
**AMENDMENT TO THE FOURTH ROUND HOUSING ELEMENT AND FAIR
SHARE PLAN**

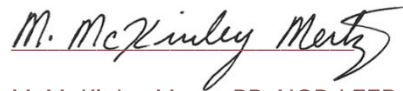
BOROUGH OF SOUTH PLAINFIELD, MIDDLESEX COUNTY, NEW JERSEY

FEBRUARY 24, 2026

ADOPTED BY THE PLANNING BOARD:

MARCH 10, 2026

Prepared By:



M. McKinley Mertz, PP, AICP, LEED Green Associate
License #636800

MJ PLANNING, LLP

Atlantic Highlands, NJ





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INTRODUCTION

The following constitutes an amendment to the Fourth Round Housing Element and Fair Share Plan (“HEFSP”) of the Borough of South Plainfield in Middlesex County, New Jersey. The original Fourth Round HEFSP was prepared by Heyer, Gruel & Associates, and the Borough’s Planning Board adopted the plan on June 24, 2025. The Borough filed the HEFSP with the Affordable Housing Dispute Resolution Program on June 26, 2025, in accordance with the amended Fair Housing Act (“FHA”) (P.L. 2024, c.2).

The amended FHA identified an August 31, 2025 deadline for any interested parties to object to the efforts of municipalities to secure approval of their HEFSPs. Fair Share Housing Center (“FSHC”) filed a challenge to the Borough’s HEFSP on August 20, 2025.

The Borough and FSHC entered into negotiations and agreed to amicably resolve the issues. The parties executed a mediation agreement in December 2025 (attached as Appendix A). The following document constitutes an amendment to the June 2025 HEFSP and is written to reflect the terms agreed to in the December 2025 mediation agreement with FSHC. The Prior and Third Round mechanisms in the June 2025 HEFSP remain unchanged. The section associated with Fourth Round Prospective Need mechanisms are replaced by the following document. As fixed in the April 5, 2025 Decision and Order Fixing South Plainfield’s Obligations, South Plainfield has a Prospective Need of 206 units.

Addressing Fourth Round Prospective Need

The Borough of South Plainfield will meet its Fourth Round obligation through a Vacant Land Adjustment that establishes a realistic development potential and an unmet need. Pursuant to the terms of the December 2025 mediation agreement, the Borough will address its RDP in full and will implement overlay zoning to address its unmet need.

2025 Vacant Land Adjustment

New Jersey municipalities are permitted to seek a reduction in their affordable housing obligation if they can determine that there is an inadequate supply of vacant or developable land within their borders. Pursuant to N.J.A.C. 5:93-4 and the Fair Housing Act, a municipality may file a Vacant Land Adjustment (VLA), which evaluates properties that could reasonably accommodate development. The VLA process establishes the Borough’s Realistic Development Potential (RDP) for additional affordable housing. Any portion of the obligation not accounted for in the RDP is identified as the “unmet need.”

The Borough completed a Vacant Land Adjustment as part of its Third Round compliance process. The Third Round VLA identified 29 parcels considered suitable for development, resulting in an RDP of 30 units. Subsequent settlement agreements with intervenors introduced additional sites, increasing the RDP to 314 units. The Borough then applied 105 allowable rental bonus credits, bringing the final Third Round RDP to 419 units. This RDP and the remaining unmet need were addressed in the Borough’s Third Round HEFSP.

For the Fourth Round obligation, an updated VLA was prepared by Heyer, Gruel & Associated in May 2025 (see Appendix H of the June 2025 HEFSP). This analysis identified three developable parcels that had not been included in the Third Round RDP. These new sites generated an initial Fourth Round RDP of 9 units, resulting in a remaining unmet need of 197 units. As a result of negotiations with FSHC, the Fourth Round RDP has increased from 9 to 37 units with a final Fourth Round unmet need of 169 units.



The amended Fair Housing Act provides that a municipality requesting a VLA must designate enough properties likely to redevelop during the present housing round to accommodate at least 25% of its prospective need obligation, as adjusted. However, the statute does not expressly clarify what constitutes the “adjusted” obligation, since both the RDP and the unmet need already reflect adjustments to the municipality’s total obligation.

This Plan addresses a minimum of 25% of both components and therefore remains neutral with respect to any future interpretation of how the “adjusted” obligation must be satisfied.

Mechanisms to Address the Fourth Round RDP of 37 Units

The Borough will address its RDP of 37 units through an approved inclusionary development and a new affordable housing zone.

Durham Plaza

On March 2, 2022 Durham Plaza, LLC submitted a motion seeking to vacate the Borough’s Third Round Final Judgment. To settle the matter, the Borough and Durham Plaza, LLC executed a Settlement Agreement dated December 16, 2022, which led to the creation of the AH-5 Affordable Housing Zone. The Borough formally adopted the AH-5 Zone on April 17, 2023 through Ordinance 2263. The zone applies to Block 541, Lot 10.02, a 3.399-acre parcel owned by Durham Plaza, LLC.

The AH-5 Zone allows for the construction of a 95-unit inclusionary multifamily residential development, requiring a 20% affordable housing set-aside. Preliminary and Final Site Plan approval for the development was granted by the Borough’s Planning Board on August 12, 2025 (see Appendix B). The site will produce 19 affordable units, consisting of three studio apartments, twelve two-bedroom units, and four three-bedroom units. Of these, two units will be reserved for very low-income families, eight for low-income families, and nine for moderate-income households. In addition to the 19 affordable units, the Borough will receive bonus credits of 0.5 per unit, (10 bonus credits total) because the project is being developed on a commercial property.

All 19 affordable units plus 10 bonus credits shall be applied to the Borough’s Fourth Round RDP. A map of the site is included at the end of this Plan.

Block 541 Lot 10.02 is appropriate for the development of affordable housing as it is available, approvable, developable, and suitable:

- *Available:* The property owner intends to develop the site with inclusionary housing. The site has no easements or title issues preventing development.
- *Approvable:* The site is within the AHO-5 Affordable Housing Overlay 5 Zone, which permits multifamily inclusionary development. Site plan approval was secured from the Planning Board in a resolution dated August 12, 2025 consisting of a development that takes advantage of the AHO-5 provisions for inclusionary development.
- *Developable:* The site is not significantly restrained by environmental features that would meaningfully impact the site’s development. The NJDEP issued an LOI in April 2023 verifying the extent of wetlands on, which have a 50-foot transition area. The extent of these wetlands does not hinder the site’s development. There is an existing underground stormwater retention system that is proposed to remain, and a pump station will connect to an existing sanitary sewer force main on Main Street.



- ***Suitable:*** The approved inclusionary development is consistent with the AHO-5 Zone. The site is along a major thoroughfare, which provides safe access to and from the property. The site is within Planning Area 1: Metropolitan Planning Area, which is a preferred location for municipalities to address their fair share obligation.

Proposed AH-6 Zone

The remainder of the Borough's Fourth Round RDP will be met through the rezoning of underutilized parcels along Durham Avenue in its proximity to its intersection with Hamilton Boulevard: Block 541, Lots 1, 2, 3, 4, 5, 6.01, 13, and 21; and Block 478, Lots 1, 1.02, 2, 3, and 4.01. The properties are either vacant (Lots 1, 1.02, 2, and 3) or currently developed with a mixture of small-scale commercial.

Combined, the properties measure approximately 8.3 acres in size, and pursuant to the December 2025 mediation agreement the new zoning will be permitted to be developed with inclusionary residential development at a density of 10 units per acre with a required 20% affordable set-aside. The zone is designed to yield no less than 17 total affordable housing units; 8 of which will be applied to the Fourth Round RDP. A draft zoning ordinance is attached to this Plan as Appendix C and a map of the proposed zone is found at the end of this section.

Mechanisms to Address the Fourth Round Unmet Need of 169 Units

The Borough will implement the following mechanisms that will provide realistic redevelopment potential to address at least 25% of the 169-unit unmet need, which equals 43 units.

OBC-1 Affordable Housing Overlay Zone Expansion

As part of South Plainfield's Third Round compliance mechanisms, the Council adopted overlay zones over portions of the Borough, including lots in the OBC-1 Local Business Zone. The OBC-1 Affordable Housing Overlay was established via Ordinance 2086 in 2017. The Borough will expand the boundaries of the OBC-1 Affordable Housing Overlay Zone to include additional properties within the underlying OBC-1 Zone. The expanded overlay will include Block 91, Lots 26, 27, and 28 and Block 188, Lots 55, 56, and 57. Under the expanded overlay zoning, these properties will be permitted to be developed with inclusionary residential development at 20 dwelling units per acre with a mandatory 20% affordable housing set-aside. A map of the proposed overlay expansion is found at the end of this section.

At this density, the subject properties will produce no less than 34 affordable housing units to be attributed to the Fourth Round unmet need. This Plan notes that future bonus credits may be available once development is realized.

Proposed AH-6 Zone

The remaining 9 units that will result from the rezoning of the AH-6 Zone will be attributed to the Fourth Round unmet need. This Plan notes that future bonus credits may be available once development is realized.

Proposed OBC-3 Affordable Housing Overlay Zoning

The Borough will enact new overlay zoning over Block 254 Lot 1.04. This site measures approximately 2.58 acres in size and is located on Case Drive, adjacent to the Golden Acres Shopping Center on Oak Tree Avenue. The site is currently a surface parking lot, with impervious surface covering the majority of the lot.



The overlay zoning will permit either inclusionary or 100% affordable residential development at a density of 16 dwelling units per acre. For inclusionary projects, a mandatory set-aside of 20% will be provided. Units produced from this overlay will go above and beyond the requirement to plan for 25% of the unmet need. A map of the proposed overlay expansion is found at the end of this section.

Additional Unmet Need Measures

Borough-Wide Mandatory Affordable Set-Aside

In 2017, via Ordinance 2098, South Plainfield established a Borough-wide mandatory affordable set-aside requirement for multifamily developments producing five or more units at a density of at least 6 units per acre. Ordinance 2098 established a required 15% set-aside for rental developments and a 20% set-aside for for-sale development. These set-asides were set in accordance with best practices for Prior and Third Round set-aside ordinances. The amended Fair Housing Act along with the amended Uniform Housing and Affordability Controls now requires a set-aside ordinance to establish a 20% set-aside for all projects. The Borough will adopt a new Affordable Housing Ordinance and Development Fee Ordinance in association with the new standards, including the 20% set-aside.

Priority Sites in the HDD Affordable Housing Overlay

The December 2025 mediation agreement states that additional lots within the existing HDD Affordable Housing Overlay District (over the HDD Historic Downtown District Zone) are appropriate to target for future inclusionary or 100% affordable development. These specific sites are located at Block 254.06 Lots 49-52 and Block 258 Lots 1-6, 6.01, 7, 9, and 11. They are already within the existing HDD Affordable Housing Overlay Zone that permits affordable development at a density of 20 dwelling units per acre in four-story buildings. The Overlay Zone was adopted in 2017 via Ordinance 2086 and the zone standards are found at Section 540-52.1 of the Borough's Code.

While the entire HDD Overlay allows for residential development with an affordable set-aside, these lots are currently developed with single- to two-story commercial and mixed-use structures and are appropriate to target as priority sites for mixed-use buildings with an affordable housing component. A map of the existing HDD Overlay and the subject properties is attached at the end of this Plan.



Fourth Round Summary

Summary of South Plainfield's Fourth Round Obligation of 206		
RDP 37		
	Affordable Units	Bonus Credits
Durham Plaza (AH-5 Zone) – Inclusionary Development Block 541, Lot 10.02	19	10
Proposed AH-6 Zone – Inclusionary Development Block 541, Lots 1, 2, 3, 4, 5, 6.01, 13, and 21; and Block 478, Lots 1, 1.02, 2, 3, and 4.01 (Durham Ave / Hamilton Blvd)	8	TBD
<i>Subtotals</i>	<i>27</i>	<i>10</i>
Round Four RDP Total	37	
Unmet Need: 169 25% Requirement: 43		
	Affordable Units	Bonus Credits
Proposed OBC-1 Overlay Expansion – Inclusionary Development Block 91, Lots 26, 27, and 28 and Block 188, Lots 55, 56, and 57	34	TBD
Proposed AH-6 Zone – Inclusionary Development Block 541, Lots 1, 2, 3, 4, 5, 6.01, 13, and 21; and Block 478, Lots 1, 1.02, 2, 3, and 4.01 (Durham Ave / Hamilton Blvd)	9	TBD
Proposed OBC-3 Overlay Zone – Inclusionary or 100% Affordable Block 254 Lot 1.04	TBD	TBD
Mandatory Borough-Wide Affordable Set-Aside Ordinance 20% requirement for multifamily developments producing five or more units at a density of at least 6 units per acre	TBD	TBD
HDD AH Overlay Priority Sites – Inclusionary Mixed-Use Block 254.06 Lots 49-52 and Block 258 Lots 1-6, 6.01, 7, 9, and 11	TBD	TBD
<i>Subtotals</i>	<i>43+</i>	<i>TBD</i>
Round Four Unmet Need Total	43+	



Existing AH-5 Zone & Proposed AH-6 Zone South Plainfield, NJ

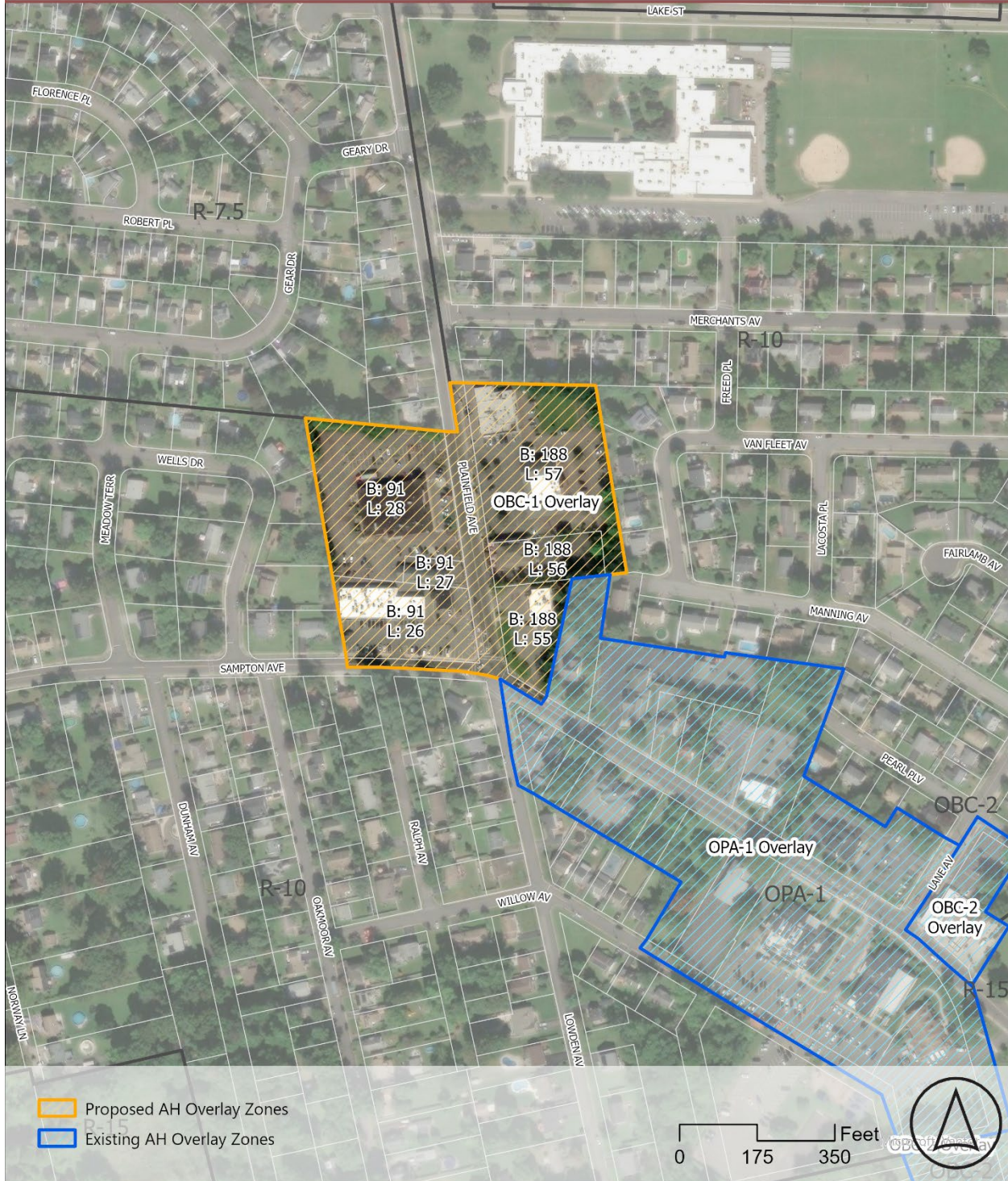
February 2026





OBC-1 Affordable Housing Overlay Zone South Plainfield, NJ

February 2026







HDD Affordable Housing Overlay Zone
Block 254.06, Lots 49-52 & Block 258, Lots 1-6, 6.01, 7, 9, & 11
South Plainfield, NJ

February 2026



APPENDIX A

Mediation Agreement before the Affordable Housing Resolution Dispute Program

RESOLUTION 25-389

**AUTHORIZING EXECUTION OF A MEDIATION AGREEMENT
RESOLVING THE CHALLENGE TO THE BOROUGH'S HOUSING
ELEMENT AND FAIR SHARE PLAN**

WHEREAS, an Order was entered by the Superior Court on April 4, 2025 setting the Borough's Fourth Round Fair Share obligations; and

WHEREAS, the Borough filed a Housing Element and Fair Share Plan on June 26, 2025; and

WHEREAS, Fair Share Housing Corporation filed a challenge to the Borough's plan on August 20, 2025; and

WHEREAS, the Borough is participating in the Affordable Housing Dispute Resolution Program established by the State; and

WHEREAS, the Borough and FHSC have agreed to amicably resolve the issues set forth in the challenge and have set forth the terms of such in the attached Mediation Agreement which if approved by the Court, will result in a compliance certification for the Borough for the Fourth Round;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey that they do hereby approve the Mediation Agreement resolving the challenge of FSHC to the Borough's Housing Element and Fair Share Plan in the form attached hereto and authorize the Mayor to execute same on behalf of the Borough of South Plainfield.

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga		X	X				
Councilwoman Faustini			X				
Councilwoman Mott	X		X				
Councilman Smith						X	
Councilman Wolak			X				
Council President White			X				
			5	0			
Mayor Anesh – TIE ONLY							

I do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Mayor and Borough Council of South Plainfield Borough on December 22, 2025

Amy Antonides

Amy Antonides, RMC/CMC/CMR
Municipal Clerk – South Plainfield Borough

MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE
RESOLUTION PROGRAM

In the Matter of the Application of the Borough of South Plainfield, County of Middlesex
Docket No. MID-L-458-25

WHEREAS, the Borough of South Plainfield (the “Borough” or “South Plainfield”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-391 et. Seq. (the “Fair Housing Act”) on January 23, 2025; and

WHEREAS, the Court entered an order on April 4, 2025 setting the Borough’s Fourth Round fair share obligations as a Present Need of 54 units and a Prospective Need of 206 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 26, 2025 (“Adopted HEFSP”); and

WHEREAS, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s HEFSP on August 31, 2025; and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

THEREFORE, the Borough and FSHC agree:

Fair Share Obligations

1. The Borough's Present Need or Rehabilitation Obligation is 54, the Borough's Prior Round Obligation (1987-1999) is 342, the Borough's Third Round Obligation (1999-2025) is 538, the Borough's Fourth Round Prospective Need (2025-2035) is 206.

Satisfaction of Fair Share Obligations

2. The Borough will address its Present Need via a Borough-wide rehabilitation program and affordability assistance program, administered by Piazza & Associates.
3. The Borough's Prior Round Obligation is 342 and has been met with the following mechanisms: three (3) inclusionary developments with rental units for families, two (2) group homes, one (1) 100% affordable age-restricted development, completed credits without controls, and through a Regional Contribution Agreement with the City of New Brunswick.

Summary of South Plainfield's Prior Round of 342		
Site Name	Units	Bonus Credits
South Plainfield Senior Residences <i>Senior Rental</i>	80	4
The Highlands at South Plainfield / The Villages <i>Family Rental</i>	38	38
Woodland Manors / Pomponio Avenue <i>Family Rental</i>	32	32
Woodland Avenue <i>Group Home</i>	4	-
Keystone Community Residence <i>Group Home</i>	29	-
Harris Steel / Tyler Properties <i>Family Rental</i>	9	9
Credits Without Controls	10	-
Regional Contribution Agreement	57	-
Total Prior Round		342

4. The Borough's Third Round Obligation is 538 and is met, in part, through a vacant land adjustment. The Borough's approved Third Round RDP was 419, and was subsequently

adjusted to 371 after updates were proposed for the Harris Steel site. The adjusted RDP of 371 has been met with the following mechanisms: additional senior rental credits carried over from two Prior Round developments, one (1) new inclusionary development with rental units for seniors, two (2) inclusionary developments with rental units for families, and one (1) affordable two-family dwelling.

Summary of South Plainfield's Third Round of 538		
Adjusted RDP = 371		
Site Name	Units	Bonus Credits
South Plainfield Senior Residences <i>Senior Rental</i>	20	-
JSM at Tingley / Celebrations at South Plainfield <i>Senior Rental</i>	68	-
Harris Steel / Tyler Properties <i>Family Rental</i>	105	93
Lordina Builders <i>Family Sale</i>	2	-
Motorola Site <i>Family Rental</i>	82	-
Mastrocola Site <i>Family Rental</i>	1	-
Total Adjusted Third Round RDP	371	

5. Consequently, the approved Third Round Unmet Need obligation was also adjusted, from 119 to 167. This Unmet Need is met with the following mechanisms: one (1) group home, four (4) overlay districts, and the Borough-Wide Mandatory Set-Aside Ordinance.

Adjusted Unmet Need = 167		
	Units	Bonus Credits
134 Waverly Place – Keystone Community Living <i>Group Home</i>	5	-
OBC-1 Affordable Housing Overlay District Site 13: 1335 W. 7 th Street <i>Family Rental</i>	TBD	TBD
OBC-2 Affordable Housing Overlay District	TBD	TBD
OPA-1 Affordable Housing Overlay District	TBD	TBD
HDD Affordable Housing Overlay District	TBD	TBD
Mandatory Set-Aside Ordinance	TBD	TBD

6. The Borough’s Fourth Round Prospective Need Obligation is 206 and shall be met, in part, with a vacant land adjustment. Based upon discussions with the Borough and Fair Share Housing Center, it was determined that the Borough’s Fourth Round RDP increased from 9 to 37.
7. The Borough’s RDP of 37 will be met with the following mechanisms: inclusionary developments at the Durham Plaza site and on additional parcels along Durham Avenue in proximity to its intersection with Hamilton Boulevard.

Addressing South Plainfield’s Fourth Round RDP of 37					
Mechanism	Type	Affordable Units	Bonus Credits	Tenures	Status
Durham Plaza (Block 541, Lot 10.02)	Inclusionary Development	19	10	Bedroom Breakdown: (3) Studios (12) 2-Bed (4) 3-Bed Income Range for Family Rental Units: (2) Very-low (8) Low (9) Moderate	Preliminary and final major site plan approval for the development was granted by the Borough’s Planning Board on August 12, 2025.
Underutilized properties along Durham Avenue, near intersection with Hamilton Boulevard (Block 541, Lots 1, 2, 3, 4, 5, 6.01, 13, and 21, and Block 478, Lots 1, 1.02, 2, 3, and 4.01)	Inclusionary Development	8.3 acres, applied gross residential density of 10 dwelling units per acre, with a mandatory 20% affordable set-aside: 17 total affordable units: 8 units applied to RDP	TBD	TBD	Rezoning Ordinance to be created
Total		27	10		
Total Credits		37			

8. The Borough’s Fourth Round Unmet Need is 169. The amended Fair Housing Act requires the Borough to provide "realistic zoning" on sites that are "likely to redevelop" for at least 25% of the Unmet Need requirement (i.e., 43 units). This 25% requirement is addressed with the following mechanisms:

Addressing South Plainfield’s Fourth Round Unmet Need of 169					
25% Requirement of 43					
Mechanism	Type	Affordable Units	Bonus Credits	Tenures	Status
Proposed OBC-1 Affordable Housing Overlay Zone Expansion (Block 91, Lots 26, 27, and 28; and Block 188, Lots 55, 56, and 57)	Inclusionary Development	8.5 acres total, applied gross residential density of 20 dwelling units per acre, with a mandatory 20% affordable set-aside: 34 affordable units	TBD	TBD	Rezoning Ordinance to be created
Durham Avenue/ Hamilton Boulevard (Block 541, Lots 1, 2, 3, 4, 5, 6.01, 13, and 21, and Block 478, Lots 1, 1.02, 2, 3, and 4.01)	Inclusionary Development	Remaining 9 affordable units	TBD	TBD	Rezoning Ordinance to be created
Existing Mandatory Set-Aside Ordinance	Inclusionary Development	TBD			
Total		43	TBD		

The sites located within the proposed OBC-1 Affordable Housing Overlay Zone Expansion are likely to redevelop in the future, as they are already developed with extensive surface parking lots and commercial establishments. The introduction of an overlay onto these sites which promotes mixed-use commercial and multifamily residential development will not only maintain a commercial presence on these lots but also optimize their potential to accommodate higher-density development. The underutilized lots along Durham Avenue, in proximity to Hamilton Boulevard are also likely to redevelop, due to their prime location and their underutilization.

9. Further, Lot 1.04 of Block 254 may be considered in the future to address the remainder of the Borough’s Unmet Need (i.e., beyond the 25% requirement). Additional lots to consider addressing the remaining Unmet Need obligation include Lots 49-52 on Block 254 and Lots 1-6, 6.01, 7, 9, and 11 within Block 258, within the HDD Historic Downtown District Zone. The Borough’s existing Mandatory Set-Aside Ordinance will also be utilized as a mechanism to address the remaining Fourth Round Unmet Need.

Remaining Fourth Round Unmet Need Obligation of 126					
Mechanism	Type	Affordable Units	Bonus Credits	Tenures	Status
Block 254, Lot 1.04	Inclusionary or 100% Affordable Development	TBD			Rezoning Ordinance to be created
Block 254, Lots 49-52 and Block 258, Lots 1-6, 6.01, 7, 9, and 11	Inclusionary or 100% Affordable Development	TBD			Rezoning Ordinance to be created
Existing Mandatory Set-Aside Ordinance	Inclusionary Development	TBD			

Unit Type and Income Distribution Requirements

10. The Borough and FSHC agree that the Borough’s HEFSP as presented above satisfies the following standards set forth in P.L. 2024, c. 2, including but not limited to, with respect to the following, and that the Borough shall maintain satisfaction with such requirements for the Fourth Round:

- a. Age Restricted Cap. The Borough agrees that it shall not exceed the age-restricted cap found in N.J.S.A. 52:27D-311(l), which requires age-restricted units to be capped at 30 percent of the overall Fourth Round affordable housing units that address the Fourth Round Prospective Need obligation exclusive of any bonus credits.

- b. Family units. Pursuant to N.J.S.A. 52:27D-211(l), the Borough shall satisfy a minimum of 50 percent of the actual affordable housing units, exclusive of any bonus credits created to address its Fourth Round Prospective Need affordable housing obligation through the creation of housing available to families with children and otherwise in compliance with the requirements and controls established pursuant to Section 21 of P.L.1985, c.222 (C.52:27D-321).
- c. Rental and family rental units. Pursuant to N.J.S.A. 52:27D-311(l), at least 25 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its Prospective Need affordable housing obligation shall be addressed through rental housing, including at least half as available to families with children.
- d. Very low-income units. Pursuant to N.J.S.A. 52:27D-329.1, 13 percent of all affordable units referenced in this Agreement addressing the Borough's Prospective Need obligation shall be very low-income units for households earning 30 percent or less of the regional median income, with half of the very low-income units being available to families.
- e. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311(a) and (b), and all other applicable law.
- f. All Prior Round and Third Round compliance shall continue to meet with the applicable percentages and standards for bonuses, family and senior housing, rental and family rental, very low-income units, and adaptability set forth in any prior settlement agreement between FSHC and the Borough, statutory requirements, and the Prior Round and Third Round regulations.

11. In all developments that produce affordable housing, the Borough and FSHC agree that, unless varied by a prior court order of the trial court, the below terms shall apply:

- a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. (“UHAC”), including but not limited to the required bedroom and income distribution, length of affordability controls, and phasing of affordable units.
- b. The applicability of the updated form of UHAC versus the prior form of UHAC shall be as set forth in the statute and most current form of UHAC adopted by HMFA. Any terms of a prior agreement, judgment, or grant of substantive certification as to prior round of obligations modifying UHAC as to affordability controls longer than the now current regulations or as to very low-income units shall remain in effect as to those prior rounds of obligations.
- c. The Borough agrees that in order to meet the low-income and very low-income requirement of the Fair Housing Act, it shall adopt an ordinance requiring for all affordable housing developments in its HEFSP that 50 percent of the affordable units within each bedroom distribution shall be required to be for low-income households earning 50 percent or less of the regional median income, including 13 percent of the affordable units within each bedroom distribution shall be required to be for very low-income households earning 30 percent or less of the regional median income.
- d. The Borough agrees to review its Affordable Housing Ordinance and other ordinances to ensure that it complies with the most up to date requirements of

UHAC and revise those ordinances accordingly as part of its Fourth Round HEFSP and implementing ordinances.

- e. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law. The affirmative marketing plan shall include the following community and regional organizations:
 - i. Coming Home of Middlesex County, New Brunswick, NJ
 - ii. Supportive Housing Association, Middlesex, NJ
 - iii. Triple C Housing, North Brunswick, NJ
 - iv. Mission First Housing Group, Edison, NJ
 - v. Garden State Home, Highland Park, NJ

Process for Approval and Implementation

12. Pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, the municipality and FSHC recognize that the Program and/or county level housing judge must still review this agreement and the resulting HEFSP and implementing ordinances and resolutions for compliance with the Fair Housing Act prior to issuing a compliance certification, as follows:

- a. The Borough and FSHC shall present this mediation agreement to the Program member for review upon full execution by both parties.
- b. The Program Member shall review the agreement and if satisfied with compliance with the Fair Housing Act shall refer this matter to the Mount Laurel judge for

review and entry of certification of compliance, conditioned on adoption of all implementing ordinances and resolutions.

- c. The Borough shall adopt all implementing ordinances and resolutions no later than March 15, 2026, including but not limited to the outstanding items identified in the next paragraph. No later than 48 hours after adoption or March 15, 2026, whichever is sooner, the Borough shall file the information required by Paragraph 12 and any other adopted ordinances and resolutions on eCourts.
- d. No later than April 15, 2026, the Borough and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
- e. Both parties agree to implement the terms of this Agreement. If the Program, county level housing judge, or any appellate court rejects this Agreement, the parties reserve their right to rescind any action taken in anticipation of the Program's approval and return to status quo ante. All parties shall have an obligation to fulfill the intent and purpose of this Agreement, unless to do so would be inconsistent with the final, unappealable adjudication of any Program or court ruling or judgment. The terms of this agreement may be enforced through an enforcement motion in this declaratory judgment or a separate action before the Program or the Superior Court, Law Division.

13. The Borough and FSHC agree that following conditions remain to be met prior to March 15, 2026 as conditions of compliance certification, and that the municipality shall provide these documents to FSHC in draft form.

- a. The Borough will adopt an amended HEFSP with an updated RDP calculation and additional unmet need mechanisms.
- b. The Borough will adopt updated overlay zoning ordinances for:
 - i. The underutilized properties along Durham Avenue, near intersection with Hamilton Boulevard (Block 541, Lots 1, 2, 3, 4, 5, 6.01, 13, and 21, and Block 478, Lots 1, 1.02, 2, 3, and 4.01)
 - ii. OBC-1 Affordable Housing Overlay Zone Expansion (Block 91, Lots 26, 27, and 28; and Block 188, Lots 55, 56, and 57)
 - iii. Block 254, Lot 1.04
 - iv. Block 254, Lots 49-52 and Block 258, Lots 1-6, 6.01, 7, 9, and 11
- c. The Borough will provide the deed restrictions for JSM at Tingley, Motorola site, and the Mastrocola site.
- d. The Borough will adopt a Fourth Round Spending Plan in accordance with P.L. 2024, c. 2 and the forthcoming regulations at N.J.A.C. 5:99.
- e. The Borough will update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents in accordance with the forthcoming regulations at N.J.A.C. 5:80-26.1, et seq., and N.J.A.C. after they are adopted and before March 15, 2026.

14. The Borough and FSHC recognize that substantial changes in circumstances affecting the Borough's RDP are possible pursuant to the holding in Fair Share Housing Center v.

Cherry Hill, 173 N.J. 393, (2002) and related law. In the event such a substantial changed circumstance occurs, the Borough shall have one hundred twenty (120) days to present to the trial court and FSHC a plan to address such change in circumstances on notice and opportunity to be heard from FSHC. The Borough agrees that any additional RDP generated due to changed circumstances must be addressed in a manner that is consistent with controlling law.

15. The Borough's Compliance Certification shall be subject to required ongoing monitoring as follows:

- a. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1st to December 31st.
- b. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and

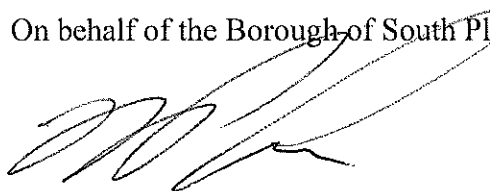
expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations.

- c. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Borough or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.
16. This Agreement may be executed in counterparts, all of which together shall constitute the same agreement, and any exhibits or schedules attached hereto shall be hereby made a part of this Agreement. This Agreement shall not be modified, amended or altered in any way except by a writing signed by each of the parties. Each party acknowledges that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each signatory is the proper person and possesses the authority to sign the Agreement, and that this Agreement was not drafted by any one of the parties, but was drafted, negotiated and reviewed by all parties, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any

respect, such determination shall not affect the remaining sections. No member, official or employee of the municipality shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

On behalf of the Borough of South Plainfield:

On behalf of Fair Share Housing Center:



Matthew P. Anesh, Mayor

Date: December 22, 2025

Date:

APPENDIX B

Durham Plaza, LLC Planning Board Resolution of Approval

RESOLUTION

BOROUGH OF SOUTH PLAINFIELD

PLANNING BOARD

Application Number: PB#821

Applicant: Durham Plaza, LLC

Applicant's Address: 210 Mountain Boulevard, Watchung, N.J. 07069

Owner: Durham Plaza, LLC

Property Address: 110-136 Durham Avenue, South Plainfield, N.J. 07080

Tax Map Designation: Block 541, Lot 1.02

Zone: AH-5

Applicant's Attorney: Derek Orth, Esq.
Inglesino Taylor, LLC

Whereas, Durham Plaza, LLC ("applicant"), has applied to the Board for (c)(2) bulk variance and preliminary and final major site plan relief to permit the construction of a new inclusionary housing project on the property designated as Block 541, Lot 1.02 in the Borough tax records (including a certain portion of the vacated paper street known as Texas Avenue) and better known as 110-136 Durham Avenue in the Borough ("site" or "property"); and

Whereas, the Board met in compliance with the Open Public Meetings Act ("OPMA") and the Municipal Land Use Law ("MLUL"), holding a public hearing on March 11, and May 27, 2025; and

Whereas, after considering the testimony and allowing the opportunity for public questions and comments, the Board has made the following findings of fact and conclusions of law:

Findings

1. The applicant submitted the required affidavits of publication and affidavits of service, which the Board's attorney determined gave the Board jurisdiction to hear the application.
2. The subject property is located at 110-136 Durham Avenue and is comprised of Block 541, Lot 1.02 as identified on the Borough of South Plainfield Tax Map. The application is for the demolition of the existing strip mall and construction of a new inclusionary housing development consistent with the Borough's AH-5 affordable housing zone. Preliminary and Final Major Site Plan approval is required with the use being permitted, but the following bulk variances are required:

<u>Variance</u>	<u>Existing</u>	<u>Proposed</u>	<u>Permitted</u>	<u>Citation</u>
Min. Sign Setback (Durham)	N/A	6.6ft. ¹	15ft.	540-54(A)(5)
Min. Sign Setback (Main St.)	N/A	6.85ft.	15ft.	540-54(A)(5)

3. As part of its application, the applicant submitted the following plans and documents, which the Board considered as part of the record:
 - Borough of South Plainfield Planning Board Application, with application rider, checklists, waiver requests, settlement agreement, and other required attachments.
 - Survey of Property, prepared by David Von Steenburg, PLS, of Morgan Engineering & Surveying, consisting of one (1) page, dated November 10, 2023.
 - Site Plans, prepared by David A. Stires, P.E., dated December 11, 2024, last revised May 5, 2025, and consisting of thirteen (13) sheets, replacing a prior plan set submitted by the applicant.
 - Architectural Plans, prepared by John Saracco, AIA, dated November 30, 2023, last revised February 14, 2024, and consisting of seven (7) sheets,
 - Stormwater Calculations Report & Stormwater Report Addendum, last revised May 2025.
 - Response Letters from applicant's engineer(s).
 - Pump Station Calculations.

¹ After the applicant agreed during the second public hearing to close the Durham Avenue access point, the sign was relocated to the fence along Durham Avenue and is now setback approximately two feet from the property line.

- Ecological Resources Inventory and Impact Assessment, prepared by Eastern States Environmental.
 - Traffic Assessment Report, prepared by Stonefield Engineering & Design.
4. The Board reviewed a record of prior resolutions, deeds, and permits affecting the property.
 5. The Board also received the following professional and agency correspondence, which the Board considered as part of the record:
 - "Third Engineering Review" prepared by Board Engineer Andrew W. Denbigh, PE, CME, CFM, of T&M Associates, dated May 22, 2025, and consisting of twenty (20) pages.
 - "Second Planning Review" prepared by Board Planner, Caroline Z. Reiter, P.P., A.I.C.P., of T&M Associates, dated February 7, 2025, and consisting of thirteen (13) pages.
 6. The applicant also provided the following exhibits during the course of the hearing:
 - A-1 – Colorized Site Plan Rendering;
 - A-2 – Colorized Site Plan Rendering (Revised).
 7. Derek Orth, Esq., entered his appearance on behalf of the applicant. Mr. Orth gave an overview of the application and introduced the witnesses on whose testimony the applicant relied. Mr. Orth noted this project was part of a Mt. Laurel settlement in 2022.

Engineering Testimony

8. To present engineering testimony, the applicant called David Stires, P.E., who was duly sworn according to law. The Board accepted his credentials in the field of engineering, found his testimony generally credible, and generally accepted his testimony as fact.
9. Mr. Stires, using Exhibit A-1, oriented the Board to the site, which includes Durham Avenue to the east, Main Street to the west, Route 287 to the south, and Hamilton Boulevard to the north, and the site is surrounded by other commercial and industrial uses. The site is approximately 3.3 acres containing an existing strip mall and parking. There is a right-in-right-out access drive off of Durham to provide primary access.
10. The site is located in the AH-5 overlay zone permitting inclusionary development, and the project is proposed due to substantial vacancy in the existing strip mall. The site is

served by an existing underground stormwater management system and does have access to sewer, public water, and gas. Isolated wetlands exist along the southern portion of the site.

11. The proposal is for a 95-unit, four-story, U-shaped apartment building with 19 inclusionary units. Each side of the U-shape will have access plus a main lobby. A parking garage is proposed with 79 parking spaces, plus 94 parking spaces outside. The building will measure 38,111 square feet in footprint and be 52.4 feet in height. New signage and curbing is proposed, together with ADA sidewalks and ADA parking spaces. 12 EV parking spaces are also proposed. Mr. Stires went through the two bulk variances and minor design waiver relief required as part of the application. Two signs, deficient in setback, will exist along Durham and Main Street, respectively.
12. The existing stormwater management system will be utilized and protected during construction. Impervious coverage onsite will be reduced from 68% to 56.3%, meaning the project does not constitute a major development under NJDEP's stormwater rules. A new force main and pump system is proposed to enhance existing access to sewer, and the applicant has approached New Jersey American Water to confirm water service. Back shielded LED lights are proposed for lighting.
13. Mr. Stires discussed the proposed amenities for the facility, including a gazebo, pickleball court, and BBQ patio area. A gym and a game room are proposed inside the facility. The application continued to the May 2025 hearing date to address certain comments from the Board, including the provision of a tot lot instead of a proposed bioretention system, due to the existing system's sufficiency under the stormwater rules.
14. Using A-2 at the second hearing, Mr. Stires took the Board again through the proposal, which, after consultation with the Board and its professionals, eliminates access off of Durham for the development and instead includes a full movement driveway off of Main Street. The Durham entrance will now be gated and improved only with grass pavers for fire access. These changes also resulted in four additional parking spaces and a modest decrease from the original proposal in impervious coverage from 56.3% to 54%. A bus pick-up spot is also proposed.
15. To present traffic engineering testimony, the applicant called Nicholas Kennedy and then Andrew Vischio, who were duly sworn according to law. The Board accepted their credentials in the field of traffic engineering, found their testimony generally credible, and generally accepted their testimony as fact.
16. Mr. Kennedy noted that his office had submitted a traffic report and that the fully occupied strip mall would generate greater traffic during peak hours than the proposed apartment complex. As a result, this is not a traffic impact the NJDOT would consider significant. At the subsequent hearing, Mr. Vischio discussed the impacts of having the

site mainly accessed off of Main Street, including the movements that could then be made on Hamilton Blvd from Main Street. Mr. Vischio also confirmed that adequate parking was provided under the RSIS standards.

Architectural Testimony

17. To present architectural testimony, the applicant called John Saracco, AIA, who was duly sworn according to law. The Board accepted his credentials in the field of architecture, found his testimony generally credible, and generally accepted his testimony as fact.
18. Mr. Saracco described the layout of the buildings. 95 total units are proposed with 19 inclusionary units (3 studios, 12 2-bedroom, 4 3-bedroom). There is a drop-off area in front of the building with two lobbies and amenity spaces between the two lobbies. Then, there is an entrance at each wing of the building with elevators and emergency egress stairs. Each unit will have its own hot water, HVAC, and washer/dryer, thus no HVAC is proposed on the roof. A trash chute on each floor descends to the first floor in a dedicated area, and the garbage is rolled out twice a week for collection from a private hauler. A second-floor patio space is also proposed. Mr. Saracco described the materials of the building and noted the conforming height. He also discussed the variances and waivers required as part of the application. A live-in supervisor will manage the property, and a lengthy discussion was had on how to handle the EV spaces in the garage.

Board Professionals/Outside Agencies

19. The Board Engineer, Andrew W. Denbigh, PE, CME, CFM, prepared a review memorandum dated May 22, 2025. The applicant addressed all issues in that memorandum and agreed to provide all materials requested and comply with all recommendations in that memorandum contained therein as conditions of approval.
20. The Board Planner, Caroline Reiter, PP, AICP, prepared a review memorandum dated February 7, 2025. The applicant addressed all issues in the memorandum and agreed to provide all materials requested and comply with all recommendations contained therein as conditions of approval.

Public Comments

21. No members of the public appeared to ask questions of the applicant or comment upon the application. The applicant then stipulated to the conditions of approval outlined herein after recitation from the Board attorney.

Conclusions

1. After hearing the testimony presented and reviewing the documentary evidence, the Board is satisfied that the applicant has met the requirements for variances under N.J.S.A. 40:55D-70(c)(2) for the deviations from the Borough's sign setback requirements. Said variance relief is hereby **GRANTED** for the following reasons:

- a. (c)(2) Bulk Variances:

As to the positive criteria under N.J.S.A. 40:55D-70(c)(2) governing the requested variances for deficient sign setbacks, the Board finds the application furthers the purposes of the MLUL and that the benefits of granting the requested variances substantially outweigh any detriment.

The Board agrees that the application furthers purpose (a) of the MLUL in that the application promotes the public health, safety, and general welfare. The application results in the provision of affordable housing and the sign locations are designed so as to allow for safe access and identification of the site at their resultant setbacks. No detriment could be gleaned as part of this requested relief.

The Board also finds that the applicant met its burden under the negative criteria, that is, that the variances can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. As noted above, there is virtually no detriment arising from this proposal, with the sole concern of the Board being adequate site access, with which the imposition of conditions can be ameliorated. The Board cannot conclude that there will be substantial detriment to the public good but rather that this embraces the intent and spirit of the AH-5 overlay zone in providing inclusionary housing. Thus, this is not a substantial impairment of the purposes of zoning.

- b. The Board is therefore satisfied that the applicant has met the requirements for (c)(2) variances, and determines that such relief should be **GRANTED**. Any design waivers as noted in the planning report (one foot deficiency for drive aisle and setback of any paving) are also hereby granted for substantially the same reasons as outlined for the variance relief. The Board finds those waivers reasonable and appropriate to contribute to the adequacy of onsite parking and safe access.
- c. Thus, subject to the conditions herein, and based upon the Board's determination to grant the above variances and waivers, the Board determines that the application is hereby **GRANTED**;

THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of South Plainfield that the applicant's request for site plan approval with variance relief and applicable waivers is hereby **GRANTED**, subject to the following conditions:

Conditions

1. The variances are granted in accordance with the variance chart provided in Paragraph 2 of the "Findings" section of this resolution.
2. The applicant shall comply with the recommendations in the Board Engineer's and Board Planner's review memoranda dated May 22, 2025, and February 7, 2025, respectively.
3. The applicant shall provide an updated traffic study after one (1) year post-occupancy of the development.
4. The applicant shall work with the County on any trimming required for vegetation at the intersection of Main Street and Hamilton Blvd.
5. The onsite playground shall meet all applicable rules and regulations.
6. The applicant shall obtain a Main Street mailing address for the development.
7. The applicant shall provide details of onsite lighting, including the back shields discussed in testimony, on the plans and ensure compliance with applicable rules and regulations.
8. The applicant shall install concrete walls next to the four (4) reconfigured EV parking in the garage, together with other safety measures, to the satisfaction of the Borough fire department. In the event the fire department is not satisfied, the spaces shall be relocated outside.
9. The applicant shall provide a bus stop by the Main Street entrance to the site and shall afford the Borough Title 39 jurisdiction.
10. The applicant shall obtain approval for its sewer design and comply with all reasonable recommendations from the Borough Engineer with regard to the pump station design and operation.
11. The applicant shall enter into a developer's agreement in a form satisfactory to the Borough Attorney, this shall include an inspection of the onsite stormwater management facilities to the satisfaction of the Borough Engineer.
12. The applicant shall post all required performance guarantees, engineering, maintenance and inspection fees as may be applicable and required pursuant to the MLUL. These amounts shall be calculated by the Board Engineer.
13. The applicant shall comply with the approved plans as revised to comply with this resolution.

14. All taxes, fees, escrows, assessments and other monies due to the Borough of South Plainfield (including the sewer connection fee) shall be paid in full.
15. The applicant shall pay the fees of the Board professionals including, but not limited to the Board Attorney, Board Engineer and Board Planner.
16. The applicant shall obtain approval from any other governmental agencies or utility providers with jurisdiction relating to the property or this application, if necessary, including, but not limited to the NJDEP, Middlesex County Planning Board, New Jersey American Water, and the Freehold Soil Conservation District.
17. The applicant shall comply with all rules, regulations, statutes and ordinances of the United States of America, State of New Jersey, County of Middlesex, and Borough of South Plainfield.
18. The premises in question shall be developed consistent with the plans offered by and the testimony given by the applicant and the applicant's professionals, even if said testimony is not specifically identified as a condition herein.

Failure to comply with any of the conditions listed above will render the approval granted by this resolution void.

MOTION TO APPROVE APPLICATION:

Motion: Mocharski Second: Lepore

In Favor: Anesh, Smith, Bythell, Butrico, Campagna, Mocharski, Lepore, Sayers, Houghton, Ackerman

Opposed: None

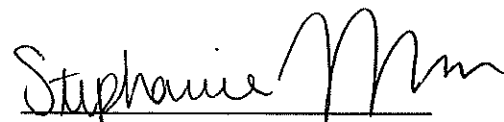
MOTION TO ADOPT RESOLUTION:

Motion: Lepore Second: Smith

In Favor: Smith, Bythell, Butrico, Campagna, Mocharski, Lepore, Sayers, Houghton, Ackerman.

Opposed: None

The undersigned Secretary of the Borough of South Plainfield Planning Board does hereby certify that the within resolution of memorialization was adopted by this Board pursuant to N.J.S.A. 40:55D-10(g) at its meeting on August 12, 2025.


Stephanie Merola, Board Secretary