as had been the arrangement prior to the creation of COAH in 1985. The decision included procedures for municipal participation but did not provide housing need numbers leaving municipalities to determine their affordable housing obligations. Several sets of housing need numbers were prepared by various entities which, in most cases, led to individual municipal settlement agreements with Fair Share Housing Center and intervening developers. Municipalities receiving substantive certification of their Third Round plans from the courts received immunity until the end of the Third Round in July 2025.
- **Gap Period Decision** On January 18, 2017, the New Jersey Supreme Court ruled that municipalities are responsible for affordable housing obligations that accrued during the “gap-period” between 1999 and 2015 when prior iterations of the Third Round rules were being litigated.
- **Fair Housing Act Amendments (A-4/S-50)** On March 20, 2024, Governor Murphy signed Bill A-4/S-50 into law amending the Fair Housing Act to create a new municipal compliance process for the Fourth Round and subsequent rounds of 10-year periods. These amendments eliminated COAH, created a new review entity known as the Program consisting of seven retired Mount Laurel judges. The DCA was designated to prepare the State’s regional and municipal housing need numbers pursuant to the methodology prescribed in the Jacobson Decision. However, the legislation makes it clear that the DCA calculations are advisory and non-binding, and that each municipality must determine its respective obligation using the Jacobson methodology. The Program was delegated to resolve any affordable housing disputes over municipal obligations, plans and plan mechanisms, and to ultimately issue a compliance certification approving a municipality’s HE&FSP. The certification will extend municipal immunity from exclusionary zoning (builder’s remedy) lawsuits until the end of the Fourth Round in July 30, 2035.

1.3 Housing Element and Fair Share Plan Requirements

The Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) stipulates that municipalities must adopt a master plan containing at least a land use plan element and housing plan element in order to lawfully adopt and enforce a zoning ordinance. The HE&FSP serves as the blueprint for how a municipality will satisfy its fair share of affordable housing. Municipalities without an approved HE&FSP are susceptible to a builder's remedy (exclusionary zoning) lawsuit whereby a prospective developer can file suit to circumvent the municipality's zoning ordinance and rezone specific property to permit housing development at higher densities and intensities than a municipality would otherwise allow for the provision of a certain percentage of units reserved as affordable.

C.52:27D-310, Essential components of municipality's housing element, of the 2024 Fair Housing Act Amendments sets forth the required HE&FSP components as follows:

- 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, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- 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.

Section 2: Housing Element

This section provides the Housing Element portion of North Caldwell’s Fourth Round HE&FSP including an overview of North Caldwell’s existing land use pattern and information pertaining to population, housing and employment characteristics and projections.

2.1 Community Overview

The Borough of North Caldwell is located in the northwestern area of Essex County adjacent to eight other municipalities, including Fairfield, Wayne, Little Falls, Cedar Grove, Verona, Essex Fells, Caldwell and West Caldwell. North Caldwell occupies an area of approximately 1,967 acres, or 3.1 square miles.

As stated in the Borough’s 2019 Housing Element and Fair Share Plan, the Borough is a fully developed community. A review of North Caldwell’s land use pattern indicates the Borough is characterized by several distinct land use patterns. The Borough is primarily developed as detached single-family dwellings. Townhouse development is generally concentrated at the north end of the municipality and the majority of multifamily development is located in the south end associated with the Hilltop site. Nonresidential uses are located along Bloomfield Avenue and Fairfield Road. 100 acres of the Green Brook Country Club is located adjacent to the Borough’s western boundary shared with Fairfield. West Essex High School and Middle School are also located in the western area of the Borough. Public transportation in North Caldwell is limited to bus service on Bloomfield Avenue. The nearest NJ Transit train station in Little Falls located approximately ½-mile to the northeast corner of the Borough. Table 6 provides a summary of the distribution of existing land uses in North Caldwell and accompanying maps.

TABLE 6 – NORTH CALDWELL EXISTING LAND USES

Land Use	Sub-Use	Acres	% of Total Acres	Parcels	% of Total Parcels
Residential	Residential 1 & 2 Family	1283.8	73.34%	2032	89.71%
	Multifamily	78.9	4.51%	153	6.75%
Commercial	Commercial	13.4	0.77%	12	0.53%
	Golf/Private Club	173.3	9.90%	2	0.09%
Public/Semi-Public	Municipal Property	81.6	4.66%	35	1.55%
	Public School	20.2	1.15%	3	0.13%
	Church & Charitable	15.2	0.87%	3	0.13%
Other	Vacant	10.7	0.61%	8	0.35%
	Industrial	2.8	0.16%	2	0.09%
	Utility	25.6	1.46%	7	0.31%
	Other Exempt	44.9	2.57%	8	0.35%
Totals		1750	100.00%	2265	100.00%

2.2 Data Sources

The information contained in the Housing Element section of this document was obtained from a variety of publicly available data sources including the U.S. Decennial Census, American Community Survey (“ACS”), New Jersey Department of Health, New Jersey Department of Community Affairs (“DCA”) and New Jersey Department of Labor and Workforce Development.

1. United States Decennial Census. The US Census is described in Article I, Section 2 of the Constitution of the United States, which calls for an enumeration of the people every ten years for the apportionment of seats in the House of Representatives. Since the time of the first Census conducted in 1790, it has become the leading source of data about the nation’s people and economy. Please note that all incomes reported in the Census are adjusted for inflation.
2. American Community Survey. The American Community Survey is a nationwide ongoing survey conducted by the US Census Bureau. The ACS gathers information previously contained only in the long form version of the decennial census, such as age, ancestry, educational attainment, income, language proficiency, migration, disability, employment, and housing characteristics. It relies upon random sampling to provide ongoing, monthly data collection. Please note that all incomes reported in the ACS are adjusted for inflation.
3. New Jersey Department of Health. The New Jersey Department of Health is a governmental agency of the State of New Jersey. The department contains the Office of Vital Statistics and Registry, which gathers data regarding births, deaths, marriages, domestic partnerships, and civil unions.
4. New Jersey Department of Health. The New Jersey Department of Community Affairs is a governmental agency of the State of New Jersey. Its function is to provide administrative guidance, financial support, and technical assistance to local governments, community development organizations, businesses, and individuals to improve the quality of life in New Jersey.
5. New Jersey Department of Labor and Workforce Development. The New Jersey Department of Labor and Workforce Development is a governmental agency of the State of New Jersey. One of its roles is to collect labor market information regarding employment and wages throughout the state.

2.3 Inventory of Municipal Housing Stock

This section of the Housing Element provides an inventory of the Borough's housing stock as required by the Fair Housing Act as amended in 2024. The inventory details such housing characteristics as age, condition, purchase/rental value, and occupancy of the Borough's existing housing stock. It also details the number of affordable housing units available to low-and-moderate income households and the number of substandard housing units capable of being rehabilitated.

It is noted that there may be inconsistencies in some of the data presented herein derived from the various data sources which include estimates that in some cases clearly exhibit margins of error. However, this information from the U.S. Decennial Census and American Community Survey Estimates prepared by the U.S. Census Bureau is considered among the most reliable and current data available and as such, is utilized in this document to illustrate trends and projections impacting the Borough.

1. Number of Dwelling Units. As shown in the table below, the Borough's housing stock grew considerably from 1980 to 2000 after which it experienced growth slowed but remained steady for the following two decades. It is anticipated that the number of housing units will increase in the next decade by roughly 11.5% as a result of the 271-unit senior inclusionary development proposed at the Green Brook Country Club site included in this HE&FSP as a Third Round Plan Mechanism.

TABLE 7 - DWELLING UNITS (1970-2023)
NORTH CALDWELL, NEW JERSEY

Year	Dwelling Units	Change (#)	Change (%)
1970	1,549	-	-
1980	1,608	59	3.8%
1990	1,996	388	24.1%
2000	2,108	500	31.1%
2010	2,252	144	6.8%
2020	2,364	112	5.0%
2023	2,353	(11)	(0.5%)

Source: U.S. Decennial Census; 2023 American Community Survey 5-Year Estimates.

The following table provides details regarding the tenure and occupancy of the Borough’s housing stock. Since 2010, there has been a decrease in owner-occupied housing of approximately 4% and increase in the number of renter occupied units by 1% and vacant units by 3.7%.

TABLE 8 - HOUSING UNITS BY TENURE AND OCCUPANCY STATUS (2000 - 2023)
NORTH CALDWELL, NEW JERSEY

Characteristics	2000		2010		2020		2023	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Owner-occupied	1,994	94.6%	2,025	94.9%	2,160	91.4%	2,132	90.6%
Renter-occupied	76	3.6%	67	3.1%	98	4.1%	88	3.7%
Vacant units	38	1.8%	42	2.0%	106	4.5%	133	5.7%
Total	2,108	100.0%	2,134	100.0%	2,364	100.0%	2,353	100.0%

Source: U.S. Decennial Census; 2023 American Community Survey 5-Year Estimates.

- Housing Characteristics. The following data provides additional information on the characteristics of the Borough’s housing stock. Approximately 90% of the Borough’s housing stock is comprised of detached single-family dwellings units, while roughly 6.5% are townhouses (single-family attached) and 3.6% based on the 2020 Decennial Census data which appears to be more accurate than the 2023 ACS data. Furthermore, it is noted that since 2010, the Four Seasons 108-unit, 55+ multifamily condominium development was constructed as well as the RPM 50-unit 100% affordable multifamily rental development totaling 158 units in addition to the development of detached single-family dwellings scattered throughout the Borough.

TABLE 9 - UNITS IN STRUCTURE (1990-2023)
NORTH CALDWELL, NEW JERSEY

Units in Structure	2000		2010		2020		2023	
	Number	Number	Number	Percent	Number	Percent	Number	Percent
Single-Family, Detached	1,957	92.8%	2,003	88.9%	2,188	89.7%	2,025	86.1%
Single-Family, Attached	116	5.5%	106	4.7%	163	6.7%	155	6.6%
2	18	0.9%	27	1.2%	0	0.0%	25	1.1%
3 or 4	9	0.4%	54	2.4%	0	0.0%	15	0.6%
5 to 9	0	0.0%	24	1.1%	0	0.0%	27	1.1%
10 to 19	8	0.4%	38	1.7%	88	3.6%	106	4.5%
20 or more	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Other	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total	2,108	2,252	2,252	100.0%	2,439	100.0%	2,353	100.0%

Source: U.S. Decennial Census; 2020 & 2023 American Community Survey 5-Year Estimates.

Based on the 2010 and 2023 American Community Survey data depicted below, roughly 90% of the Borough’s housing stock consists of 3 bedrooms or more, with about 25% having 5 bedrooms or more.

TABLE 10- NUMBER OF BEDROOMS IN HOUSING UNITS (2010 AND 2023)
North Caldwell, New Jersey

Bedrooms	2010		2023	
	Number	Percent	Number	Percent
0	37	1.6%	0	0.0%
1	54	2.4%	23	1.0%
2	112	5.0%	259	11.0%
3	741	32.9%	645	27.4%
4	765	34.0%	776	33.0%
5 or more	543	24.1%	650	27.6%
Total	2,252	100.0%	2,353	100.0%

Source: 2010 & 2023 American Community Survey 5-Year Estimates.

3. Housing Age. Table 11 indicates that about 75% of the Borough’s housing stock was constructed prior to 1990 with few units being constructed since 2020 where the actual number is somewhat higher than the “0” figure reported by the ACS.

TABLE 11- YEAR STRUCTURE BUILT (2023)
NORTH CALDWELL, NJ

Year Units Built	Number	Percent
2020 or later	0	0.0%
2010 to 2019	353	15.0%
2000 to 2009	98	4.2%
1990 to 1999	126	5.4%
1980 to 1989	174	7.4%
1970 to 1979	270	11.5%
1960 to 1969	300	12.7%
1950 to 1959	667	28.3%
1940 to 1949	82	3.5%
1939 or earlier	283	12.0%
Total	2,353	100.0%

Source: 2023 American Community Survey 5-Year Estimates.

4. Housing Conditions. Table 12 provides the number of occupants per room within housing units. Housing units containing more than one occupant per room are considered overcrowded. The data indicates that none of the housing units in North Caldwell are considered overcrowded as of 2010 and only 0.5% since 2000.

TABLE 12 - OCCUPANTS PER ROOM (2000 - 2023)
NORTH CALDWELL, NJ

Occupants Per Room	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
1.00 or less	2,059	99.5%	2,168	100.0%	2,220	100.0%
1.01 to 1.50	11	0.5%	0	0.0%	0	0.0%
1.51 or more	0	0.0%	0	0.0%	0	0.0%
Total Occupied Units	2,070	100%	2,168	100.0%	2,220	100.0%

Source: U.S. Decennial Census; 2023 American Community Survey 5-Year Estimates.

Table 13 presents data regarding the presence of complete plumbing and kitchen facilities and the type of heating equipment used. It appears that there are no dwelling units in North Caldwell that lack complete plumbing or kitchen facilities and that the 2010 ACS data represents an anomaly. All units appear to use standard means of heating.

TABLE 13 - EQUIPMENT AND PLUMBING FACILITIES FOR OCCUPIED DWELLING UNITS (2000 - 2023)
NORTH CALDWELL, NJ

Facilities	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
<u>Kitchen:</u>						
With Complete Facilities	2,108	100.0%	2,150	99.2%	2,220	100.0%
Lacking Complete Facilities	0	0.0%	18	0.0%	0	0.0%
<u>Plumbing:</u>						
With Complete Facilities	2,108	100.0%	2,150	99.2%	2,220	100.0%
Lacking Complete Facilities	0	0.0%	18	0.0%	0	0.0%
<u>Heating Equipment:</u>						
Standard Heating Facilities	2,108	100.0%	2,168	100.0%	2,220	100.0%
Other Means, No Fuel Used	0	0.0%	0	0.0%	0	0.0%

Source: U.S. Decennial Census; 2010 & 2023 American Community Survey 5-Year Estimates.

3. Purchase and Rental Values. The Borough has experienced a significant increase in both rental costs and purchase prices since 2000. In 2023, an estimated 100% of the Borough's rental housing units had rents over \$2,500 where 45.6% accounted for rents of \$1,500 or greater in 2010. The Borough's median rent increased 84.8% since 2000.

TABLE 14 - GROSS RENT OF SPECIFIED RENTER-OCCUPIED UNITS (2000 - 2023)
NORTH CALDWELL, NJ

Rent	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Less than \$500	0	0.0%	0	0.0%	0	0.0%
\$500 to \$999	26	34.2%	37	54.4%	0	0.0%
\$1,000 to \$1,499	50	65.8%	0	0.0%	0	0.0%
\$1,500 to \$1,999	0 ⁽¹⁾	0.0%	31 ⁽¹⁾	45.6%	0	0.0%
\$2,000 to \$2,499	-	-	-	-	0	0.0%
\$2,500 to \$2,999	-	-	-	-	25	36.8%
\$3,000 or more	-	-	-	-	43	63.2%
No cash rent	0	0.0%	-	-	0	0.0%
Total	76	100.0%	68	100.0%	68	100.0%
Median Gross Rent	\$1,759		Data Error⁽²⁾		\$3,250	

Source: U.S. Decennial Census; 2023 American Community Survey 5-Year Estimates.

(1) Represents \$1,500 or more per 2000 Decennial Census categorizations.

(2) The 2010 ACS reports a median gross rent of \$796 for North Caldwell which appears to be inaccurate.

In 2023, 97% of the Borough's owner-occupied housing was valued at \$500,000 or more where 38.8% was estimated at \$1,000,000 or more. The Borough's median home value increased 127% from 2000 to 2023.

TABLE 15 - VALUE OF SPECIFIED OWNER-OCCUPIED HOUSING UNITS (2000 - 2023)
NORTH CALDWELL, NJ

Value	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Less than \$50,000	0	0.0%	13	0.6%	0	0.0%
\$50,000 to \$99,999	0	0.0%	0	0.0%	41	1.9%
\$100,000 to \$149,999	58	3.0%	16	0.8%	20	0.9%
\$150,000 to \$199,999	72	3.7%	38	1.8%	0	0.0%
\$200,000 to \$299,999	372	19.2%	17	0.8%	27	1.3%
\$300,000 to \$499,999	825	42.6%	156	7.4%	182	8.5%
\$500,000 to \$999,999	610	31.5%	1,423	67.8%	1,035	48.5%
\$1,000,000 or more	0	0.0%	437	20.8%	827	38.8%
Total	1,937	100.0%	2,100	100.0%	2,132	100.0%
Median Value	\$399,000		\$745,800		\$906,100	

Source: U.S. Decennial Census; 2023 American Community Survey 5-Year Estimates.

6. Number of Units Affordable to Low- and Moderate-Income Households. North Caldwell is placed in housing Region 2 comprised of Essex, Morris, Union and Warren Counties. Based on the New Jersey Housing and Mortgage and Finance Agency's May 16, 2025 update of its UHAC 2025 Affordable Housing Regional Income Limits by Household Size, the median income for a four-person household in Region 2 household is \$135,300. A four-person moderate-income household earning 80% of the region's median income would have an income not to exceed \$108,240.

An affordable sales price for a four-bedroom moderate-income household earning 80% of the median income is estimated at \$360,000. In 2023, the percentage of housing units in North Caldwell valued at less than \$500,000 was estimated to be 12.6%.

For renter-occupied housing, an affordable monthly rent for a four-person moderate-income household is estimated at approximately \$2,706. An affordable monthly rent for a four-person low-income household is estimated at approximately \$1,691. The 2023 American Community Survey data indicates North Caldwell's gross median rent was \$3,230. This ACS data does not appear to reflect the existing RPM 50-unit 100% rental development.

7. Substandard Housing Capable of Being Rehabilitated. The DCA's October 18, 2024 of "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" calculated Present Need obligations representing the number of units in a municipality that are in need of rehabilitation and are not likely to experience 'spontaneous rehabilitation'. This DCA report assigned North Caldwell a Fourth Round Present Need or Rehabilitation Obligation of 0 units.

2.4 Projection of Municipal Housing Stock

The FHA-2 regulations require the HE&FSP to include a projection of the community’s housing stock, including the probable future construction of low and moderate-income housing for the ten-year round, which for the Fourth Round is from 2025 to 2035. This projection shall be based upon an assessment of data which minimally must include the number of residential construction permits issued, approvals of applications for residential development, and probable residential development of lands. Each of these items are identified and outlined below.

1. Housing Units Constructed During the Last Ten Years. The table below provides data concerning residential building permits issued for new residential construction during the past 15 years. During this period, a total of 380 residential building permits were issued including 75 for multifamily development. North Caldwell has issued, on average, 25.3 building permits per year since 2009. A total of 168 residential demolition permits were issued since 2009 resulting in net housing growth of 212 units.

**TABLE 16 - NUMBER OF RESIDENTIAL BUILDING PERMITS ISSUED FOR NEW CONSTRUCTION (2009-2023)
NORTH CALDWELL, NJ**

Year Issued	One & Two Family	Multi-Family	Mixed-Use	Total	Demos	Net Growth
2009	8	0	0	8	3	5
2010	40	0	0	4	5	(1)
2011	36	0	0	36	2	34
2012	60	24	0	84	1	83
2013	77	0	0	77	1	76
2014	25	0	0	25	2	23
2015	7	0	0	7	4	3
2016	10	0	0	10	74	(64)
2017	6	0	0	6	70	(64)
2018	90	0	0	19	4	15
2019	26	51	0	77	0	77
2020	23	0	0	23	0	23
2021	3	0	0	3	1	2
2022	1	0	0	1	1	0
2023	0	0	0	0	0	0
Total	412	75	0	380	168	212

Source: New Jersey Construction Reporter

2. Probable Residential Development of Lands. Given the lack of developable land in North Caldwell, the most significant residential growth the Borough will experience in the next 10 years will be attributable to the anticipated 271-unit inclusionary development at the Green Brook Country Club site. These units will consist of townhouse and multifamily units. Other opportunities for new residential development included parcels located within the Borough’s existing Bloomfield Avenue and Fairfield Road Overlay Zones.

2.5 Population Analysis

The MLUL requires that the Housing Element of this plan provide data on the municipality's population, including population size, age and income characteristics.

1. Population Size. As seen in the table below, the Borough's population saw tremendous growth between 1950 and 1980, particularly during the 1950s and 60s. After reaching its census peak in 2000, the population decreased 16.2% between 2000 and 2010. The population has since increased steadily but remains down about 10% from the peak in 2000.

TABLE 17 - POPULATION GROWTH (1930-2023)
NORTH CALDWELL, NJ

Year	Population	Change (#)	Change (%)
1930	1,492	-	-
1940	1,572	80	5.4%
1950	1,781	209	13.3%
1960	4,163	2,382	133.7%
1970	6,425	2,262	54.3%
1980	5,832	(593)	-9.2%
1990	6,706	874	15.0%
2000	7,375	669	10.0%
2010	6,183	(1,192)	(16.2%)
2020	6,694	511	8.2%
2023	6,622	(72)	(1.1%)

Source: U.S. Decennial Census; 2023 American Community Survey 5-Year Estimates.

2. Age Characteristics. The Borough’s age characteristics are represented in the table below. In 2023, 17.8% of the Borough’s population was comprised of school-age children which declined from 23.5% in 2020. The age cohort 65-74 experienced the most significant growth from 2010 to 2023 increasing from 7.9% of the population to 14.6%. The number of residents 85 and over nearly doubled since 2000 representing 3.3% of the population in 2023. The Borough’s median age increased substantially since 2000 when it was 34.7 years old to 46.2 years old in 2023.

TABLE 18 - AGE CHARACTERISTICS (2000-2023)
NORTH CALDWELL, NJ

Age Group	2000		2010		2020		2023	
	Total	% Total						
Under 5	431	5.8%	350	5.7%	331	4.9%	469	7.1%
5-19	1,395	18.9%	1,453	23.5%	1,486	22.3%	1,176	17.8%
20-24	515	7.0%	202	3.3%	364	5.4%	368	5.6%
25-34	1,092	14.8%	353	5.7%	436	6.5%	394	5.9%
35-44	1,196	16.2%	856	13.8%	795	11.8%	782	11.8%
45-54	1,223	16.6%	1,094	17.7%	1,067	15.9%	875	13.2%
55-64	722	9.8%	1,005	16.3%	947	14.2%	1,119	16.9%
65-74	458	6.2%	487	7.9%	800	11.9%	969	14.6%
75-84	295	4.0%	268	4.3%	351	5.2%	252	3.8%
85 +	48	0.7%	115	1.9%	117	1.7%	218	3.3%
Total	7,375	100.0%	6,183	100.0%	6,694	100.0%	6,622	100.0%
Median Age	34.7		43.8		44.4		46.2	

Source: U.S. Decennial Census; 2023 American Community Survey 5-Year Estimates.

3. Average Household Size. The average household size in North Caldwell has decreased every decade since 1980 except between 1990 and 2000. Since 2010, the Borough’s average household size has ranged from 2.9 to 2.98 persons per household.

TABLE 19 - AVERAGE HOUSEHOLD SIZE (1980 - 2023)
NORTH CALDWELL, NJ

Year	Average Household Size
1980	3.67
1990	3.47
2000	3.56
2010	2.96
2020	2.90
2023	2.98

Source: U.S. Decennial Census; 2020 & 2023 American Community Survey 5-Year Estimates.

4. Household Income. The median household income for North Caldwell households increased by approximately 73 percent between 2000 and 2023. The distribution of various household income levels are shown in the table below. It is noted that roughly 50% of the population's households had incomes of \$200,000 or more in 2023.

TABLE 20 - HOUSEHOLD INCOME DISTRIBUTION (2000 - 2023)
NORTH CALDWELL, NJ

Income Category	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Less than \$10,000	7	0.3%	76	3.5%	47	2.1%
\$10,000 to \$14,999	25	1.2%	0	0.0%	27	1.2%
\$15,000 to \$24,999	70	3.4%	33	1.5%	49	2.2%
\$25,000 to \$34,999	63	3.0%	28	1.3%	31	1.4%
\$35,000 to \$49,999	91	4.4%	33	1.5%	89	4.0%
\$50,000 to \$74,999	264	12.7%	232	10.7%	56	2.5%
\$75,000 to \$99,999	315	15.1%	182	8.4%	104	4.7%
\$100,000 to \$149,999	416	20.0%	451	20.8%	495	22.3%
\$150,000 to \$199,999	213	10.2%	260	12.0%	202	9.1%
\$200,000 or more	621	29.8%	874	40.3%	1,121	50.5%
Total	2,085	100.0%	2,168	100.0%	2,220	100.0%
Median	\$117,395		\$151,953		\$203,140	

Source: U.S. Decennial Census; 2010 & 2023 American Community Survey 5-Year Estimates.

2.6 Employment Characteristics

The FHA-2 requires a Housing Element to include data on employment levels in the community. The following tables present information on the Borough’s employment characteristics.

1. Employment Status. The table below provides information on North Caldwell’s employment status for the segment of the population 16 and over. In 2023, approximately 70.3% of the population ages 16 and over were in the labor force compared to 54.6% in 2000. From 2000 to 2023, the proportion of the Borough’s working age population in the labor force that was unemployed increased from 1.3% to 4.4%.

TABLE 21 - EMPLOYMENT STATUS- POPULATION 16 & OVER (2000 - 2023)
NORTH CALDWELL, NJ

Employment Status	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
In labor force	3,196	54.6%	3,348	68.1%	3,613	70.3%
Civilian labor force	3,196	54.6%	3,348	68.1%	3,613	70.3%
Employed	3,118	53.3%	3,185	64.8%	3,387	65.9%
Unemployed	78	1.3%	163	3.3%	226	4.4%
Armed Forces	0	0.0%	0	0.0%	0	0.0%
Not in labor force	2,653	45.4%	1,570	31.9%	1,528	29.7%
Total Population 16 & Over	5,849	100.0%	4,918	100.0%	5,141	100.0%

Source: U.S. Decennial Census; American Community Survey (2013-17)

2. Employment Characteristics of Employed Residents. The following two tables detail information on the employment characteristics of North Caldwell residents. In 2023, 67.7% of the Borough’s employed residents 16 and over worked in management, professional and related occupations and 18.4% worked in sales and office related jobs. The data indicates there was a significant increase in those working in management, professional and related occupations and decreases in those working in sales and office and production, transportation and material moving jobs.

TABLE 22 - EMPLOYED RESIDENTS AGE 16 AND OVER, BY OCCUPATION (2000 – 2023)
NORTH CALDWELL, NJ

Occupation	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Management, professional, and related	1,967	47.1%	1,903	59.7%	2,292	67.7%
Service	482	9.0%	202	6.3%	376	11.1%
Sales and office	513	28.6%	853	26.8%	622	18.4%
Natural resources, construction, and maintenance	79	6.1%	165	5.2%	34	1.0%
Production, transportation, and material moving	77	9.2%	62	1.9%	63	1.9%
Total	3,118	100.0	3,185	100.0%	3,387	100.0%

Source: U.S. Decennial Census; 2010 & 2023 American Community Survey 5-Year Estimates.

The industries representing the three largest categories of employed residents in North Caldwell in 2023 were education, health and social services at 29.3%, professional and related services at 24.4% and finance, insurance and real estate at 17.7% totaling 71.4% of the population.

TABLE 23 - EMPLOYED RESIDENTS AGE 16 AND OVER, BY INDUSTRY (2000 - 2023)
NORTH CALDWELL, NJ

Industry	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Agriculture, Forestry, Fisheries & Mining	15	0.1%	0	0.0%	0	0.0%
Construction	85	4.0%	101	3.2%	131	3.9%
Manufacturing	235	17.0%	169	5.3%	124	3.7%
Wholesale Trade	214	5.2%	237	7.4%	24	0.7%
Retail Trade	296	11.5%	281	8.8%	96	2.8%
Transportation, Warehousing, and Utilities	51	4.6%	65	2.0%	105	3.1%
Information	0	5.6%	62	1.9%	21	0.6%
Finance, Insurance & Real Estate	503	10.0%	445	14.0%	599	17.7%
Professional & Related Services	548	15.1%	654	20.5%	828	24.4%
Education, Health and Social Services	715	15.2%	713	22.4%	991	29.3%
Arts, Entertainment & Recreational Services	129	5.5%	212	6.7%	160	4.7%
Public Administration	113	2.7%	92	2.9%	117	3.5%
Other Services	214	3.5%	154	4.8%	191	5.6%
Total	3,118	100.0	3,185	100.0%	3,387	100.0%

Source: U.S. Decennial Census; 2010 & 2023 American Community Survey 5-Year Estimates.

2.7 Employment Projections

A projection of the Borough's probable future employment characteristics is based on an assessment of historic employment trends, the number of non-residential construction permits issued, and probable non-residential development of lands. Each of these items are identified and outlined below.

1. Historic Employment Trends. Employment in North Caldwell increased roughly 60 jobs since 2014 and peaked in 2018 at 995. It is noted that the most significant declines in employment over the 10-year period shown were in 2019 and 2020 due in part to the COVID-19 pandemic.

TABLE 24 - AVERAGE COVERED EMPLOYMENT TRENDS (2014-2023)
NORTH CALDWELL, NJ

Year	Number of Jobs	Change in Number of Jobs	Percent Change
2014	849	8	1.0%
2015	855	6	0.7%
2016	875	20	2.3%
2017	940	65	7.4%
2018	995	55	5.9%
2019	956	-39	-3.9%
2020	885	-71	-7.4%
2021	898	13	1.5%
2022	934	36	4.0%
2023	910	-24	-2.6%

Sources: Department of Labor and Workforce Development

2. Non-Residential Square Footage Constructed During the Last Ten Years. The table below indicates there was minimal nonresidential development in North Caldwell from 2014 to 2023. A single building permit was issued for 4,968 square feet of storage space.

TABLE 25 - NON-RESIDENTIAL SPACE AUTHORIZED BY BUILDING PERMITS (2014 – 2023)
NORTH CALDWELL, NEW JERSEY

Year Issued	Office (sq.ft.)	Retail (sq.ft.)	A-2 (sq.ft.)	Hazardous (sq.ft.)	Storage (sq.ft.)	Total (sq.ft.)
2014	0	0	0	0	0	0
2015	0	0	0	0	0	0
2016	0	0	0	0	0	0
2017	0	0	0	0	0	0
2018	0	0	0	0	0	0
2019	0	0	0	0	4,968	4,968
2020	0	0	0	0	0	0
2021	0	0	0	0	0	0
2022	0	0	0	0	0	0
2023	0	0	0	0	0	0
Total (sq.ft.)	0	0	0	0	4,968	4,968

Source: New Jersey Department of Community Affairs (DCA) Construction Reporter.

3. Probable Non-Residential Development of Lands. Opportunities for non-residential development in North Caldwell are limited given the lack of vacant land. Any new nonresidential development or redevelopment is likely to occur along Bloomfield Avenue or Fairfield Road.
4. Probable Future Employment Characteristics. The Borough’s employment trend combined with minimal expectations for new non-residential development suggests that future employment growth within the Borough will be limited and has yet to reach the number of jobs that existed prior to the COVID-19 pandemic.

Section 3: Fair Share Obligation

The following section provides an overview of the Borough's Fourth Round fair share obligation. It includes a brief overview of the methodology utilized to calculate affordable housing obligations throughout the State.

3.1 Summary of Fair Share Obligation

On March 20, 2024, Governor Murphy signed Bill A4/S50 Bill into law amending the Fair Housing Act ("FHA") originally adopted in 1985. The amended FHA commonly referred to as the Fair Housing Act-2 ("FHA-2") eliminated COAH and created a new entity known as the Affordable Housing Dispute Resolution Program ("The Program") consisting of seven retired Mount Laurel judges to review municipal compliance plans and resolve disagreements. The legislation effectively split functions between the Department of Community Affairs ("DCA") and the Administrative Office of the Courts ("AOC"). The FHA-2 also established a new methodology for calculating municipal need numbers, municipal compliance requirements and administrative review process through The Program for the Fourth Round and subsequent rounds. These rounds span a period of 10 years where the First and Second Rounds administered by COAH covered 6-year periods. The Third Round extending from 1999 to 2025 (26 years) was an anomaly due to extensive litigation and COAH becoming dysfunctional to where it could no longer administer the State's affordable housing process which was returned to the trial courts.

The FHA-2 designates the DCA as being responsible for calculating the State's regional housing need numbers. N.J.S.A. 52:27D-304.2 establishes the methodology to be utilized by the DCA to determine the State's regional prospective needs of low- and moderate-income housing for the ten-year period spanning from July 1, 2025 to June 30, 2035. In summary, the projected change in number of households for this period is estimated by establishing the household change experienced in each of the State's six regions between the most recent federal decennial census and the second-most recent decennial census. This household change, if positive, is 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 for the next ten years. Utilizing this methodology, the DCA published its report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" which indicated a statewide prospective need of 84,698 low- and moderate-income units.

In addition, the DCA was tasked with calculating individual municipal present need (rehabilitation) and prospective need obligations. However, the FHA-2 states that these DCA calculations are advisory and non-binding, and that each municipality is responsible for determining its own obligation utilizing the same methodology.

On January 28, 2025, North Caldwell adopted Resolution No. R-41-2025 (see Appendix) accepting the DCA's calculated Present Need of 0 units and Prospective Need of 118 units thereby establishing its Fourth Round affordable housing obligations. The Borough's Fourth Round obligation was confirmed by Judge Russo in his Order dated March 24, 2025 (see Appendix).

In addition, Resolution No. R-41-2025 also noted that the Borough reserves the right to conduct a Vacant Land Adjustment ("VLA") to determine its realistic development potential (RDP) as discussed in greater detail herein.

Table 26 provides a summary of the Borough's Fourth Round affordable housing obligations.

TABLE 26 – NORTH CALDWELL SUMMARY OF FOURTH ROUND OBLIGATION

Affordable Obligation	# Units
Present Need (Rehabilitation)	0
Prospective Need	118
Fourth Round RDP	5
Unmet Need	113

3.2 Realistic Development Potential (RDP)

As noted in the Borough's 2019 Third Round Housing Element and Fair Share Plan, North Caldwell is a fully developed community and is therefore entitled to conduct a vacant land analysis ("VLA") to adjust its Prospective Need Obligation by calculating its RDP in accordance with the procedures set forth in the FHA-2 (N.J.S.A. 52:27D-310.1). North Caldwell received Court-approval of its Third Round HE&FSP, inclusive of a vacant land adjustment, resulting in a Final Judgment of Compliance and Repose which the Borough. The Borough's 4th Round VLA continues to acknowledge that the Borough is a fully developed community entitled to a RDP adjustment of its prospective need obligation.

A VLA is intended to identify sites in a municipality that are likely to develop with affordable housing. Municipalities are required to consider all privately and municipally owned vacant parcels and underutilized sites such as driving ranges, farms in the State's Planning Areas 1 and 2, nurseries, golf courses not owned by their members and nonconforming uses. Upon identification of such potential sites, municipalities are permitted to eliminate a site entirely or a portion of a site based on a variety of factors, including: lands dedicated for public uses other than housing since 1997; park lands or open space; vacant contiguous parcels in private ownership of a size (0.83 acres or less) which would accommodate fewer than five housing units; historic and architecturally important sites listed on the State Register of Historic Places or the National Register of Historic Places; preserved architectural lands; sites designated for active recreation; and environmentally sensitive lands.

1. Third Round RDP

The Borough's Third Round Prospective Need obligation was adjusted by a VLA which calculated the Borough's RDP to be 64 units as set forth in the Borough's Settlement Agreement with FSHC and 2019 HE&FSP. The Borough's Third Round RDP was ultimately approved by the Court in the Borough's Third Round JOR.

The 2018 Settlement Agreement with FSHC includes a provision that in the event the Green Brook Golf Course ceases to remain a golf course and development of the property is initiated in accordance with the Inclusionary Residential Overlay (IRO) Zone (amended on December 19, 2023 by Ordinance No. O-25-2023 to SIRO Senior Inclusionary Residential Overlay Zone) created as part of the Third Round JOR, the Borough would be required to revisit its Third Round RDP obligation, accept an RDP on the golf course

property and satisfy the increased Third Round RDP with units from the golf course development and/or other appropriate mechanisms.

The developer of the Green Brook Country Club site has submitted a preliminary site plan application to the North Caldwell Planning Board which has been deemed complete and is pending before the Board. The application is for a 271-unit inclusionary development which generates an additional Third Round RDP of 54 units (271 units x 20% affordable set-aside). Therefore, the Borough's Third Round RDP is modified from 64 to 118 units.

2. Fourth Round RDP

North Caldwell is a fully developed community that continues to lack vacant, developable land and is entitled to rely on its previous court-approved VLA, which established its RDP. This is informed by COAH's regulations regarding same at N.J.A.C. 5:97-5.1(c) and (d), as well as the Borough's 2018 Settlement Agreement with FSHC. Specifically, N.J.A.C. 5:97-5.1(c) and (d) state that:

A vacant land adjustment that was granted as part of a (previous) round certification or judgment of compliance shall continue to be valid provided the municipality has implemented all of the terms of the substantive certification or judgment of compliance. If the municipality failed to implement the terms of the substantive certification or judgment of compliance, the Council may reevaluate the vacant land adjustment.

Further, the Borough's 2018 Settlement Agreement with FSHC states that "the Borough's RDP shall not be revisited by FSHC or any other interested party absent a substantial changed circumstance." FSHC vs Twp. of Cherry Hill, 173 NJ 303 (2002) is the leading case that required a possible recalibration of an RDP based upon "changed circumstances."

As such, the Borough's Fourth Round VLA included a review of development applications and activity since 2019, vacant private and publicly owned parcels (Property Classes 1 and 15C) and farm qualified (Class 3B) properties within Planning Areas 1 and 2 in the Borough. This analysis, a summary of which is provided in the Appendix of this plan, resulted in a 4th Round RDP calculation of 0 units.

However, the Borough having received challenges to its June 2025 HE&FSP from both FSHC and LaSerra Farms, LLC through the Program agreed to accept a 4th Round RDP of 5 units on the LaSerra Farm property to be satisfied by another plan mechanism as detailed herein. This RDP of 5 units is confirmed in the Borough's December 2025 mediation agreement with FSHC that was subsequently approved by the vicinage judge, the Honorable Aldo J. Russo, J.S.C.'s, Court Order dated February 18, 2026. The Program also dismissed LaSerra Farms, LLC's challenge to the Borough's HE&FSP.

Section 4: Fair Share Plan

This Fair Share Plan component of North Caldwell's 2026 Amended HE&FSP outlines the manner in which the Borough will address its affordable housing obligations. These obligations are summarized as follows:

TABLE 27 – NORTH CALDWELL AFFORDABLE HOUSING OBLIGATIONS SUMMARY

Round	Obligation	RDP	Unmet Need
Present Need (Rehabilitation Obligation)	0 units	-	-
First & Second Round Obligation (1987-1999)	63 units	-	-
Third Round Obligation (1999 – 2025)	360 units	118 units ⁽¹⁾	359 units ⁽²⁾
Fourth Round Obligation (2025 – 2035)	118 units	5 units	113 units

- (1) The Third Round RDP has been adjusted from 64 as contemplated in the 2018 Settlement Agreement with FSHC to account for the RDP of 54 units generated from the Green Brook Country Club development.
- (2) The Borough's Third Round RDP of 359 units is based on the consolidation of the Borough's First, Second and Third Round Obligations totaling 423 units less the Borough's Third Round RDP of 64 units in accordance with the Borough's 2018 Settlement Agreement with FSHC and 2019 HE&FSP.

As detailed herein, the Housing Element and Fair Share Plan details the manner in which the Borough will address its affordable housing obligations through 2035 that also recognizes planning concerns and goal of maintaining the overall character of the community.

4.1 Plan Components

The Borough's various plan mechanisms to address its affordable housing obligations are summarized below. The Plan Components Map at the end of this section illustrates the locations of all of the plan components identified herein.

1. Present Need (Rehabilitation) Obligation

The DCA assigned North Caldwell a Present Need obligation of 0 units which the Borough accepted on January 28, 2025 in its Resolution No. R-41-2025. The Borough will continue to cooperate with Essex County's Home Improvement Program to provide assistance to households in North Caldwell qualifying for rehabilitation assistance.

2. Prior Round (First, Second & Third Round) Obligation

In accordance with the Borough's 2018 Settlement Agreement with FSHC and 2019 HE&FSP, the Borough has a Prior Round obligation of 423 units which consolidated its First and Second Round obligation of 63 units and 360-unit Third Round obligation. The Borough's Third Round VLA resulted in the adjustment of its obligation to a court-approved RDP of 64 units and Unmet Need (the difference between the Prospective Need obligation and RDP) of 359 units. As indicated previously, the Borough's Third Round RDP has been modified from 64 units as indicated in the Borough's 2019 HE&FSP to 118 units to include the RDP of 54 units generated from the proposed 271-unit inclusionary development at the Green Brook Country Club site. North Caldwell satisfies the entirety of its Third Round RDP through the plan mechanisms summarized in Table 28 below, including the RPM 50-unit 100% affordable development and Green Brook Country Club (SIRO Zone) inclusionary development.

TABLE 28 – NORTH CALDWELL PLAN MECHANISMS TO ADDRESS THIRD ROUND RDP

Plan Mechanism	# Units	Bonus Credit Multiplier	Bonus Credits	Total Credits	Status
RPM 100% Affordable Rental Development (50units)	39	x 2 ⁽¹⁾	29 ⁽²⁾	68	Completed
Green Brook Gold Course (SIRO Zone)	50	-	-	50	Pending
Total	89	-	29 ⁽²⁾	118	-

(1) Rental bonus credits per COAH rules.

(2) Regulations permit a maximum number of bonus credits not to exceed 25% of RDP.

3. Fourth Round Obligation

As previously indicated, North Caldwell adopted Resolution No. R-41-2025 which accepted its Fourth Round Prospective Need Obligation of 118 units as calculated by the DCA despite finding flaws in the DCA’s land capacity factor analysis. That Resolution also stated that the Borough reserves the right to conduct a vacant land analysis (“VLA”) to determine its realistic development potential (“RDP”). Accordingly, the Borough prepared a new Fourth Round VLA which revealed there are no newly vacant parcels or parcels with changed circumstances that meet the criteria to contribute to the Borough’s Fourth Round RDP. This analysis therefore resulted in a Fourth Round RDP calculation of 0 units. However, as discussed previously, through the Program and in accordance with the Borough’s December 2025 mediation agreement with FSHC, the Borough accepted a 5 unit Fourth Round RDP on the LaSerra Farms site. This 5-unit RDP will be satisfied by an existing group home as indicated below.

TABLE 29 – NORTH CALDWELL PLAN MECHANISMS TO ADDRESS UNMET NEED

Plan Mechanism	Type	# Units	Bonus Credits	Tenure	Status
Group Home – 1 Oak Ridge	Supportive & Special Needs	4	1	Rental	Existing

The difference between the Borough’s Prospective Need obligation and its RDP obligations is what is known as Unmet Need. For North Caldwell, its Fourth Round Prospective Need Obligation of 118 units less its Fourth Round RDP of 5 units results in an Unmet Need of 113 units. Whereas the RDP obligations must be affirmatively satisfied by the Borough as outlined above, addressing Unmet Need involves a lower standard, as the entire Unmet Need obligation does not have to be fully satisfied by 2035. The Borough’s Unmet Need will be addressed by the plan mechanisms indicated in the table below, including 11 surplus credits from the RPM 50-unit 100% development, amendments to two existing overlay zones, additional group home and mandatory affordable set-aside ordinance. The Borough will also continue to consider emergent opportunities to create new affordable housing where appropriate consistent with the Borough’s Master Plan and Zoning Ordinance.

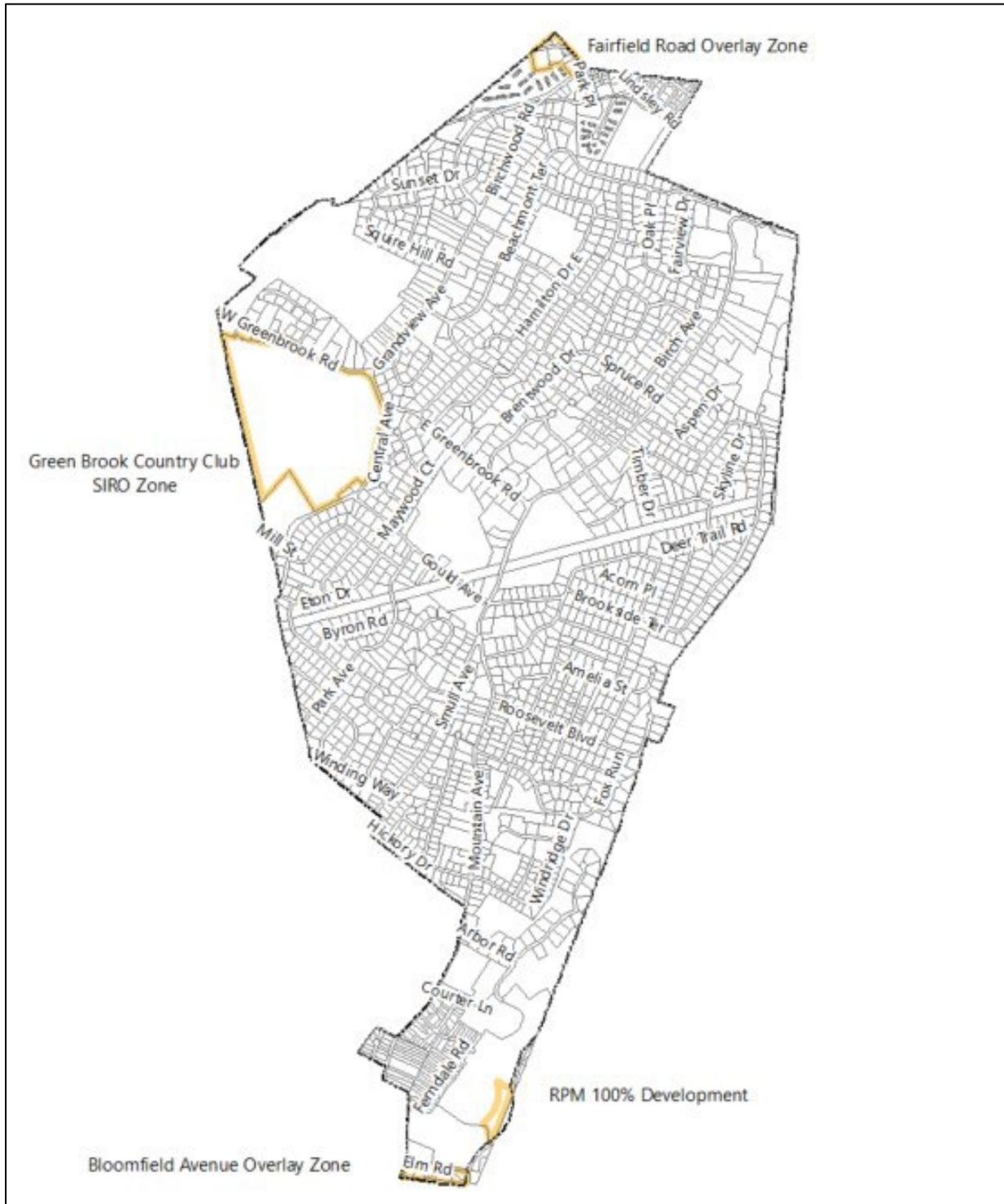
TABLE 30 – NORTH CALDWELL PLAN MECHANISMS TO ADDRESS UNMET NEED

Plan Mechanism	Location	Type	# Units	Tenure	Status
RPM 100% Affordable Rental Development (50 units)	B 104 L 1	100% Affordable Family Rentals	11	Rental	Completed
Fairfield Road Overlay Zone (15 du/ac x 20% set-aside)	B 2200 L 3,4,5,6 B 2201 L 1,2	Inclusionary	15	TBD	To be amended
Bloomfield Avenue Overlay Zone (20 du/ac x 20% set-aside)	Block 100 L 1-11	Inclusionary	18	Rental	To be amended
Mandatory Affordable Set-Aside Ord. (20% sale & rental)	Borough-wide	Inclusionary	-	TBD	To be amended
Mixed-use Inclusionary Development	25 Bloomfield Ave.	Inclusionary	1	Rental	Approved
Additional group home	TBD	Supportive housing	4-5	Rental	Proposed

4.2 Development Sites & Plan Mechanisms

The Borough's affordable housing sites and plan mechanisms identified in Section B are discussed below. The Plan Components Map below illustrates the locations of the sites identified herein.

NORTH CALDWELL FOURTH ROUND PLAN COMPONENTS MAP



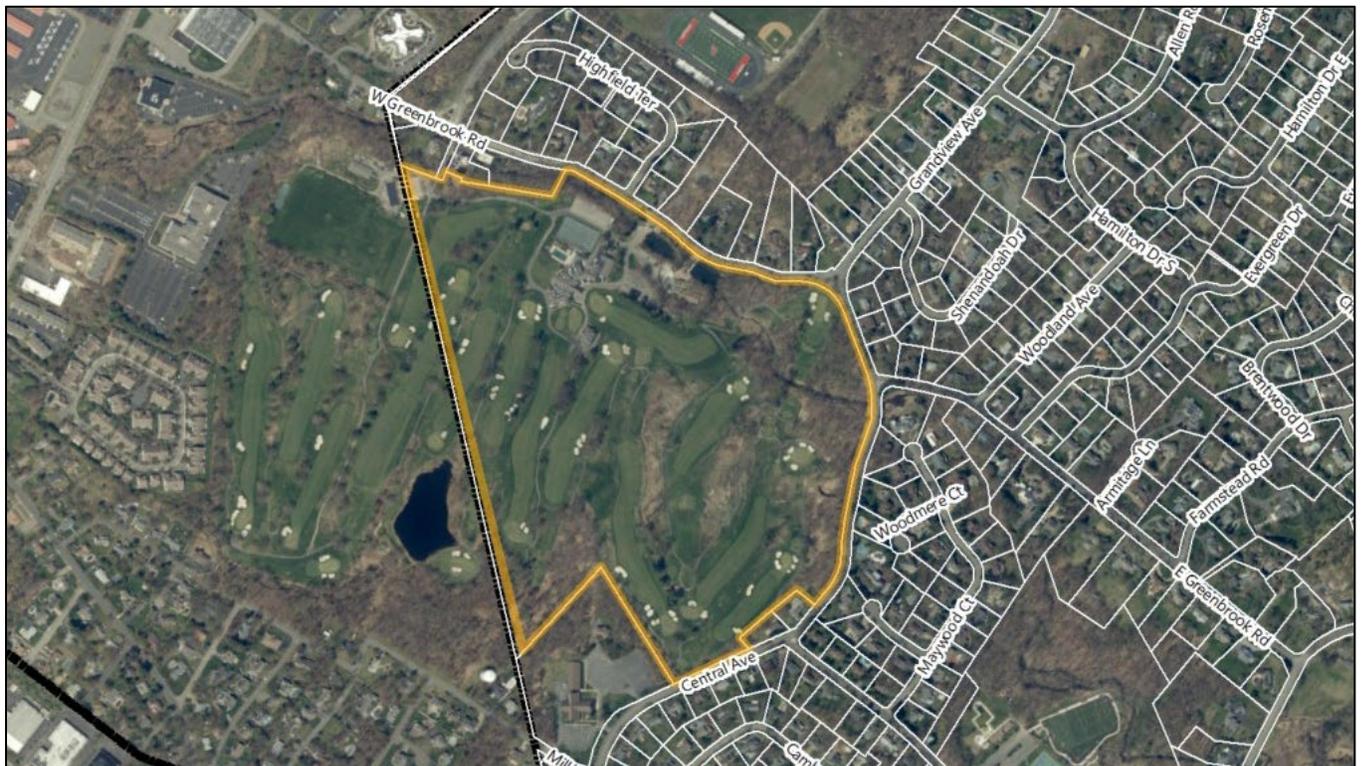
1. RPM 50-unit 100% Affordable Development

On December 20, 2016, the Borough executed a Redevelopment Agreement with RPM Development, LLC, subsequently amended in 2019, to develop a 50-unit, 100% affordable family rental development on 5 acres at Block 104 Lot 1 commonly known as the Hilltop site in the southeast area of the Borough. In accordance with the Agreement, the Borough-owned property was conveyed to the developed via deed on February 5, 2019. A separate PILOT (“Payment In Lieu of Taxes”) Agreement was entered into between the Borough and RPM Development, LLC. The Borough contributed \$1,194,962.49 from its affordable housing trust fund to the project for construction costs and affordability assistance. In addition, RPM was awarded NJHMFA’s competitive 9% tax credits to assist with the project financing. The development of the RPM project is complete and occupied.



2. Senior Inclusionary Residential Overlay (SIRO) Zone (Green Brook Country Club)

On December 11, 2018, North Caldwell entered into a Settlement Agreement with Green Brook Realty Associates, LLC establishing the development framework for the existing Green Brook Country Club at Block 1600 Lot 1 comprising a land area of approximately 100 acres located along the Borough's western border. The Borough adopted Ordinance No. O-8-20 in July 2020 to establish the original Inclusionary Residential Overlay ("IRO") Zone contemplated in the Settlement Agreement that was subsequently amended to the Senior Inclusionary Residential Overlay ("SIRO") Zone. The SIRO Zone permits age-restricted market rate stacked flats and townhouses not to exceed 271 units. It requires a minimum of 25 affordable non-age restricted family rental apartments and 25 affordable age-restricted apartments resulting in an affordable housing set-aside of 18.5%. The developer submitted an application for preliminary site plan approval in 2025 which has been deemed complete and is currently pending before the Planning Board.



3. Bloomfield Avenue Overlay Zone

The Bloomfield Avenue Overlay (“BOA”) District was established in August 2019 via the adoption of Ordinance No. O-10-19 encompassing the entirety of Block 100 bounded by Bloomfield Avenue to the south and Elm Road to the north. This overlay zone originally permitted residential development above the first floor not to exceed a residential density of 10 units per acre and requires a mandatory affordable housing set-aside of 20% of for sale units and 15% of rental units. As a result of the Borough’s December 2025 mediation agreement with FSHC, the BAO District will be amended to permit a maximum density of 20 units per acre, increase in building height to 3 stories and affordable housing set-aside of 20% for both sale and rental units (see ordinance in Appendix). The underlying Office District uses shall continue to be permitted. The BOA Overlay Zone will address a portion of the Borough’s Unmet Need.



4. Fairfield Road Overlay Zone

The Fairfield Road Overlay (“FRO”) District was established in August 2019 via the adoption of Ordinance No. O-10-19 comprised of Block 2200, Lots 3, 4, 5 and 6 and Block 2201 Lots 1 and 2. The FRO Zone originally permitted single-family and multifamily development with a maximum permitted residential density of 10 units per acre and requires a mandatory affordable housing set-aside of 20% of for sale units and 15% of rental units. As a result of the Borough’s December 2025 mediation agreement with FSHC, the FRO District will be amended to permit a maximum density of 15 units per acre and require an affordable housing set-aside of 20% for both sale and rental units (see ordinance in Appendix). The underlying zoning will remain in effect. The FRO Overlay Zone will address a portion of the Borough’s Unmet Need.



5. 1 Oak Ridge Group Home

The existing 4 bedroom group home at 1 Oak Ridge licensed by the New Jersey Division of Developmental Disabilities (DDD) plus 1 supportive housing bonus credit satisfies the Borough's Fourth Round RDP of 5 units.

6. Mandatory Affordable Set-Aside Ordinance

The Borough adopted its Mandatory Set-Side Ordinance in August 2019 via Ordinance No. O-7-19 which requires an affordable housing set-aside for multifamily residential development of five or more dwelling units at rates of 20% of for sale units and 15% of rental units. As a result of the Borough's December 2025 mediation agreement with FSHC, the mandatory set-aside ordinance will be amended to require a minimum 20% affordable housing set-aside of 20% for both sale and rental units (see ordinance in appendix). This requirement will ensure that new multifamily development in the Borough will provide its fair share of affordable units and continue to assist the Borough in its efforts to address its Unmet Need obligations. To be clear, this does not obligate the Borough to grant any subdivision or site plan approvals, rezonings, use variances or redevelopment/rehabilitation designations for any such development which are required to comply with the Borough's Zoning Ordinance and development application review procedures.

4.3 Rejected Development Sites

1. LaSerra Farms, LLC. LaSerra Farms, LLC submitted a challenge to the Borough's June 2025 HE&FSP that essentially sought inclusion of their site, Block 301, Lots 14, 19 and 20, on Mountain Road without having addressed the Borough's HE&FSP with 'specific particularity' as required by statute and without a coherent development plan for the site demonstrating it was suitable for affordable housing development in accordance with N.J.A.C. 5:93-1.3. Furthermore, the property is encumbered by a deed restriction which prevents the site from being subdivided. Nevertheless, the Borough through the Program's mediation process accepted an RDP of 5 units for the site which the Borough is entitled to address with any of the planning tools permitted by statute. The Borough has satisfied this RDP of 5 units with an existing group home as detailed previously. This conclusion, including the dismissal of the LaSerra Farms, LLC challenge, is supported by the Borough's Fourth Round mediation agreement with FSHC, Program Judge's recommendation and Vicinage Judge's Order.

4.4 General Provisions

The following additional requirements are noted:

1. Fourth Round Bonuses. Fourth Round bonuses will be applied in accordance with N.J.A.C. 52:27d-311.k.
2. Very-Low Income and Low-Income Units. At least 50% of the units addressing the Fourth Round Prospective Need obligation shall be affordable to very low-income and low-income households with the remainder affordable to moderate-income households. A minimum of 13% of the affordable units will be made available to very low-income households, defined as households earning 30% or less of the regional median income by household size.
3. Rental Component. At least 25% of the Fourth Round Prospective Need obligation shall be met through rental units, including at least half in rental units available to families.
4. Family Units. At least half of the actual units created to address the Fourth Round Prospective Need obligation must be available to families.
5. Age-Restricted Cap. No more than 30% of all units developed or planned to meet the Fourth Round Prospective Need obligation may be satisfied with age-restricted units.
6. Development Fees. North Caldwell will continue to impose residential and non-residential development fees in accordance with the Borough's Development Fee Ordinance to be collected in the Borough's existing affordable housing trust fund. The funds generated from these development fees will be applied directly towards any activity approved by State regulations for addressing the Borough's affordable housing obligations. The Borough's Spending Plan (see draft spending plan in the Appendix) projects estimated annual revenues and prescribes how the funds will be allocated over the course of the Fourth Round 10-year period.

4.5 Crediting Documentation & Ongoing Compliance

North Caldwell intends to adhere to the applicable State requirements pertaining to affordable unit monitoring and reporting. This includes compliance with the statutorily required updates to the municipal housing project status report by the DCA deadline of February 15, 2025. These updates are included in the State's new Affordable Housing Monitoring System and fulfill the Borough's obligation to specify the creditworthiness of all existing affordable housing units in North Caldwell. In addition, all crediting documentation submitted to and approved by the Court as part of the Borough's Third Round Housing Element and Fair Share Plan remains on file with and accessible from the Court.

4.6 Consistency with State Planning Initiatives

As noted in Section 1 of this plan, a HE&FSP must also include:

- ❖ 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; and
- ❖ 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.

Accordingly, the following subsection analyzes the consistency of this HE&FSP to the above referenced state planning initiatives.

1. Multigenerational Family Housing Continuity Commission

The Multigenerational Family Housing Continuity Commission was established by the State of New Jersey in 2021. As noted in N.J.S.A. 52:27D-329.20, one of the primary duties of the Commission is to “prepare and adopt recommendations on how State government, local government, community organizations, private entities, and community members may most effectively advance the goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas of housing, land use planning, parking and streetscape planning, and other relevant areas.”

As of the date of this HE&FSP, the Multigenerational Family Housing Continuity Commission has not yet adopted any recommendations.

2. State Development and Redevelopment Plan

As established by N.J.S.A. 52:18A-200(f), the purpose of the State Development and Redevelopment Plan (SDRP) is to “coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.”

As such, the SDRP establishes a number of goals and strategies related to a number of different topics, including economic redevelopment. One such goal is to revitalize existing urban centers by directing growth and development to those areas. Specifically, the SDRP seeks to revitalize the State’s cities and towns by protecting, preserving, and developing the valuable human and economic assets in cities, town, and other urban areas.

As indicated by the SDRP's Policy Map, the entirety of North Caldwell is located in the PA-1 Metropolitan Planning Area, wherein development and redevelopment is intended to be directed. The intent of this Planning Area is to:

- ❖ Provide for much of the state's future redevelopment;
- ❖ Revitalize cities and towns;
- ❖ Promote growth in compact forms;
- ❖ Stabilize older suburbs;
- ❖ Redesign areas of sprawl; and;
- ❖ Protect the character of existing stable communities.

Accordingly, this HE&FSP is consistent with the intents of the PA-1. Specifically, it is designed to encourage redevelopment and growth in a compact form within the portion of the municipality designated as PA-1, while also protecting the character of the existing community.

Appendices

Fourth Round Complaint for Declaratory Relief Pursuant to AOC Directive #14-24

SURENIAN, EDWARDS, BUZAK & NOLAN LLC

311 Broadway, Suite A

Point Pleasant Beach, NJ 08742

(732) 612-3100

By: Erik C. Nolan, Esq. (Attorney ID: 014032006)

Attorneys for Declaratory Plaintiff, Borough of North Caldwell

**IN THE MATTER OF THE
APPLICATION OF THE BOROUGH OF
NORTH CALDWELL, COUNTY OF
ESSEX, STATE OF NEW JERSEY**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY**

DOCKET NO.: ESX-L-____

CIVIL ACTION
AFFORDABLE HOUSING DISPUTE
RESOLUTION PROGRAM
PER DIRECTIVE # 14-24

**COMPLAINT FOR DECLARATORY
RELIEF PURSUANT TO AOC
DIRECTIVE # 14-24**

Declaratory Plaintiff, the Borough of North Caldwell, County of Essex, State of New Jersey (hereinafter, “North Caldwell” or the “Borough”), a municipal corporation of the State of New Jersey, with principal offices located at 141 Gould Ave, North Caldwell, New Jersey 07006, by way of filing this Declaratory Judgment Complaint to start this Declaratory Judgment Action (“DJ Action”) as authorized under Directive # 14-24 of the Administrative Office of the Courts (“AOC”) alleges and says:

Background

1. North Caldwell is a municipal corporation of the State of New Jersey.
2. The Planning Board of the Borough of North Caldwell (hereinafter, “Planning Board”) is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., (“MLUL”), and, among other duties and obligations, is responsible for adopting

the Fourth Round Housing Element and Fair Share Plan (“HEFSP”) of North Caldwell’s Master Plan.

3. Through this DJ Action, North Caldwell seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Dispute Resolution Program (the “Program”) pursuant to P.L. 2024, c.2 (hereinafter, the “Act”) and the Court, pursuant to AOC Directive # 14-24; (b) to have the Program and the Court approve the Borough of North Caldwell’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the Borough, attached hereto as **Exhibit 1**; (c) to have the Program and the Court approve the Borough’s HEFSP, to be adopted by the Planning Board and endorsed by the Council, and issue a conditional or unconditional “Compliance Certification” pursuant to the Act or other similar declaration; (d) through the filing of this DJ Action and binding resolution, to have the Program and the Court confirm North Caldwell’s immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of Fourth Round, i.e., through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the Borough receives and obtains all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

COUNT I

ESTABLISHMENT OF JURISDICTION UNDER P.L.2024, C. 2

4. The Borough of North Caldwell repeats and realleges each and every allegation as set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

5. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et. seq.

6. Among other things, the Act abolished the Council on Affordable Housing (hereinafter, "COAH"), and replaced it with seven retired, on recall judges designated as the Program, and also authorized the Director of the AOC (hereinafter, "Director") to create a framework to process applications for a Compliance Certification.

7. On or about December 19, 2024, the Director issued Directive #14-24, which among other things, required municipalities seeking Compliance Certification to file an action in the form of a Declaratory Judgment Complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality's adoption of a binding resolution establishing the municipality's Fourth Round numbers, as authorized under the Act, with an attached copy of said binding resolution.

8. The Borough adopted a binding resolution establishing its Fourth Round present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this Declaratory Judgment Complaint as **Exhibit 1**.

9. Based on the foregoing, the Borough has established the jurisdiction of the Program and the Court in regard to this DJ Action for a Compliance Certification as set forth hereinafter.

WHEREFORE, the Borough of North Caldwell seeks a declaratory judgment for the following relief:

- a. Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c. Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Borough Council, including, as appropriate and applicable, (i) a Structural Conditions Survey or similar exterior survey which accounts for a higher-resolution estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii)

any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;

- d. Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of North Caldwell for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

COUNT II

DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED OF THE BOROUGH OF NORTH CALDWELL

10. North Caldwell repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

11. The Act adopted the methodology to calculate every municipality's present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

12. The Act directed the Department of Community Affairs ("DCA") to apply the methodology and to render a non-binding calculation of each municipality's present and prospective affordable housing obligations to be contained in a report to be issued no later than October 20, 2024.

13. The DCA issued its report on October 18, 2024.

14. Pursuant to the October 18, 2024 report, the DCA calculated North Caldwell’s present and prospective affordable housing obligations as follows:

FOURTH ROUND PRESENT NEED (REHABILITATION) OBLIGATION	FOURTH ROUND PROSPECTIVE NEED OBLIGATION (2025-2035)
0	118

15. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.

16. North Caldwell adopted a binding resolution, a copy of which resolution is attached hereto and made a part hereof as **Exhibit 1** to this Declaratory Judgment Complaint.

17. The binding resolution maintains that North Caldwell’s Round 4 (2025-2035) Present Need (Rehabilitation) Obligation is 0 and its Prospective Need (“New Construction”) Obligation is 118.

18. North Caldwell seeks the approval of, and confirmation by, the Program and the Court of the Round 4 (2025-2035) Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as **Exhibit 1**, or the adjustment of those obligations consistent with the Act and all applicable regulations.

19. Pursuant to the binding resolution, the Borough of North Caldwell reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.

20. Pursuant to the binding resolution, North Caldwell specifically reserves the right to seek and obtain 1) a Structural Conditions Survey or similar exterior survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and 7) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the Borough of North Caldwell seeks a declaratory judgment for the following relief:

- a.** Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;
- b.** Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c.** Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Borough Council, including, as appropriate and applicable, (i) a Structural Conditions Survey or similar exterior survey which accounts for a higher-resolution estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable

and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d. Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to North Caldwell for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

COUNT III

APPROVAL OF BOROUGH'S HOUSING ELEMENT AND FAIR SHARE PLAN

21. The Borough of North Caldwell repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

22. Pursuant to the Act, a HEFSP must be prepared, adopted by the Planning Board and endorsed by the municipality by June 30, 2025.

23. North Caldwell hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court, which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, 1) a Structural Conditions Survey or similar exterior survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and 7) any other applicable adjustment permitted in accordance with the Act and/or applicable regulations.

WHEREFORE, the Borough of North Caldwell seeks a declaratory judgment for the following relief:

- a.** Declaring that North Caldwell has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;
- b.** Declaring the present and prospective affordable housing obligations of the Borough under the Act;

- c.** Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Borough Council, including, as appropriate and applicable, (i) a Structural Conditions Survey or similar exterior survey which accounts for a higher-resolution estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;
- d.** Declaring that the Borough of North Caldwell continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e.** Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of North Caldwell for the period beginning July 1, 2025 and ending June 30, 2035; and
- f.** Declaring such other relief that the program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

COUNT IV

CONFIRMATION OF IMMUNITY

24. The Borough of North Caldwell repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

25. Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

26. The Borough of North Caldwell has met the deadline for the adoption and filing of its binding resolution not later than January 31, 2025, and the filing of this DJ Action in accordance with AOC Directive #14-24 not later than February 3, 2025, by adopting the binding resolution attached to this Declaratory Judgment Complaint as **Exhibit 1**, and has also committed to the adoption of its HEFSP by June 30, 2025.

WHEREFORE, the Borough of North Caldwell seeks a declaratory judgment for the following relief:

- a. Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c. Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Borough Council, including, as

appropriate and applicable, (i) a Structural Conditions Survey or similar exterior survey which accounts for a higher-resolution estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d.** Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e.** Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of North Caldwell for the period beginning July 1, 2025 and ending June 30, 2035; and
- f.** Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

SURENIAN EDWARDS BUZAK & NOLAN LLC
Attorneys for Declaratory Plaintiff, Borough of North
Caldwell

By 
Erik C. Nolan, Esq.

Dated: January 29, 2025

CERTIFICATION PURSUANT TO R. 4:5-1

Erik C. Nolan, Esq., of full age, hereby certifies as follows:

1. I am a member of the Firm of Surenian, Edwards, Buzak & Nolan LLC, attorneys for declaratory plaintiff, Borough of North Caldwell.
2. To the best of my knowledge, there is no other action pending in any court or any pending arbitration proceeding of which the matter in controversy herein is the subject and no such other action or arbitration proceeding is contemplated. To the best of my knowledge, there are no other parties who should be joined in this action.
3. The within Complaint was filed and served within the time prescribed by the Rules of Court.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SURENIAN EDWARDS BUZAK & NOLAN LLC
Attorneys for Declaratory Plaintiff, Borough of North
Caldwell

By 
Erik C. Nolan, Esq.

Dated: January 29, 2025

CERTIFICATION PURSUANT TO R. 1:38-7(b)

Erik C. Nolan, Esq., of full age, hereby certifies as follows:

1. I am a member of the firm of Surenian, Edwards, Buzak & Nolan LLC, attorneys for Declaratory Plaintiff, Borough of North Caldwell.
2. 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 R. 1:38-7(b).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SURENIAN EDWARDS BUZAK & NOLAN LLC
Attorneys for Declaratory Plaintiff, Borough of North
Caldwell

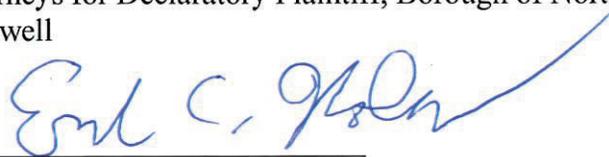
By 
Erik C. Nolan, Esq.

Dated: January 29, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that Erik C. Nolan, Esq., attorney for the Declaratory Plaintiff, Borough of North Caldwell is designated as trial counsel in the above captioned matter.

SURENIAN EDWARDS BUZAK & NOLAN LLC
Attorneys for Declaratory Plaintiff, Borough of North
Caldwell

By 
Erik C. Nolan, Esq.

Dated: January 29, 2025

RESOLUTION

R-41-2025

EXHIBIT 1

BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY

TITLE: RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF NORTH CALDWELL COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Borough of North Caldwell (hereinafter the "Borough" or "North Caldwell") has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on July 2, 2015, the Borough of North Caldwell filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder's remedy lawsuits, until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the "Amended FHA"); and

WHEREAS, the Amended FHA required the Department of Community Affairs ("DCA") to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

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

WHEREAS, the DCA Report calculates the Borough's Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of Zero (0) and a Prospective Need (New Construction) Obligation of 118; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA's calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA's "present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025", a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts ("AOC") via a directive issued on December 19, 2024; and

WHEREAS, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA estimate of need as described in the DCA Report; and

WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, the Borough's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing ("COAH") regulations or other applicable law based on one

or more of the foregoing adjustments if applicable: 1) a Structural Conditions Survey or similar exterior survey, which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Borough reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 on December 19, 2024; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the Borough seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and Borough Council finds that it is in the best interest of the Borough to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

NOW, THEREFORE, BE IT RESOLVED on this 28th day of January of 2025, by the Council of the Borough of North Caldwell, Essex County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Borough Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of Zero (0) and the DCA Fourth Round Prospective Need (New Construction) Obligation of 118 as described in this Resolution, subject to all reservations of

rights, which specifically include, without limitation, the following:

- a) The right to adjust the Borough's fair share obligations based on a Structural Conditions Survey or similar exterior survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and
- b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and
- c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Borough's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the Administrator of the Court's (AOC) Directive #14-24 issued on December 19, 2024, the Borough hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Borough's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

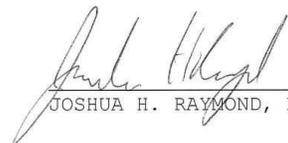
4. This Resolution shall take effect immediately, according to law.

Moved By: Councilman Rees
 Seconded By: Councilwoman Stroever

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ATLAS	X				STROEVER	X			
FLORIA-CALLORI	X				TILTON	X			
REES	X				WEINSTEIN	X			

IT IS HEREBY CERTIFIED THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF NORTH CALDWELL AT A MEETING OF SAID COUNCIL HELD ON JANUARY 28, 2025.


 TAMI MICHELOTTI, BOROUGH CLERK


 JOSHUA H. RAYMOND, MAYOR

CERTIFICATION

I, Tami Michelotti, Municipal Clerk of the Borough of North Caldwell, do hereby certify that the foregoing resolution was duly adopted by the Borough Council of the Borough of North Caldwell at a public meeting held on January 28, 2025.


 Tami Michelotti, RMC
 Borough Clerk
 Borough of North Caldwell

RESOLUTION

R-41-2025

BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY

TITLE: RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF NORTH CALDWELL COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Borough of North Caldwell (hereinafter the "Borough" or "North Caldwell") has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on July 2, 2015, the Borough of North Caldwell filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder's remedy lawsuits, until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the "Amended FHA"); and

WHEREAS, the Amended FHA required the Department of Community Affairs ("DCA") to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

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

WHEREAS, the DCA Report calculates the Borough's Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of Zero (0) and a Prospective Need (New Construction) Obligation of 118; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA's calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA's "present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025", a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts ("AOC") via a directive issued on December 19, 2024; and

WHEREAS, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA estimate of need as described in the DCA Report; and

WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, the Borough's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing ("COAH") regulations or other applicable law based on one

or more of the foregoing adjustments if applicable: 1) a Structural Conditions Survey or similar exterior survey, which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Borough reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 on December 19, 2024; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the Borough seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and Borough Council finds that it is in the best interest of the Borough to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

NOW, THEREFORE, BE IT RESOLVED on this 28th day of January of 2025, by the Council of the Borough of North Caldwell, Essex County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Borough Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of Zero (0) and the DCA Fourth Round Prospective Need (New Construction) Obligation of 118 as described in this Resolution, subject to all reservations of

rights, which specifically include, without limitation, the following:

- a) The right to adjust the Borough's fair share obligations based on a Structural Conditions Survey or similar exterior survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and
- b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and
- c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Borough's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the Administrator of the Court's (AOC) Directive #14-24 issued on December 19, 2024, the Borough hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Borough's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

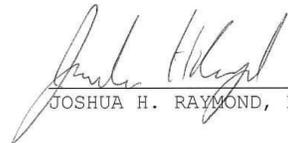
4. This Resolution shall take effect immediately, according to law.

Moved By: Councilman Rees
 Seconded By: Councilwoman Stroever

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ATLAS	X				STROEVER	X			
FLORIA-CALLORI	X				TILTON	X			
REES	X				WEINSTEIN	X			

IT IS HEREBY CERTIFIED THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF NORTH CALDWELL AT A MEETING OF SAID COUNCIL HELD ON JANUARY 28, 2025.


 TAMI MICHELOTTI, BOROUGH CLERK


 JOSHUA H. RAYMOND, MAYOR

CERTIFICATION

I, Tami Michelotti, Municipal Clerk of the Borough of North Caldwell, do hereby certify that the foregoing resolution was duly adopted by the Borough Council of the Borough of North Caldwell at a public meeting held on January 28, 2025.


 Tami Michelotti, RMC
 Borough Clerk
 Borough of North Caldwell

Civil Case Information Statement

Case Details: ESSEX | Civil Part Docket# L-000792-25

Case Caption: IN THE MATTER OF NORTH CALDWELL BORO
Case Initiation Date: 01/29/2025
Attorney Name: ERIK C NOLAN
Firm Name: SURENIAN, EDWARDS, BUZAK & NOLAN LLC
Address: 311 BROADWAY STE A
POINT PLEASANT BEACH NJ 08742
Phone: 7326123100
Name of Party: PLAINTIFF : Borough of North Caldwell
Name of Defendant's Primary Insurance Company
(if known): None

Case Type: AFFORDABLE HOUSING
Document Type: Complaint
Jury Demand: NONE
Is this a professional malpractice case? NO
Related cases pending: NO
If yes, list docket numbers:
Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO
Does this case involve claims related to COVID-19? NO
Are sexual abuse claims alleged by: Borough of North Caldwell?
NO

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? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? 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? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO **Medical Debt Claim?** NO

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)*

01/29/2025
Dated

/s/ ERIK C NOLAN
Signed

Resolution No. R-41-2025 Determining Fourth Round Obligation

RESOLUTION

R-41-2025

BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY

TITLE: RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF NORTH CALDWELL COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Borough of North Caldwell (hereinafter the "Borough" or "North Caldwell") has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on July 2, 2015, the Borough of North Caldwell filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder's remedy lawsuits, until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the "Amended FHA"); and

WHEREAS, the Amended FHA required the Department of Community Affairs ("DCA") to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

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

WHEREAS, the DCA Report calculates the Borough's Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of Zero (0) and a Prospective Need (New Construction) Obligation of 118; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA's calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA's "present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025", a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts ("AOC") via a directive issued on December 19, 2024; and

WHEREAS, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA estimate of need as described in the DCA Report; and

WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, the Borough's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing ("COAH") regulations or other applicable law based on one

or more of the foregoing adjustments if applicable: 1) a Structural Conditions Survey or similar exterior survey, which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Borough reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 on December 19, 2024; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the Borough seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and Borough Council finds that it is in the best interest of the Borough to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

NOW, THEREFORE, BE IT RESOLVED on this 28th day of January of 2025, by the Council of the Borough of North Caldwell, Essex County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Borough Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of Zero (0) and the DCA Fourth Round Prospective Need (New Construction) Obligation of 118 as described in this Resolution, subject to all reservations of