

2025 FOURTH ROUND HOUSING PLAN

HOUSING ELEMENT & FAIR SHARE PLAN
UNION TOWNSHIP
HUNTERDON COUNTY
NEW JERSEY

ADOPTED BY THE PLANNING BOARD

JUNE 26, 2025

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INTRODUCTION & EXECUTIVE SUMMARY

Since the 1975 New Jersey Supreme Court decision known as “Mount Laurel I,” New Jersey municipalities have had a constitutional obligation to provide opportunities for creation of low and moderate homes. This 1975 decision led to a body of case law, legislative changes and rulemaking by a state agency that, collectively, is now referred to as the “Mount Laurel Doctrine”. Through these actions, New Jersey municipalities have been assigned a specific number of affordable homes that must be created or planned for creation to have “satisfied” their constitutional obligation, referred to as their affordable housing obligation. The purpose of this Housing Element and Fair Share Plan (hereinafter the “HEFSP” or “Housing Plan”) is to present how Union Township, Hunterdon County, will satisfy its constitutional obligation for the Fourth Round, which begins on July 1, 2025 and ends on June 30, 2035.

Affordable housing in New Jersey is defined as homes which are reserved for households with incomes not more than 80% of the regional median income. Each affordable home, depending on the age and type of housing, must remain reserved for low and moderate income households for up to 30 years with respect to owner-occupied homes and 40 years for rental homes, and it is typically enforced by a deed restriction or declaration of restrictive covenants. Each affordable home is eligible for one “credit” against the obligation and certain homes are eligible for “bonus credits,” which provide more than one credit per home. In addition to providing the minimum number of credits, municipalities must ensure diversity in the home type (at least half of the homes must be available to families and the remaining may be reserved for seniors and those with special needs), diversity in the level of affordability (very low, low and moderate income homes), and diversity in the size of affordable homes (one, two and three bedroom homes).

Participation in this process, and therefore satisfaction of the affordable housing obligation, can be achieved voluntarily or involuntarily. However, voluntary compliance is heavily incentivized. Municipalities that do not successfully participate may be vulnerable to exclusionary zoning litigation, which is defined as litigation based on alleged noncompliance with the Fair Housing Act, or the Mount Laurel doctrine, and includes builder’s remedies. A builder’s remedy is a litigation tool that grants a developer the right to construct what is typically a multi-family development on land that was not zoned to permit the use or the residential density desired by the developer, provided a “substantial” percentage of the homes are reserved for low and moderate income households. Union seeks to avoid this possibility and has already taken substantial steps to do so.

This Plan supersedes all previously adopted housing plans and will serve as the foundation for the Township’s application filing with the New Jersey Affordable Housing Dispute Resolution Program and the request for a Compliance Certification.



As detailed in this Plan, Union Township – like all New Jersey municipalities – has four components of its affordable housing obligation. Each component of the Township’s obligation is identified below.

- Rehabilitation Obligation: 0
The rehabilitation obligation can be defined as an estimate of the number of deteriorated homes existing in Union that are occupied by low- and moderate-income households. This component is also referred to as the “present need”.
- First & Second Rounds Obligation: 78
The first and second rounds obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. This component is also referred to as the “prior round” obligation.
- Third Round Obligation: 227
The third round obligation can be defined as the 1999 through 2025 new construction affordable housing obligation.
- Fourth Round Obligation: 70
The fourth round obligation can be defined as the 2025-2035 new construction affordable housing obligation. The current round of affordable housing, now the fourth round, is also referred to as the “prospective need”.

Given the 0 rehabilitation obligation, the Township does not propose affordable housing strategies to satisfy this obligation.

The Township’s first, second, third and fourth round obligations will be satisfied with a variety of existing affordable housing developments with the remaining obligation satisfied with a durational adjustment.

Adoption of this Housing Element and Fair Share Plan and complete implementation of the strategies described above to meet the affordable housing obligation will yield a Compliance Certification and protect the Township from builder’s remedy litigation through July 2035, the maximum time available.



AFFORDABLE HOUSING IN NEW JERSEY

In its landmark 1975 decision, now referred to as “Mount Laurel I,” the NJ Supreme Court ruled that developing municipalities have a constitutional obligation to provide variety and choice of housing types affordable to low- and moderate-income households. In its 1983 “Mount Laurel II” decision, the NJ Supreme Court extended the regional fair share obligation to all municipalities with any “growth area” as designated in the State Development Guide Plan (NJDCG 1978) and determined that each municipality would have to establish its fair share obligation and provide zoning strategies to create a realistic opportunity for fulfillment of the fair share obligation. Mount Laurel II also gave developers, under appropriate circumstances, the opportunity to secure a builder’s remedy. A builder’s remedy is a litigation tool that grants a developer the right to develop what is typically a multi-family development on land that was not zoned to permit the use or the residential density desired by the developer, provided a “substantial” percentage of the homes are reserved for low and moderate income households. Union seeks to avoid this possibility and has already taken substantial steps to do so.

In 1985, the Legislature enacted the Fair Housing Act in response to Mount Laurel II. The Fair Housing Act created the Council on Affordable Housing (hereinafter “COAH”) as an administrative alternative to compliance in a court proceeding. The Legislature conferred “primary jurisdiction” on COAH and charged COAH with promulgating regulations to establish housing regions, to estimate the state’s low- and moderate-income housing needs, set criteria and guidelines for municipalities to determine and satisfy their affordable housing obligation, and to create a process for the review and approval of appropriate housing elements and fair share plans. Approval of a municipal housing element and fair share plan by COAH was referred to as “substantive certification” and it provided protection from builder’s remedy litigation during the period which the housing element and fair share plan addresses (i.e. the round).

COAH created the criteria and guidelines for municipalities to determine and address their respective affordable housing obligation. COAH originally established a formula for determining municipal affordable housing obligation for the six-year period between 1987 and 1993 (*N.J.A.C. 5:92-1 et seq.*), which became known as the “first round.” These rules established the first round rehabilitation obligation (also referred to as the “present need”) and the first round new construction obligation.

The first round formula was superseded by COAH regulations in 1994 (*N.J.A.C. 5:93-1.1 et seq.*). The 1994 regulations recalculated a portion of the first round 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 U.S. Census data. The regulations COAH adopted in 1994 to identify a municipality’s “cumulative” obligations for the first and second rounds are known as “the second round” regulations. Under regulations adopted for the third round, the obligation of municipalities to create new affordable housing for the first and second rounds was referred to as the “prior round” obligation.

On December 20, 2004, COAH’s first version of the third round rules became effective some five years after the end of the second round in 1999. At that time, the third round was defined as the time from 1999 to 2014 but condensed into an affordable housing delivery period from January 1, 2004 through



January 1, 2014. The third round rules marked a significant departure from the methods utilized in COAH's earlier rounds by creating a "growth share" approach that linked the production of affordable housing to residential and non-residential development within a municipality.

The growth share approach and the rules in which it was created, was the subject to significant litigation and was ultimately overturned by the New Jersey Appellate Court. On January 25, 2007, the New Jersey Appellate Court decision, In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1, invalidated key elements of the first version of the third round rules, including the growth share approach. COAH issued revised rules on June 2, 2008 (as well as a further rule revision effective on October 20, 2008). Included in the 2008 rules was a recalculation of the cumulative first and second rounds obligation to account for updated data addressing secondary sources (filtering, demolitions, and residential conversions). Just as various parties challenged COAH's initial third round regulations, parties challenged COAH's 2008 revised third round rules. On October 8, 2010, the Appellate Division issued its decision, In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462, with respect to the challenge to the second iteration of COAH's third round regulations. The Appellate Division upheld the COAH regulations that assigned rehabilitation and first and second rounds obligations to each municipality but invalidated the regulations by which the agency assigned housing obligations in the third round, finding that the Agency continued to utilize a growth share approach, albeit an amended approach.

COAH sought a stay from the NJ Supreme Court of the deadline to issue new third round housing rules set forth by the Appellate Division. Additionally, there were various challenges to the Appellate Division's 2010 decision. On September 26, 2013, the NJ Supreme Court upheld the Appellate Court decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013), and ordered COAH to prepare the necessary rules. Subsequent delays in COAH's rule preparation and ensuing litigation led to the NJ Supreme Court, on March 14, 2014, setting forth a schedule for adoption.

Although ordered by the NJ Supreme Court to adopt revised new rules on or before October 22, 2014, COAH deadlocked 3-3 at its October 20th meeting and failed to adopt the draft rules it had issued on April 30, 2014. In response, Fair Share Housing Center (hereinafter "FSHC") filed a motion in aid of litigant's rights with the NJ Supreme Court.

On March 10, 2015, the NJ Supreme Court issued a ruling on the Motion In Aid of Litigant's Rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1 (2015) ("Mt. Laurel IV"). This long-awaited decision provided a new direction for how New Jersey municipalities were to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges. The implication was that municipalities were required to apply to Superior Court with a Declaratory Judgement Action, instead of to COAH, if they wished to be protected from exclusionary zoning litigation, including builder's remedy. These trial judges, with the assistance of an appointed Special Adjudicator to the Court, reviewed municipal plans much in the same manner as COAH previously did.

While the NJ Supreme Court's decision set a process in motion for towns to address their third round obligations, it did not assign those obligations. Instead, the task was completed by the trial courts.



However, the NJ Supreme Court did direct that the method of determining municipal affordable housing obligations were to be “similar to” the methodologies used in the first and second round rules and municipalities should rely on COAH’s 1993 second round rules (*N.J.A.C. 5:93*) and certain components of COAH’s 2008 regulations that were specifically, as well as the Fair Housing Act (*N.J.S.A. 52:27D – 301 et seq.*), in their preparation of third round housing elements and fair share plans.

FSHC, a public interest advocacy organization in New Jersey devoted exclusively to promoting the production of housing affordable to low and moderate income households, was permitted to serve as an interested party in every municipal Declaratory Judgment Action. In this role the organization calculated municipal affordable housing obligations and offered to settle with municipalities. Such settlements addressed the municipal affordable housing obligation, compliance strategies and other terms intended to promote affordable housing production. Most municipalities that filed a Declaratory Judgment Action settled with FSHC, finding it to be in their best interest. The typical alternative to settlement with FSHC was conducting a trial in Superior Court to determine the municipal affordable housing obligation.

In addition to the State agency activity and judicial decisions through 2015, the New Jersey Legislature amended the Fair Housing Act in 2008 (P.L. 2008, c. 46, often referred to as the “Roberts Bill”, or “A500”). This amendment established a statewide 2.5% nonresidential development fee, prohibited new regional contribution agreements (hereinafter “RCAs”), required that 13% of all new affordable homes be restricted to very low income households (30% of median income), and added a requirement that municipalities had to commit to spend development fees within four (4) years of the date of collection. Additionally, the Fair Housing Act was amended in 2013 (P.L. 2013, c. 6) to permit municipalities to enter into an agreement with a developer or development owner to provide a preference for veterans who served in time of war or other emergency to occupy up to 50% of the affordable homes in a particular development. The preference is applicable to the first 90 of the 120 days of initial marketing and thereafter may on a special waiting list for future available affordable homes in the development. These amendments to the Fair Housing Act are not promulgated in any valid COAH regulations.

On March 20, 2024, an amendment to the Fair Housing Act was adopted (P.L. 2024, c.2.). This amendment creates significant changes to the fourth round of affordable housing, and all subsequent rounds. Such changes include the process in which municipalities obtain protection from builder’s remedy litigation – including but not limited to the elimination of COAH and the creation of the Affordable Housing Dispute Resolution Program, the methodology to calculate municipal prospective need obligations, and the administration of affordable homes. However, the Fair Housing Act does not create or direct the creation of new rules that would provide further guidance, instead it states municipalities shall rely on rules adopted by COAH, unless contradicted by statute or binding court decisions, for municipal crediting, adjustments and compliance strategies. One notable example of contradiction is the generation of and use of bonus credits. See the sections that follow for additional information regarding this amendment to the Fair Housing Act.

The Affordable Housing Dispute Resolution Program (hereinafter the “Program”) is a program within the judiciary made up of an odd number of Judges with a minimum of 3 and not to exceed 7. The Program,



in its discretion and in accordance with Rules of Court, may consult or employ services of one or more special adjudicators or staff to assist it in rendering determinations, resolving disputes, and facilitating communication among municipalities and interested parties. The Program is responsible for reviewing municipal affordable housing obligations, housing plans, and conducting mediation. However, final determinations of compliance, disputes, and other issues, as well as Court orders may only be issued by a Vicinage-level housing judge.

In addition to changes addressing the compliance process and elimination of COAH, the amendment also revised minimum affordability controls for rental homes from 30 years to 40 years and those for extension of affordability controls from 30 years to as little as 20 years, provided the total control period is not less than 60 years. It also created new roles for the Department of Community Affairs (hereinafter “DCA”), including calculation of non-binding rehabilitation and prospective need affordable housing obligations, oversight and adoption of rules regulating municipal affordable housing trust funds, municipal housing liaisons and affordable housing administrative agents, as well as oversight of affordable home administration. The amendment also directed the New Jersey Housing and Mortgage agency to revise the Uniform Housing Affordability Control Rules (*N.J.A.C. 5:80-26.1 et seq.*).

The Compliance Process

The first step in a municipality’s compliance process is to establish the affordable housing obligation. The first, second and third round obligations are already established by COAH or Superior Court, as applicable. Only the rehabilitation obligation and current prospective need, the fourth round obligation, are subject to the determination.

The methodology and formulas each municipality must rely upon to determine its rehabilitation, and fourth round obligation (as well as subsequent round obligations) are set forth within *N.J.S.A. 52:27D-304.1* thru *-304.3* of the Fair Housing Act. The March 8, 2018 unpublished decision of the Superior Court, Law Division, Mercer County, *In re Application of Municipality of Princeton* (“Jacobson Decision”) is also to be referenced as to datasets and methodologies that are not explicitly addressed in *N.J.S.A. 52:27D-304.3*. Notwithstanding the methodology set forth in the Fair Housing Act, the Act also required the DCA to release a non-binding report calculating obligations for each municipality in the State.

The following provides an overview of the process and deadlines associated with the fourth round.

- Establishing the Affordable Housing Obligation
 - October 20, 2024: DCA Regional and Municipal Fair Share Obligation Report Issued.
 - January 31, 2025: Deadline for municipalities to adopt a binding resolution committing to the affordable housing obligation and seeking a Compliance Certification through participation in the Program.



- February 28, 2025: Deadline for an interested party to challenge the municipality's determination of its obligation to the Program. It shall apply "an objective assessment standard".
- March 1, 2025: The municipality's determination of its obligation will be established by default if no challenge.
- March 31, 2025: The Program must issue a decision on the obligation challenge.
- Obtaining a Compliance Certification
 - June 30, 2025: Municipality shall adopt a Housing Plan and propose drafts of ordinances and resolutions to implement the plan.
 - August 31, 2025: Deadline for an interested party to file a challenge of the Housing Plan with the Program. If no challenge by this date the Program will begin review of the Housing Plan for consistency with the FHA.
 - December 31, 2025: Deadline for a municipality to settle any challenge or provide an explanation as to why it will not make all, or some of the changes brought by the challenge.
 - March 15, 2026: Municipality to amend the Housing Plan and implement the agreed upon revisions resulting from a challenge and adopt all pertinent ordinances. The Housing Plan and adopted ordinances shall be immediately filed with the Program.
- Ongoing Compliance
 - Midpoint (2030): Action by municipality or interested party filed to seek a realistic opportunity review of any developments that have not moved forward.

Affordability Requirements

Affordable housing is defined under New Jersey's Fair Housing Act as a dwelling, either for sale or rent, that is within the financial means of households of low- or moderate-income, as is measured within each housing region. Union is in Region 3, which includes Hunterdon, Somerset and Middlesex counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of the regional median income. Low-income households are those with annual incomes that are 50% or less than the regional median income. Very low-income households are a subset of "low-income" households and are defined as those with incomes 30% or less than the regional median income.

The Uniform Housing Affordability Controls (hereinafter "UHAC") at N.J.A.C. 5:80-26.3(d) and (e) requires that the maximum rent for a qualified home be affordable to households with incomes 70% or less than the median income for the region, provided the development includes 13% or more very low income homes. The average rent must be affordable to households with incomes no greater than 52% of the median income. The maximum sale prices for affordable homes must be affordable to households with



incomes 70% or less than the median income. The average sale price must be affordable to a household with an income of 55% or less than the median income.

The regional median income is defined using the federal income limits established by Department of Housing and Urban Development (hereinafter “HUD”) on an annual basis. In the spring of each year, HUD releases updated regional income limits, and it is from these income limits that the rents and sale prices for affordable homes are derived. The following table reflects the 2025 affordable housing regional income limits for Region 3.

2025 Income Limits for Region 3 (Hunterdon, Somerset and Middlesex Counties)					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Median	\$107,400	\$122,800	\$138,100	\$153,400	\$165,700
Moderate	\$85,920	\$98,240	\$110,480	\$122,720	\$132,560
Low	\$53,700	\$61,400	\$69,050	\$76,700	\$82,850
Very Low	\$32,220	\$36,840	\$41,430	\$46,020	\$49,710
<i>Source: UHAC 2025 Affordable Housing Regional Income Limits by Household Size, Last updated May 5, 2025, by New Jersey Housing and Mortgage Finance Agency (NJHMFA).</i>					

Overview of Compliance Requirements

There are extensive requirements that municipalities must ensure their affordable housing strategies satisfy to be eligible for a Compliance Certification. Furthermore, those requirements vary by round. The following provides a *brief and summarized* overview of the requirements.

- **Rental Obligation.** Not less than 25% of affordable homes addressing the obligation of a round must be rental homes.
- **Family Obligation.** Not less than 50% of affordable homes addressing the obligation of a round must be available to families, meaning they are not restricted to a particular population. This obligation does not apply to the first and second rounds.
- **Family Rental Obligation.** Not less than 50% of the homes meeting the rental obligation of a round must be available to families, meaning they are not restricted to a particular population. This obligation does not apply to the first and second rounds.
- **Senior Maximum.** Up to 30% of affordable homes addressing the obligation of a round may be reserved for seniors. The maximum was 25% for the first, second and third rounds.



- **Income Distribution of Affordable Homes**
 - **Very Low Income Obligation.** Not less than 13% of affordable homes created or approved on or after July 1, 2008 must be reserved for very low income homes (30% or less than the regional median income). Very low income homes are a subset of low income homes.
 - **Family Very Low Income Obligation.** Not less than 50% of the homes meeting the very low income obligation must be available to families, meaning they are not restricted to a particular population.
 - **Low Income Obligation.** Not less than 50% of affordable homes in any development must be reserved for low income households (50% or less than the regional median income, which includes very low income homes). The remaining may be available to moderate income households (51-80% of regional median income).
- **Bedroom Distribution of Affordable Homes (based on HMFA emergency UHAC rules adopted December 20, 2024 and which may be amended)**
 - The total bedrooms within the affordable homes in any development must be not less than twice the number of affordable homes. This requirement does not apply to the first, second or third round.
 - Studio and 1-bedroom Units. Not more than 20% of homes in any development.
 - 2-bedroom Units. Not less than 30% of homes in any development.
 - 3-bedroom Units. Not less than 20% of homes in any development.
 - The above requirements do not apply to special needs housing or senior housing.
 - Senior developments are subject to a modified bedroom distribution such that the total bedrooms within the affordable homes must be not less than the number of affordable homes.
 - Senior and supportive housing developments with 20 or more affordable homes shall have not less than 5% 2-bedroom and 3-bedroom affordable homes. This requirement does not apply to the first, second or third round.
- **Bonus Credits**
 - No more than 25% of the obligation for each round.
 - Only one type of bonus credit may be applied to a home.
 - Rental bonus credits (1.0) are only applicable to the first, second and third rounds.
 - The following home types are eligible for 1.0 bonus credit in the fourth round.
 - Supportive and special needs. Note that special needs often receive credit for each bedroom.



- Market to affordable (conversion of a market rate home to an affordable home).
- 100% affordable developments: Units within 100% development provided the municipality the land or a minimum of 3% of the development costs.
- The following home types are eligible for 0.5 bonus credit in the fourth round.
 - Partnership with non-profit.
 - Proximity to transit: homes within ½ mile of transit (rail, bus, ferry).
 - Senior: limited to 10% of the affordable age-restricted homes provided which is capped at 30% of the obligation.
 - Units with at least three bedrooms above the minimum number required by the bedroom distribution.
 - Redevelopment for homes on land that was previously utilized for retail, office or commercial use.
 - Extension of affordability controls on rental housing only, provided the municipality funds the cost for the preservation.
 - Very Low-Income homes above the 13% required.

AFFORDABLE HOUSING IN UNION

While the majority of Township land zoned for residential use consists of single-family detached homes as well as agricultural uses, the Township includes a substantial number of lower cost homes in the Union Gap Village and Union Hill developments. These more than 400 multi-family homes on the north side of Route 78, which represent more than a quarter of the homes in Union Township, typically sell for half the price of a single-family home. While these homes are not eligible for affordable housing credit, they greatly enhance the affordability and diversity of the Township's housing stock. While the lack of infrastructure limits the ability to create affordable housing, the Township permits accessory dwellings in most residential zone districts and housing types other than single-family detached homes are permitted in selected residential zone districts.

Union Township, Hunterdon County, prepared a First Round (1987-1993) housing element and fair share plan and received First Round substantive certification from COAH on December 19, 1988. Subsequently, the Township prepared a Second Round Plan to address its cumulative (1987-1999) affordable housing obligation and received Second Round Certification from COAH on October 2, 1996. The Township subsequently received approval of an amendment to the Township's certified Plan from COAH on December 6, 2000.



As COAH had yet to adopt its Third Round regulations, the Township received an extension of its Second Round substantive certification from COAH on September 4, 2002, which was renewed in June of 2005. Union Township adopted a December 2004 amendment to its COAH-certified Second Round plan.

In addition, Union Township filed a motion with COAH requesting an extension of its Second Round substantive certification on December 9, 2004. By resolution, dated June 8, 2005, COAH granted Union Township's motion for an extension of its Second Round certification, requiring that the Township petition for Third Round substantive certification by December 20, 2005.

The Township then petitioned for Third Round substantive certification on December 7, 2005 and incorporated the prior 2004 plan amendment which had not been acted on by COAH prior to the required December 2005 plan submission date under COAH's original Third Round rules at N.J.A.C. 5:94 et seq. However, the application had not been certified by COAH prior to the issuance of the Appellate Division's January 25, 2007 decision overturning portions of COAH's regulations.

In response to the COAH/Highlands MOU, Union Township submitted a resolution notifying COAH of its intent to conform to the Highlands Council's Plan Conformance Guidelines and a resolution notifying COAH of its intent to petition for substantive certification by no later than December 8, 2009. On November 12, 2008, COAH granted a waiver from the December 31, 2008 deadline for petitioning COAH pursuant to N.J.A.C. 5:96-16.2. On August 12, 2009, COAH extended the deadline for Union to petition for substantive certification until June 8, 2010.

The Township Planning Board adopted its Amended Third Round Housing Element and Fair Share Plan on May 27, 2010 and the Governing Body endorsed it on June 2, 2010. The Township petitioned COAH for substantive certification on June 8, 2010. Similar to the 2005 plan, COAH did not act on the 2010 petition prior to the 2008 Third Round Rules being invalidated, this time by the 2013 Supreme Court decision overturning the validity of the 2008 Rules in In re Adoption Of N.J.A.C. 5:96 and 5:97 By New Jersey Council On Affordable Housing, 215 N.J. 578 (2013).

The Township adopted a revised Third Round Housing Element and Fair Share Plan on May 28, 2015 in order to comply with the Mt. Laurel IV decision. As the Court had not allocated a Third Round prospective need obligation to the Township at the time, the Third Round Plan addressed the prospective need obligation for the years 2014 to 2024 calculated by COAH in its unadopted Third Round rules at N.J.A.C. 5:99, using generally the same compliance mechanisms as it had in its 2010 Third Round Plan.

To comply with the March 10, 2015 Mt. Laurel IV decision, the Township petitioned the Superior Court on July 2, 2015, for a Declaratory Judgment in the case entitled: In the Matter of the Application of the Township of Union, Docket No: HNT-L-000305-1 5 ("2015 Action") and secured temporary immunity from builder's remedy suits. This action entered the Township into the process of determining its affordable housing obligation and how it would be satisfied. Additionally, the Union received immunity from builder's remedy litigation while doing so.



To avoid a lengthy trial on the affordable housing obligation and, potentially, a second trial on how that obligation would be satisfied, the Township and FSHC executed a settlement agreement on May 2, 2018 that set forth the Township's affordable housing obligation and preliminary compliance plan. This Settlement Agreement was approved by the Hon. Thomas C. Miller, P.J.Cv. on August 6, 2018.

The Township adopted a third round housing plan on November 8, 2018, and received a final Judgment of Compliance and Repose entered by the Honorable Thomas C. Miller, P.J.Cv. on May 10, 2019.

In accordance with P.L. 2024, c.2, and Directive #14-24, the Township adopted a resolution calculating the Township's \ Fourth Round Present Need Obligation, or rehabilitation obligation, of 0 and a gross/unadjusted Fourth Round Prospective Need Obligation, or new construction obligation, of 41 on January 22, 2025. The resolution committed to the DCA-calculated rehabilitation obligation but reduced the DCA-calculated fourth round obligation. On January 23, 2025, the Township submitted its resolution and filed an action in the Superior Court of New Jersey, Hunterdon County, with the Affordable Housing Dispute Resolution Program in the case entitled: In the Matter of the Application of the Township of Union, Docket No.: HNT-L-000047-25 ("2025 Action"). The Township's submission received an objection from the New Jersey Builder's Association. FSHC did not file an objection to the Township's calculated Fourth Round Prospective Need Obligation. In fact, FSHC's Report on the Fourth Round Prospective Need Obligations confirmed the accuracy of the Township's calculated Fourth Round gross Prospective Need Obligation of 41.

On March 30, 2025 the Special Adjudicator assigned to the Township's 2025 action issued a recommendation to Program Chair the Hon. Thomas C. Miller, J.S.C. (retired) that stated the following in regard to the Township's calculation and compliance strategies:

It should be noted that the township does not have adequate infrastructure and had, in fact, taken a Durational Adjustment in the prior round. This adjustment technique is still permitted in the regulations, and the Township indicated that it will most likely utilize the same compliance strategy as they have in the past. [...]

In my professional opinion, based upon the fact that the Township can utilize the Durational Adjustment during compliance, and the fact that this technique reduced the Third Round Obligation to zero (0), I would recommend the NJBA's position in this case.

On April 15, 2025, Program Chair the Hon. Thomas C. Miller, J.S.C. (retired), issued a recommendation and statement of reasons establishing the Township's Fourth Round Present Need Obligation of zero "0" and a Fourth Round gross/unadjusted Prospective Need Obligation of 70, respectively. The recommendation issued by the Program Chair recognized, in part, that the Program's decision to change in the Township's Prospective Need Obligation from that calculated by the Township was based on the Program Chair and Special Adjudicator's position that 78.45 acres attributed to the Edna Mahan Correctional Facility, which is State owned land, was capable of being developed, and therefore the Township's land capacity factor



should be 80.38. However, the Program Chair's recommendation and statement of reasons also included the following basis to justify the determination to increase the Township's Prospective Need Obligation to 70. Additionally, it sets forth specific implications with respect to the Edna Mahan Correctional Facility and the Township's Fourth Round Housing Element and Fair Share Plan:

The Program's Special Adjudicator recommended that the Program disregard the Township's position [with respect to excluding the Edna Mahan Correctional Facility]. In her report she argues that the adjustments sought by the Township should not be applied to support a reduction of the Land Capacity Factor and instead would be more appropriately applied at the Compliance Phase.

The Township Planner's report addressed two large properties that constitute the vast majority of the disputed land capacity. One property is the 78.45 acre Edna Mahan Correctional Facility. It is undisputed that the Edna Mahan property is used as an active prison. With regards to that parcel, it is clearly capable of being developed, even though it is currently used as a prison and there are no identifiable plans to discontinue its use or sell the property. In this Program member's view, it should be considered to be potentially developable and as properly indicated by the DCA in its calculations.

[... .]

In this Program Member's view, the adjustment process that is offered in its vacant land analysis and/or durational adjustment must be reserved for the compliance phase. In fact, that reservation is integral to support its recommendation in this matter. The municipality has provided certain compelling and credible objections that may allow the municipality for credits or adjustments that can and should be addressed in the Compliance phase. The Township has provided documentation to support the proposition that the Program member's recommendation is specifically based upon the assumption that the municipality will be able to raise those issues, if applicable, as part of the vacant land analyses that it will offer during the compliance phase.

[See pp. 22-23 of Statement of Reasons, dated April 15, 2025 (emphasis added)]

The Program Chair's above-cited Statement of Reasons was ultimately incorporated by reference without change into an Order issued by Hunterdon County Mount Laurel Judge, the Honorable William G. Mennen, J.S.C. on April 22, 2025. Based upon same, the Township fully reserves the right to appeal the Statement of Reasons issued by the Program Chair on April 15, 2025 and incorporated by reference into Judge



Mennen's Order issued on April 22, 2025, should the Township's requested durational adjustment, or alternatively a vacant land adjustment, as part of the Township's 2025 Fourth Round Housing Element and Fair Share Plan be denied.

CONSIDERATION OF LANDS MOST APPROPRIATE FOR AFFORDABLE HOUSING

As part of this Plan, the Township considered land that is appropriate for the construction of low- and moderate-income housing. Union has limited capacity for future development due to largely built-out conditions throughout the Township and lack of wastewater (public sewer) facilities on those lands that are not developed. Also limiting developability in the Township is the fact that most land is within the Highlands Preservation Area – 10,502 acres, or approximately 78% of Township lands, are within the Preservation Area, while the remaining 2,667 acres are within the Planning Area.

In 2021 the Township completed an *Initial Assessment for Conformance* in the Highlands Preservation Area and in 2022 the Highlands Council approved conformance for the same under Resolution 2022-08. The Township subsequently completed an additional *Initial Assessment Report* in November 2024 for the Planning Area and adopted a resolution to "Adopt the Initial Highlands Assessment Report Dated November 25, 2024 and Petition the Highlands Council for Plan Conformance in the Planning Area" in February 2025. This Report was reviewed by Highlands Council staff and available for public review and comment; no comments were received. The Township's petition for Plan Conformance was approved by the Highlands Council on April 17, 2025. The deadline for the Governor to nullify same by veto in accordance with N.J.S.A. 13:20-5j closed on May 15, 2025. Representatives from the Highlands Council have since confirmed that the Governor of New Jersey has not issued a veto as to the Highlands Council's approval of the Township's petition for Highland's Plan Conformance. Accordingly, the Township petitions for conformance of both the Preservation and Planning Areas have been approved by the Highlands Council and the Township "is entitled to the statutory benefits associated with Plan Conformance as detailed in the Highlands Act, the Regional Master Plan" See Resolution 2025-10 adopted by the New Jersey Highlands Water Protection and Planning Council adopted on April 17, 2025 at Appendix 2.

Leading up to the adoption of this Plan, no developer or prospective developer has requested inclusion into the Township's Fourth Round Plan and/or has otherwise identified land with a stated commitment to construct affordable housing. Notwithstanding same, the Township finds its lands within the existing sewer service area and within the Highlands Planning Area's Existing Community Zone offer the best opportunity for affordable housing on suitable lots. This is also consistent with the *2024 Highlands Affordable Housing RMP Amendment (July 2024)*.

A portion of the Township's housing stock may be appropriate for conversion or rehabilitation for affordable housing given the largely typical home sizes and modest values compared to other areas of the County. Additionally, the Township's lack of wastewater facilities within the Preservation Area must be considered as it requires individual septic systems to serve the property, absent NJDEP approval for a public sewer or on-site treatment system. Notwithstanding same, affordable single-family homes and



group homes are appropriate in Union. Additionally, attached and multi-family affordable and inclusionary development may be appropriate where approval for the necessary wastewater facilities can be obtained either from the Highlands Council, NJDEP, and/or the existing outside government agency, the Town of Clinton, that currently supplies sanitary sewer to the owners of certain properties within Union through a separate private contractual agreement with the owners of such properties.

OPPORTUNITY FOR MULTIGENERATIONAL HOUSING

The Fair Housing Act requires “an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission”. As of the date of this Housing Plan there have been no recommendations by the Multigenerational Family Housing Continuity Commission in which to provide an analysis. However, the Commission has the primary goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity. Township land use policies are not in conflict with this goal and much of the Township’s housing stock is large enough to accommodate multigenerational living.

DEMOGRAPHIC, HOUSING & EMPLOYMENT ANALYSIS

See Appendix 1 to the Housing Plan for this analysis.

AFFORDABLE HOUSING OBLIGATION & SATISFACTION

Fourth round housing plans must address four components of a municipality’s affordable housing obligation. These include the rehabilitation obligation to improve substandard housing occupied by low- and moderate-income households, the first and second round obligation of new construction from 1987 to 1999, third round obligation of new construction from 1999 to 2025, and the fourth round obligation of new construction from 2025 to 2035.

Rehabilitation Obligation: 0

The rehabilitation obligation can be defined as an estimate of the number of deteriorated homes existing in Union that are occupied by low- and moderate-income households. The Fair Housing Act, *N.J.S.A. 52:27D-304.3.b.*, describes present need as being determined by “estimating the existing deficient housing units currently occupied by low- and moderate-income households within the municipality, following a methodology comparable to the methodology used to determine third round present need, through the use of datasets made available through the federal decennial census and the American Community Survey, including the Comprehensive Housing Affordability Strategy dataset thereof.” The



DCA calculated municipal present need obligations in *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*, released on or about October 18, 2024. This DCA Report calculated a rehabilitation obligation of 0 for the Township. This obligation was assigned by Program Chair Judge Miller, J.S.C. (retired) via a Statement of Reasons, dated April 15, 2025; and ultimately incorporated by reference without change into the Order issued Judge Mennen in the Township's 2025 Action on April 22, 2025.

Given the 0 obligation, the Township does not propose rehabilitation strategies.

First & Second Rounds Obligation: 78

Union Township's first and second rounds new construction obligation, also referred to as the prior round obligation, is 78. This obligation is defined as the cumulative new construction obligation from 1987 through 1999 (1987-1993 is the first round; 1993-1999 is the second round). The Township's obligation was published by COAH in 2008 and originally calculated in 1993-1994 pursuant to N.J.A.C 5:93.

Third Round Obligation: 227

This obligation of 227 is defined as the new construction obligation for 1999-2025. The third round obligation was set forth in the Township's settlement agreement with FSHC dated May 2, 2018 and was approved by the Hon. Thomas C. Miller, P.J.Cv. on August 6, 2018. The Settlement Agreement notes the obligation is a downward reduction from the obligation calculated in a report prepared by Dr. David N. Kinsey, PhD, FAICP, *New Jersey Low and Moderate Income Housing Obligations for 1999-2015 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology*, dated May 2016.

Fourth Round Gross Prospective Need Obligation: 70

As stated above, Union's Fourth Round gross/unadjusted Prospective Need obligation ("Prospective Need") is 70. However, such decision is subject to further adjustment through either a vacant land analysis/adjustment and/or a durational adjustment. (See "Affordable Housing in Union" section above).

The Prospective Need Obligation is defined as the new construction obligation for Fourth Round Period of July 1, 2025 to June 30, 2035. The Fair Housing Act, N.J.S.A. 52:27D-304.3.b., describes the obligation as a "projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations". The methodology to calculate the obligation begins with determining the need for affordable housing in the region of which the municipality is located. That regional need is then allocated to each municipality in the region, excluding qualified urban aid municipalities, based on an average of three factors: 1) equalized nonresidential valuation factor, which serves as a proxy for the municipal share of the region's change in employment during the previous affordable housing round, 2) income capacity



factor, which is the municipal share of the region's median household income, and 3) land capacity factor, which is the municipal share of the region's developable land.

The Township adopted a resolution committing to fourth round obligation on January 22, 2025. The resolution reduced the DCA-calculated fourth round obligation. The Township's submission received an objection from the New Jersey Builder's Association. On April 15, 2025, the Program Chair the Hon. Thomas C. Miller, J.S.C. (retired) issued a Statement of Reasons/Recommendation establishing the Township's Fourth Round Present Need Obligation or Rehabilitation Obligation of 0 and Fourth Round gross/unadjusted Prospective Need Obligation 70.

However, the Township's Fourth Round Prospective Obligation, as determined by Judge Miller, is subject to the Township obtaining a vacant land adjustment and/or durational adjustment during the compliance phase. As Judge Miller's "statement of reasons," recognized: "[i]n fact, that reservation is integral to support its recommendation in this matter." Indeed, the Program Chair found that "[t]he municipality has provided certain compelling and credible objections that may allow the municipality for credits or adjustments that can and should be addressed in the Compliance phase." Likewise, as acknowledged by the Program Chair, "[t]he Township has provided documentation to support the proposition that the Program members' recommendation is specifically based upon the assumption that the municipality will be able to raise those issues, if applicable, as part of the vacant land analyses [or durational adjustment] this it will offer during the compliance phase." See pp. 23 of Statement of Reasons, dated April 15, 2025.

Accordingly, at this juncture the Township will seek a durational adjustment, as set forth in further detail hereinafter. However, the Township reserves the right to seek a vacant land adjustment through an amended Housing Plan in the event adequate sewer become available during the Fourth Round, or a successful challenge is filed either to the Township's Housing Plan during the compliance phase or during a mid-point review, or the Township is otherwise unable to secure a durational adjustment for the entirety of the compliance phase or during 10-year period of the Fourth Round.

Satisfaction of the First, Second, Third and Fourth Rounds Obligation

The Township has a number of existing affordable housing developments that contribute family affordable homes toward the obligation. The remaining obligation is satisfied with a durational adjustment and mandatory set-aside ordinance.

While the Township utilizes the durational adjustment in this Housing Plan, it also reserves the right to amend the Housing Plan to incorporate additional and alternative affordable housing strategies should they become available and to meet the obligation in case sewer service is provided such that the Township is no longer eligible for a durational adjustment during the Fourth Round period. Such additional strategies may include but are not limited to a Highlands Region vacant land adjustment, pursuant to the Highlands Council's *Highlands Municipal Build-Out Update*, the Highlands Act, N.J.S.A. 13:20-1 et seq., the administrative regulations promulgated thereto, and the goals and objectives of the Highlands Regional Master Plan, as amended by the New Jersey Highlands Water Protection and Planning Council Resolution



2024-24 and adoption of “RMP Addendum 2024-3: Highlands Affordable Housing Guidelines,” the “Highlands Affordable Housing Regional Master Plan Amendment (July 2024)” and the “Highlands Affordable Housing Implementation Guidelines (October 2024)”. These documents are included in Appendix 4 to this Housing Plan.

Existing Affordable Housing Developments					
Development	Housing Type	Affordable Homes	Bonus Credits	Total Credits	Status
Regional Contribution Agreement	RCA	4	0	4	Complete
ARC of Hunterdon County	Supportive / Special Needs	8	8	16	Constructed
Lookout Point	Inclusionary Housing	2	0	2	Constructed
Apgar	Inclusionary Housing	1	0	1	Constructed
PS Construction	Inclusionary Housing	2	0	2	Constructed
Total		17	8	25	

Lookout Point – Inclusionary Development

Toll Brothers completed an inclusionary housing development – Lookout Point – in Union Township that included two (2) affordable family sale homes on Albert Drive at Block 11.01, Lot 22. The affordable townhouses were completed in April 2008 and have the appropriate affordability controls through deed restrictions. The homes are affirmatively marketed by the administrative agent, Housing Affordability Service (“HAS”), an experienced affordable housing administrator, and meet the low/moderate income split and the bedroom distribution in accordance with UHAC.

Apgar

Apgar constructed an affordable family rental home on Block 19, Lot 7 in Union Township in 2008. The home is a three-bedroom single family home and is subject to 30-year affordability controls. The project is a result of the Township’s Third Round Growth Share ordinance and is eligible for a rental bonus per N.J.A.C. 5:93-5.15. Apgar entered into a contract with HAS to administer the affordable home approved on this site.



PS Construction, aka Rolling Hills Estates

PS Construction received approval from the Union Township Planning Board on May 22, 2008 for the construction of 16 market rate homes and two (2) affordable homes on Block 22, Lots 27, 27.02, 27.03, and 27.04. The two (2) affordable family homes approved in this inclusionary development will have 30-year controls, will meet the low/mod split and the bedroom distribution, and will be affirmatively marketed in accordance with COAH's rules and the UHAC.

ARC Group Homes

Union Township is eligible for eight (8) credits for two licensed group home facilities that are operated by ARC of Hunterdon County, a non-profit organization that specializes in treatment for individuals living with developmental disabilities. The first special needs facility is a four-bedroom group home, located on Henderson Road (Block 7, Lot 1.01). The second group home, which also has four bedrooms, is located on Route 173 East (Block 22, Lot 11). Residents of the group homes are referred to ARC of Hunterdon through the NJ Division of Developmental Disabilities waiting list. ARC, a nonprofit organization, received capital funding from the NJ Division of Developmental Disabilities to create the group homes and continues to receive operational funding. Additional crediting information is included in the Fair Share Plan Appendices.

Regional Contribution Agreement (RCA)

Union Township entered into an RCA with the City of Lambertville to transfer funds for four (4) affordable homes. On July 2, 2003, Union Township made a payment of \$80,000 to the City of Lambertville to complete the prior round RCA.

Durational Adjustment

Union Township lacks public wastewater facilities (public sewer and / or on-site treatment facilities) to fully address the remainder of its first, second, third and fourth round prospective need obligation(s). Such a scenario was anticipated by COAH and as such, a procedure for deferring a portion of a municipality's obligation until if/when the sewer service is provided is set forth at N.J.A.C. 5:93-4.3(c). This procedure, referred to as a durational adjustment, requires a municipality demonstrate the lack of available sewer and set forth how the affordable housing obligation will be addressed. The Township's durational adjustment was approved by Superior Court during the Township's 2015 Action for the third round. The 2018 Settlement Agreement between the Township and FSHC as well as the final Judgment of Compliance and Repose issued May 10, 2019 by the Hon. Thomas C. Miller, P.J.Cv. granted the Township's durational adjustment.

As detailed herein, Union Township continues to qualify for a durational adjustment. It should be recognized that the Township qualified for a durational adjustment in the third round when it had not fully conformed to the Highlands RMP. Prior to the start of the Fourth Round, in April 2025, the Township's conformance petition to the Highlands Council was approved.



There are 4 sites in Union Township that receive sewer service: Edna Mahan – a State-owned women’s correctional facility, Spruce Run Reservoir – a State-owned recreation facility, Union Gap Village and Union Hill – adjacent multi-family developments, and the former Foster Wheeler office complex, now owned by SGS Perryville Residential LLC and SGS Perryville Development, LLC.

Union Township was party to two tripartite agreements with Clinton Town, Lanid (Union Gap Village & Union Hill) in 1975 and Foster Wheeler in 1983, that resulted in the sale of sewer capacity from Clinton Town to each developer. The agreements establish limited circumstances that would allow for the developers’ sewer capacity and the sewer infrastructure to be allocated to any property or for uses not originally agreed upon by the parties.

Lanid (Union Gap Village & Union Hill): In 1975, Lanid, Clinton Town, and Union entered into three separate agreements that collectively permitted Lanid to purchase an allocation of 104,500 gpd (gallons per day) of treatment capacity from Clinton’s sewer treatment facilities for the development of 438 residential homes known as Union Gap Village (“UGV”) and a commercial use (later replaced with a 100-home multifamily development called Union Hill). In 1977, the owners of a restaurant adjacent to UGV entered into a four-way agreement with the municipalities and Lanid to tie-into the UGV sewer lines and purchase a separate 4,300 gpd of sewer capacity from Clinton Town. Six years later, in 1983, Lanid and the municipalities amended their agreements to reduce Lanid’s sewer capacity by 20,000 gpd (to 84,500 gpd) and acknowledge that the originally proposed commercial use on its property would be replaced with the 100- home Union Hill development (for a total of 538 existing and contemplated homes). There remains no unused capacity, and the site is fully developed. Additionally, the collection lines serving the site are privately owned and these private entities have the exclusive right of use and the sole responsibility for the operation and maintenance of the sewer infrastructure serving the site. As such, Union Township may not allocate the sewer capacity or infrastructure associated with this site to another property.

Foster Wheeler Site (as commonly known, now owned by SGS Perryville Residential, LLC and SGS Perryville Development, LLC) (“FW”): The FW agreements are dated between November 1 and 22, 1983 and establish the sale of 125,000 gpd of Clinton Town’s sewer capacity to FW. While both the Lanid and FW agreements contain clauses that prohibit any of the parties from unilaterally allocating or using the purchased sewer capacity for purposes or properties not identified in the agreements, the FW agreement with Union Township contains a unique clause that prohibits FW from using its sewer capacity for uses other than “an office complex and related accessory facilities” at the site (paragraph 22). This property has an onsite collection system constructed and owned by FW that is connected to an existing wet well & pumping station located on the FW tract along Frontage Road that was also constructed by FW. Cycled discharge from the pumping station is conveyed to Clinton Town through a 3+ mile long pressure force main that was constructed by FW. FW has the exclusive right of use and the sole responsibility for its operation and maintenance of the sewer infrastructure serving the site. As such, the sewer capacity or infrastructure associated with this site may not be allocated to another property.



Based on the above, neither Lanid nor FW, nor their successors, may sell any portion of their sewer capacity to any other party or to any parcel or tract of land not already identified in the aforementioned agreements. Additionally, the Township may not unilaterally permit the connection of any properties to either existing sewer line without the approval of Clinton Town and Lanid or FW (or their successors).

Future Sewer Service: According to sewer service mapping published by the New Jersey Department of Environmental Protection (“DEP”) and Hunterdon County’s 2012 Future Wastewater Service Map, last revised in 2013, there are no areas planned or approved for expansion of public sewer in Union Township.

Clinton Town’s Business Administrator, Rich Phelan, has stated there is no additional sewer capacity to sell. The Town also has no plans to expand its system capacity in the near future.

The Township’s only potential source of sewer capacity for new development is the excess capacity owned by Foster Wheeler.

Regardless of available capacity, the Township is severely restricted in its ability to create or expand sewer service areas by virtue of its location entirely within the Highlands Region. Only approximately 20% of the Township, the majority of which is concentrated along the Route 78 corridor, is located in the Planning Area of the Highlands Region (10,502 acres are in the Preservation Area; 2,667 acres are in the Planning Area).

The conditions supporting the durational adjustment during the third round remain unchanged at the present time— no enlargement of the sewer service area or increased capacity has occurred

The Township’s third round Housing Plan received relief from the requirements in *N.J.A.C. 5:93-4.3* to, in summary, endorse all applications to the DEP or its agent to provide water and/or sewer capacity and include any site which received approval for waste treatment in an amended housing plan. Relief from this requirement was granted due to overlay zoning that, once developed, would satisfy the outstanding obligation. Township will continue this relief and will utilize new overlay zoning to satisfy the fourth round obligation, as there has been no changed circumstances.

Foster Wheeler (“FW”) Site

SGS Perryville Residential, LLC and SGS Perryville Development, LLC owns two lots (Block 13, Lots 6 and 7) with a total of 266 acres. The property was formerly owned and occupied by Foster Wheeler. Lot 6 is partially developed with two office buildings and parking, and the remainder of the lot is vacant and environmentally constrained. Lot 7 is vacant, with the exception of a building apparently housing utilities and servicing functions for the property. The developed portion of Lot 6 and the entirety of Lot 7 are within the designated sewer service area receiving service capacity from the Town of Clinton. The agreement between FSHC and Union Township requires the Township to adopt inclusionary overlay zoning on Lot 7 with a density of eight (8) units per acre with a required a 20% affordable housing set-aside for for-sale homes, or 10 units per acre with a required 15% set-aside for rental homes. A for-sale development could include up to 808 homes including 122 affordable homes, and a rental development could result in up to 1,010 homes including 151 affordable homes.



The site fronts on Frontage Road, which is a road that runs parallel to and permits access to I-78. The site is separated from agricultural uses and rural-residential neighborhoods by a railroad right-of-way on the south side of the property and I-78 on the north side. The Foster Wheeler site is located in the Highlands Planning area. The Township never amended its Master Plan or land use ordinance to conform the Planning Area portions of the Township to the Highlands Regional Master Plan. Thusly, the constraints on Foster Wheeler site associated with being in the Highlands area are limited. The portion of the broader Foster Wheeler property that is available for development is adjacent to an existing office park.

The site is privately owned by SGS Perryville Residential, LLC and SGS Perryville Development, LLC. The former owner, Foster Wheeler, had previously obtained General Development Plan approval that permitted four phases of development of office and research buildings. At a November 12, 2015 meeting of the Township's Planning Board / Board of Adjustment, the Realty Manager for Foster Wheeler indicated that the office market may not continue to be viable for the site. There are no other known encumbrances that would render the site unavailable for low- and moderate-income housing; as such, the site meets the criteria of an "Available Site".

The site is in the Highlands Planning area. Out of the 101 acres of Block 13, Lot 7, only 23.7 acres of the lot are constrained by a mix of wetlands and floodplains. This leaves 77.3 developable acres. The site is within the Township's sewer service area and is connected to the appropriate utilities. However, the Township and Foster Wheeler would need to amend their 1983 agreements to remove language that prohibits the sewer capacity from being used for any purpose other than office or research uses.

Red Hills Quarry Site

The tract currently contains 117 acres including a quarry commonly known as "Red Hills Quarry". The site is 1.5 miles east of the intersection of County Road 513 and Interstate 78, where a developer could tie into existing sewer infrastructure. Per the Settlement Agreement, the Township agrees to adopt overlay zoning on the site to permit inclusionary development permitting a density of no more than eight (8) dwelling units per acre with a 20% set-aside for for-sale development or 10 units per acre with a 15% set-aside for rental development. A for-sale development could include up to 608 total homes with 122 affordable homes, and a rental development could include up to 760 homes with 114 affordable homes.

Just 1.2 acres of the site's 76 acres are constrained by wetlands, but environmental testing may be necessary due to the site's history as a quarry.

The Red Hills Quarry site is in the Highlands Planning area. The site fronts on Frontage Road, which is a road that runs parallel to and permits access to I-78. Surrounding uses include single-family residential, agricultural, and highway oriented businesses.

The site was previously owned by Red Hills Industrial Park, Inc., but it is now owned by MILM Holdings, LLC and the quarry is operated by Liberty Stone & Aggregates – Clinton Quarry, LLC. The previous owner of the site had previously approached the Township regarding consideration of the site for residential development, but no application has been put forward.



Edna Mahan Correctional Facility for Women

The Township will utilize overlay zoning of this property to meet the entirety of the affordable housing obligation. The property is currently occupied as a correctional facility; however, the state is in the process of implementing its closure. The Township will apply inclusionary development requirements to the site through overlay zoning. The property is located at Block 22, Lot 18 on the Township's tax maps. The 328.25-acre property is located along County Road 513.

With the exception of the above-referenced properties, this property is the only other area within the Township's Highlands Planning Area that is capable of supporting the inclusionary development necessitated by the fourth round obligation and that is both within the Existing Community subzone (118.72 ac of 328.25) and has sewer service. . As such, it represents perhaps the only opportunity in the Township to fulfill the fourth round obligation.

Use of the Edna Mahan site for affordable housing inclusionary development is also consistent with the amendments to the Fair Housing Act at N.J.S.A. 52:27D-329.9b, which recognizes the need for the State to lead by example and requires that State owned land include a mandatory 20% set-aside for affordable housing. While the site currently serves as a State correctional facility, in July 2021 the Governor ordered the closure of the facility and in 2023 the minimum-security units were closed after the minimum—security inmates has been transferred to another property. State funding for a new facility, located elsewhere in the State, has been allocated and that new facility is projected for completion by approximately 2028.

The Township will provide mixed-use overlay zoning to this site that permits a maximum of 265 homes at density of 8 du/ac with a 20% set-aside for sale housing. The development will be concentrated on portions of the site that are within the Existing Community subzone. As a site the is currently developed with a nonresidential use, it generates bonus credits in the amount of 25% of the obligation. Accordingly, the development generates 53 credits from the affordable homes (.2 (265) = 53) and 17 bonus credits and satisfies the fourth round obligation of 70. The zoning will permit a mix of commercial, office and inclusionary uses at this site.

Distribution of Third & Fourth Round homes

In addition to meeting the total third and fourth round obligation, the Township must also meet a rental obligation, maximum senior homes, family obligation, very low income obligation, and maximum bonus credits, as set forth in the Fair Housing Act. The Township easily meets these requirements since all but 25 of the obligation is satisfied with overlay zoning that is not restricted to non-family homes or for-sale homes and will provide not less than 13% very-low income homes.



CONSISTENCY WITH THE STATE DEVELOPMENT AND REDEVELOPMENT PLAN

The Township is located within the highlands region and is subject to the Highlands Regional Master Plan. Of the Township's 13,169 acres, 78% or 10,502 acres are within the Preservation Area; the Planning area consists of 2,667 acres. The Township's undeveloped affordable housing sites are within the Highlands Planning Area.

Union's Housing Plan supports goals and objectives of the Highlands RMP, including but not limited to, the following:

Goal 6J: ACCOMMODATION OF REGIONAL GROWTH AND DEVELOPMENT NEEDS THROUGH THE REUSE AND REDEVELOPMENT OF PREVIOUSLY DEVELOPED AREAS, INCLUDING BROWNFIELDS, GRAYFIELDS, AND UNDERUTILIZED SITES.

Policy 6J1: To encourage Preservation Area redevelopment of sites with 70% or greater impervious surfaces or a brownfield in areas designated by the Highlands Council as Highlands Redevelopment Areas in accordance with N.J.A.C 7:38-6.6 and 6.7.

Goal 6f: SUPPORT OF COMPACT DEVELOPMENT, MIXED USE DEVELOPMENT AND REDEVELOPMENT AND MAXIMIZATION OF WATER, WASTEWATER AND TRANSIT INFRASTRUCTURE INVESTMENTS FOR FUTURE USE OF LAND AND DEVELOPMENT WITHIN THE EXISTING COMMUNITY ZONE.

Policy 6f7: To encourage redevelopment in the Existing Community Zone as a means to relieve development pressure from more environmentally sensitive areas.

Additionally, the Township's Housing Plan is consistent with the *Highlands Affordable Housing Implementation Guidelines*. The 3 sites designated for affordable housing are occupied with existing nonresidential developments, which is of the preferred affordable housing mechanism within the Highlands Region. In fact, the Highlands Affordable Housing RMP Amendment states the following in regard to "appropriate standards in considering whether vacant land can accommodate five housing units or more".

The Planning Area Existing Community Zone and Lake Community Subzone consists of areas of concentrated development representing existing communities. These areas tend to have limited environmental constraints due to previous development patterns and may have existing infrastructure that can support additional development or redevelopment.



AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING

Union Township's Affordable Housing Ordinance and affirmative marketing plan is in part, but will be further amended to be, consistent with the Fair Housing Act, the Uniform Housing Affordability Control Rules, *N.J.A.C. 5:80-26.1 et seq.*, and the Division of Local Planning Services Fair Housing Act Rules, *N.J.A.C. 5:99*. As of the adoption of this Housing Plan, the latter two are in the process of being amended.

The Township's Affordable Housing Ordinance, Section 207 of the Township Code governs the establishment of affordable homes in the Township as well as regulating the occupancy of such homes. The Township's Affordable Housing Ordinance addresses the phasing of affordable homes, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc. All newly created affordable homes, with limited exceptions, will comply with the affordability control period of 30 years for sale homes or 40 years for rental homes, as required by the Fair Housing Act and the Uniform Housing Affordability Control Rules.

The Township created the position of the Municipal Housing Liaison and appointed a staff member to the position. The consultant affordable housing administrator overseeing any affordable housing development will conduct the administration and affirmative marketing of the applicable affordable housing sites. The affirmative marketing plan will be designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable homes located in the Township. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable homes and who reside in the Township's housing region, Region 3 consisting of Hunterdon, Somerset and Middlesex Counties.

The affirmative marketing plan provides regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and home marketing in accordance with *N.J.A.C. 5:80-26.1 et seq.* This plan must be adhered to by all private, non-profit, and municipal developers of affordable homes and must cover the period of deed restriction or affordability controls on each affordable home.

AFFORDABLE HOUSING TRUST FUND

A development fee ordinance creating a dedicated revenue source for affordable housing was initially approved by COAH in 1994, was amended on January 31, 2011, and was further amended in 2018 and was then approved by Superior Court as part of the Township's third round Judgment of Repose. The ordinance requires residential development fees in the amount of 1% of the equalized assessed value of



the residential development and nonresidential development fees in the amount of 2.5% of the equalized assessed value of the nonresidential development.

The Township's Spending Plan discusses anticipated revenues, collection of revenues, and the use of revenues. Collected revenues are placed in the Township's Affordable Housing Trust fund and may dispensed for the use of eligible affordable housing activities including, but not limited to:

- Rehabilitation program activities.
- New construction of affordable homes and related development costs.
- Extension of expiring affordability controls.
- Purchase market rate homes for conversion to affordable homes.
- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites.
- Acquisition and/or improvement of land to be used for affordable housing.
- Maintenance and repair of affordable homes.
- Repayment of municipal bonds issued to finance low- and moderate-income housing activity.
- Any other activity as specified in the approved spending plan.

As required by the Fair Housing Act, the Township will expend a portion of its collected development fees on affordability assistance to enhance affordability of affordable homes. Additionally, no more than 20% of the revenues collected from development fees each year, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program. As of the adoption of this Housing Plan the Township has exceeded its permitted administrative expenditures and thus must refrain from using the Affordable Housing Trust Fund for that purpose until the 20% maximum is no longer exceeded.