

RESOLUTION
Borough of Kinnelon
Planning Board
Fourth Round Housing Element and Fair Share Plan
Decided on June 19, 2025
Memorialized on June 19, 2025

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 which amended various provisions of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq. ("Amended FHA")); and

WHEREAS, the Amended FHA sets forth that the Fourth Round period of affordable housing obligations shall run from July 1, 2025 through June 30, 2035; and

WHEREAS, the Amended FHA requires, among other things, that municipalities prepare and adopt a Housing Element and Fair Share Plan on or before June 30, 2025;

WHEREAS, the Planning Board of the Borough of Kinnelon, County of Morris, State of New Jersey (the "Board"), has reexamined its Master Plan pursuant to N.J.S.A. 40:55D-89 et seq.; and

WHEREAS, as a result of that reexamination, and the passage of the Amended FHA, the Board has determined to adopt a Housing Element and Fair Share Plan for 2025-2035 for the Borough of Kinnelon; and

WHEREAS, Kyle + McManus Associates, the Borough's Affordable Housing Planners, have prepared a 2025 Fourth Round Housing Element and Fair Share Plan which has been reviewed by the Board; and

WHEREAS, the Planning Board of the Borough of Kinnelon held a remote public hearing via the Zoom remote conferencing platform on the 2025 Fourth Round Housing Element and Fair Share Plan on June 19, 2025, for which the required public notice was duly provided pursuant to N.J.S.A. 40:55D-13; and

WHEREAS, the Board has determined that the 2025 Fourth Round Housing Element and Fair Share Plan is consistent with the goals and objectives of the municipal Master Plan and the implementation of same is in the public interest and promotes the general welfare; and

WHEREAS, by this Resolution, the Board hereby approves the 2025 Fourth Round Housing Element and Fair Share Plan.

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Kinnelon, Morris County, New Jersey, that the Board hereby adopts the 2025 Fourth Round Housing Element and Fair Share Plan, prepared by Kyle + McManus Associates, attached hereto and incorporated herein..

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper and to send a certified copy of this Resolution to the Morris County Planning Board and to the Borough Clerk, and shall make same available to all other interested parties.

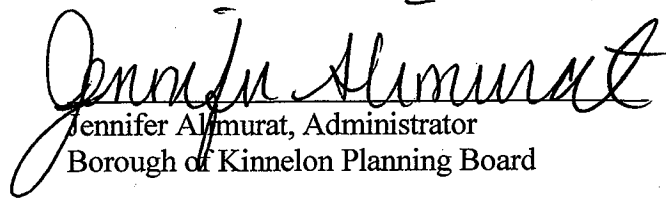
The Vote:

In Favor: Mayor Freda, Councilman Chirido, Mr. Lockwood, Mr. Schwartz, Mrs. Smialek, Mr. Csontos, Mr. Merlucci, Mrs. Zelenak and Mr. Boswell

Opposed: None

CERTIFICATION

The undersigned secretary certifies the within resolution was adopted by this Board on June 19, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 19, 2025.


Jennifer Alimurat, Administrator
Borough of Kinnelon Planning Board

Prepared by: Steven R. Tombalakian, Esq.

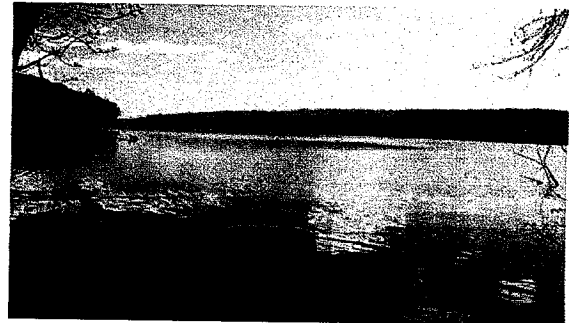
KINPB-002 Resolution of Planning Board Re Housing Element and Fair Share Plan for 2025-2035 6.19.25(5347014.1)

2025 FOURTH ROUND HOUSING PLAN

HOUSING ELEMENT & FAIR SHARE PLAN
KINNELON BOROUGH
MORRIS COUNTY
NEW JERSEY



ADOPTED BY THE PLANNING BOARD



PREPARED BY:



ELIZABETH MCMANUS, PP, AICP, LEED AP
NEW JERSEY PROFESSIONAL PLANNER LICENSE 5915
KYLE + McMANUS ASSOCIATES
A SIGNED AND SEALED ORIGINAL IS ON FILE WITH THE BOROUGH CLERK





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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 “Plan”) is to present how Kinnelon Borough will satisfy its constitutional obligation.

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 40 years and it is typically enforced by a deed restriction. 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. Kinnelon 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 Borough’s application filing with the New Jersey Affordable Housing Dispute Resolution Program and the request for a Compliance Certification.



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

- Rehabilitation Obligation: 22
The rehabilitation obligation can be defined as an estimate of the number of deteriorated homes existing in Kinnelon that are occupied by low- and moderate-income households. This component is also referred to as the “present need”.
- First & Second Rounds Obligation: 73
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: 193
The third round obligation can be defined as the 1999 through 2025 new construction affordable housing obligation.
- Fourth Round Obligation: 102
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”.

The Borough fully satisfies the rehabilitation obligation through participation in the Morris County Rehabilitation Program.

The first and second rounds obligation is fully satisfied with the Kinnelon Ridge and Kinnelon Heights developments.

Half of the third round obligation – 96 – was transferred to the Highlands Council for redistribution as part of the Borough’s third round approval. The remaining 97 obligation was addressed through a vacant land adjustment that resulted in an RDP of 2. The Borough continues the vacant land adjustment in the fourth round. The additional fourth round RDP is 1, for a total RDP of 3. This obligation was satisfied with an accessory apartment program, and an inclusionary family home. The unmet need was addressed with overlay zoning, redevelopment and a mandatory set-aside ordinance.

Vacant land adjustments are a compliance tool for municipalities whose obligations are outsized as compared to the availability of developable land. The adjustment results in a realistic development potential (hereinafter “RDP”) and an unmet need. The RDP represents the portion of the new construction affordable housing obligation that can theoretically be addressed with inclusionary development (defined as a mix of market and affordable homes) on lots identified as being developable in the vacant land analysis. The unmet need is calculated as the difference between the total obligation and the RDP.

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 Borough 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 (NJDC 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. Kinnelon 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, aka "Mount 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 County-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. Kinnelon is in Region 2, which includes Morris, Essex, Union and Warren 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 2.

2025 Income Limits for Region 2 (Morris, Essex, Union and Warren counties)					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Median	\$94,800	\$108,300	\$121,800	\$135,300	\$146,200
Moderate	\$75,840	\$86,640	\$97,440	\$108,240	\$116,960
Low	\$47,400	\$54,150	\$60,900	\$67,650	\$73,100
Very Low	\$28,440	\$32,490	\$36,540	\$40,590	\$43,860
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).					

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 for rent.
- **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 households (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 households). The remaining may be available to moderate income households (51-80% of regional median income).

- Bedroom Distribution of Affordable Homes

- 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 Homes. Not more than 20% of homes in any development.
- 2-bedroom Homes. Not less than 30% of homes in any development.
- 3-bedroom Homes. 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 development and 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: Homes within 100% development provided the municipality the land or a minimum of 3% of the development costs.
- The following development and 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.
 - Homes 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 KINNELON

The Borough of Kinnelon is within the Highlands Region with most land in the Highlands Preservation Area. Of the 12,310 acres in the Borough, 11,985 acres (97%) are within the Preservation Area and only 325 acres are within the Planning Area. As such, the Borough's ability to accommodate inclusionary and 100% affordable developments is very limited.

Kinnelon adopted its first Housing Plan, addressing the first round, in 1988. COAH subsequently granted substantive certification. Kinnelon adopted a Second Round Housing Plan in 1996 and subsequently received second round substantive certification from COAH on April 3, 1996. The Borough received an extension of its second round substantive certification in 2005.

A Third Round Housing Plan was adopted in 2010; however, COAH's third round rules were invalidated prior to any COAH action on this Housing Plan.



In response to the Mt. Laurel IV decision, the Borough filed for declaratory judgment in Superior Court on July 1, 2015. To avoid a lengthy trial on the Borough's affordable housing obligation and, potentially, a second trial on how that obligation would be satisfied, the Borough and FSHC executed a settlement agreement on January 24, 2018 that set forth the Borough's affordable housing obligation and preliminary compliance plan. This Settlement Agreement was later approved by Superior Court. The Borough adopted a third round housing plan June 7, 2018 and the Hon. Maryann L. Nergaard, J.S.C. issued a Judgment of Compliance and Repose on March 9, 2018.

The Borough adopted a resolution committing to the rehabilitation and fourth round obligations on January 29, 2025. The obligations cited in the resolution were consistent with those calculated by DCA in *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*, released on or about October 18, 2024. The Borough's submission received no objections. The Borough's rehabilitation and fourth round obligations of 22 and 102, respectively, were assigned on April 25, 2024 via an Order of Superior Court issued by the Hon. Janine M. Allen, J.S.C.

CONSIDERATION OF LANDS MOST APPROPRIATE FOR AFFORDABLE HOUSING

As part of this Plan, the Borough considered land that is appropriate for the construction of low- and moderate-income housing. Kinnelon has limited capacity for future development due to the 97% of its lands that are in the Highlands Preservation Area and its built-out conditions. No developers contacted the Borough to offer their property for inclusion the Borough's fourth round housing plan. However, a developer for Block 57601, Lots 101, 102 had discussed the prospect of inclusionary development with the Borough during 2023 through mid 2024. Discussions did not proceed since adequate access to the site could not be provided and a portion of the property is not within the sewer service area and thus could not support inclusionary development without amendment to the service area. To date these issues have not been rectified and the developer did not request inclusion in this Housing Plan. Additionally, the Borough is working with the owner and developer of the Meadtown Theater property, Block 45301 Lot 102, to craft a redevelopment plan that permits mixed-use inclusionary development. This property is included in the unmet need strategies.

A portion of Borough's housing stock may be appropriate for conversion or rehabilitation for affordable housing. Such conversions are most appropriate for Borough homes that are moderate in size, as opposed to those Borough homes that are very significant in size, to enable building and site maintenance costs that are proportionate to the household's income. Group homes and accessory apartments are also appropriate for many of Kinnelon's single-family homes, and attached and multi-family affordable housing developments may be appropriate where opportunities for such development or redevelopment arises (in addition to those areas which are already zoned for inclusionary development). The Borough's mandatory set-aside ordinance will capture such opportunities.



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. Borough land use policies are not in conflict with this goals and much of the Borough’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 rounds 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 & Satisfaction

The rehabilitation obligation can be defined as an estimate of the number of deteriorated homes existing in Kinnelon 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 22 for Kinnelon; the Borough’s January 29, 2025 resolution committing to the obligation reflected the DCA calculation. The obligation of 22 was assigned on April 25, 2024 via an Order of Superior Court issued by the Hon. Janine M. Allen, J.S.C.



The Borough will address this obligation through continued participation in the Morris County Rehabilitation Program, which provides a no-interest loan to income-eligible homeowners to repair major systems in their home. This County program is funded by the federal Community Development Block Grant (CDBG) program and provides forgivable loans to eligible homeowners. All rehabilitated homes will comply with the definition of a substandard home in *N.J.A.C. 5:93-5.2(b)*, which states, “a unit with health and safety code violations that require the repair or replacement of a major system.” Major systems include weatherization, roofing, plumbing, heating, electricity, sanitary plumbing, lead paint abatement and/or load bearing structural systems. All rehabilitated homes shall meet the applicable construction code. Additionally, all rehabilitated homes shall be occupied by low- or moderate-income households and subject to 10-year affordability controls, which shall be placed on the property in the form of a lien or deed restriction. The average hard cost will be at least \$10,000.

The Borough seeks relief from the rental component of the rehabilitation obligation, as set forth in *N.J.A.C. 5:97-6.2(b)6*. The request for relief is supported by the following:

- Approximately 7.2% of the Borough’s occupied homes, identified as 241 homes, are for rent (2023 American Community Survey, DP04). This low percentage of homes for rent will reduce demand for the program.
- The vast majority of the Borough’s rental homes are in Kinnelon Ridge, an inclusionary development built in approximately 2002. This development consists of 210 homes; the American Community Survey identifies 241 occupied rental homes in Kinnelon (2023 American Community Survey, DP04). This concentration of rental homes will reduce eligibility as the development is less than 30 years old and large rental development owners typically do not participate in rental rehabilitation programs.
- The median household income for renter households is \$108,750 (2023 American Community Survey, B25119). These high incomes will further reduce demand for the program as well as reduce eligibility.

First & Second Rounds Obligation & Satisfaction

Kinnelon Borough’s first and second rounds new construction obligation, also referred to as the prior round obligation, is 73. 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 Borough’s obligation was published by COAH in 2008 and originally calculated in 1993-1994 pursuant to *N.J.A.C. 5:93*.

This obligation is fully satisfied with the senior and family affordable homes at the Kinnelon Heights and Kinnelon Ridge developments.



Satisfaction of the 73 First and Second Rounds Obligation				
Development Name	Development Type	Homes	Bonus Credits	Credits
Kinnelon Heights	Inclusionary Senior Sale	16	0	16
Kinnelon Ridge	Inclusionary Family Rental	38	19	57
<i>Total</i>		<i>54</i>	<i>19</i>	<i>73</i>

Kinnelon Heights & Kinnelon Ridge

These developments were approved as a single development; however, they are referred to differently because Kinnelon Heights are senior for-sale homes and Kinnelon Ridge are family rental homes. Final site plan approval was granted in 2002 for the 295 home multi-family development on a 19.99 acre property accessed from Maple Lake Road. Kinnelon Heights, at Block 10201, Lot 107, consists of 85 senior homes, of which 16 are affordable senior for-sale homes. Kinnelon Ridge at Block 10201, Lot 101, consists of 210 family homes, of which 38 are affordable family rental homes. In total, the development provides 54 affordable homes. COAH granted certification of this development in its Second Round certification dated May 1, 1996, and by order dated September 27, 2016 the Court confirmed the satisfaction of the Borough's entire first and second rounds obligation. Furthermore, the development was approved as part of the Borough's 2018 third round Judgment of Repose.

Distribution of First and Second Round Affordable Homes

In addition to meeting the total 73 obligation, the Borough must also meet a rental obligation, maximum senior homes and maximum bonus credits.

Minimum Rental = 19 homes

- $.25 \text{ (obligation)} = 223 \text{ homes} \quad | \quad .25 \text{ (73)} = 18.25, \text{ rounded up to } 19$
- This obligation is exceeded with 38 family rental homes at the Kinnelon Ridge Development.

Maximum Senior = 18 homes

- $.25 \text{ (obligation - RCA's)} = 185 \text{ homes} \quad | \quad .25 \text{ (73-0)} = 18.25, \text{ rounded down to } 18$
- The Borough uses 16 senior homes at the Kinnelon Height development.

Minimum Bonus = 19 homes

- Homes equal to the rental obligation, except that senior homes may only meet half of the rental obligation and are eligible for .33 bonus credits | 19 credits



- The Borough uses 19 bonus credits, all of which are attributed to the Kinnelon Ridge Development.

Third Round Obligation

This obligation of 193 is defined as the new construction obligation for 1999-2025. The third round obligation is a 30% 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. The obligation was set forth in the Borough's 2017 Settlement Agreement with FSHC and was approved by Superior Court.

The 2017 Settlement Agreement stated one-half of the Borough's obligation (96) was transferred to the Highlands Council for redistribution to a municipality with more Planning Area lands, leaving a balance of 97 for the Borough's third round obligation. This transfer reflects the fact that 97% of Borough land is in the Highlands Preservation Area. Regardless of whether the Highlands Council accepts and/or redistributes the obligation of 96, the Borough is not and will not be responsible for implementing strategies to address the transferred obligation of 96.

Fourth Round Obligation

Kinnelon's fourth round obligation (also referred to as the prospective need) is 102. This obligation is defined as the new construction obligation for 2025-2035. 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 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 DCA calculated municipal fourth round obligations in *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*, released on or about October 18, 2024. This DCA Report calculated fourth round obligation of 102 for Kinnelon; the Borough's January 29, 2025 resolution committing to the obligation reflected the DCA calculation. The obligation of 102 was assigned on April 25, 2024 via an Order of Superior Court issued by the Hon. Janine M. Allen, J.S.C.



Satisfaction of the Third & Fourth Rounds

The Borough's obligation for these rounds, 198 (96 + 102), exceeds the amount of vacant and developable land. Consistent with this condition, the Borough received approval for a third round vacant land adjustment from Superior Court as part of its approval of the 2017 Settlement Agreement with FSHC and its 2018 Judgment of Repose, and will continue the vacant land adjustment in the fourth round.

Third & Fourth Rounds Vacant Land Adjustment

Municipalities, such as Kinnelon, that do not have adequate capacity of developable land to fulfil the entirety of the affordable housing obligation are eligible for an adjustment of the obligation. The adjustment process is set forth in COAH's rules and is supplemented by related case law. More specifically, it is a downward adjustment of the obligation to reflect the number of affordable homes a municipality could theoretically create through new inclusionary development on vacant or underutilized land, presuming a density and set-aside specified in COAH's rules. The downward adjusted obligation is known as the realistic development potential, or "RDP". Requesting this adjustment does not require the municipality to zone or build on the land identified as developable. Notwithstanding, the municipality's Housing Plan must identify compliance strategies that can produce enough credits to satisfy the RDP. The difference between the RDP and the calculated new construction obligation is referred to as the unmet need. This portion of the obligation is most often addressed through overlay zoning. Unlike the RDP, the unmet need does not need to be fully satisfied; instead, the Borough must create adequate opportunities for future affordable housing.

The Borough conducted a vacant land adjustment in 2017 that resulted in an RDP of 2; this RDP was from approved by Superior Court as part of its approval of the 2017 Settlement Agreement with FSHC and its 2018 Judgment of Repose.

Review of approvals issued by the Planning Board and Zoning Board, anticipated development and construction permits indicate there is one development activity that has occurred since the Borough's third round RDP was calculated, and which is eligible to generate a fourth round RDP. The table that follows calculates the Borough's updated RDP of 3.

Fourth Round RDP Calculation				
Development	Location	Total Area	Total Homes	RDP
2017 Vacant Land Adjustment	n/a	n/a	n/a	2
VanderValk	39 Kinnelon Road Block 45201 , Lot 101	1.32 ac.	5	1
<i>Total</i>				<i>3</i>



Satisfaction of the Third & Fourth Rounds RDP

The Borough is addressing its RDP obligation with rental and sale family homes.

Satisfaction of the Third & Fourth Rounds 3 RDP				
Program	Development Type	Homes	Bonus Credits	Total Credits
Accessory Apartments	Family Rental	10	0	10
VanderValk	Inclusionary Family Sale	1	0	1
<i>Total</i>		<i>11</i>	<i>0</i>	<i>11</i>
			<i>Surplus</i>	<i>8</i>

These surplus credits shall be utilized to satisfy an increased RDP or will be carried forward to the fifth round, as may be appropriate and to the extent the homes meet the applicable rules.

Accessory Apartments

Accessory apartments are self-contained dwellings that are accessory to a principal use, such as a single-family home. Unlike most forms of affordable housing, accessory apartments must only remain affordable for a period of 10 years and there is no required bedroom distribution. The Borough will work with its affordable housing administrator to ensure the homes are affirmatively marketed to the housing region and otherwise consistent with Uniform Housing Affordability Control rules, *N.J.A.C. 5:26-1*.

The housing stock in Kinnelon lends itself to the establishment of accessory apartments as the homes are larger compared to the State and County. Nearly 89% of the Borough's housing stock has 6 or more rooms, compared to 65% of the County housing stock and 56% of the State housing stock. Also supporting the program is the fact that most Borough homes are on larger lots capable of supporting an accessory dwelling with limited or no impact on neighboring lots.

Consistent with the third round Judgment of Repose, the Borough utilizes 10 accessory apartments to meet a portion of the RDP. Accessory apartments are permitted in all residential and commercial zones, provided the property is not used for an industrial purpose. This program was included in the Borough's third round Housing Plan but has not yet yielded affordable homes. Notwithstanding, this program remains appropriate for the Borough due to its larger homes and larger lot zones, lack of vacant land, and the constraints imposed by having 97% of the Borough in the Highlands Preservation Area. The Borough will conduct significant marketing to attract applicants to the program.

All affordable homes shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (*N.J.A.C. 5:80-26.1* et



seq.) and the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301 et seq.*). This shall include but is not limited to affordability controls, income distribution, bedroom distribution, and phasing.

VanderValk

This is an inclusionary development that received use variance approval for development of 5 townhomes at 39 Kinnelon Road, Block 45201, Lot 1. The 2024 approval permits one building with 5 townhomes, including 1 affordable family townhome, on the 1.32 acre property. The development will be served by septic. The property is within the Highlands Preservation Area and received from the Highlands Council an Exemption and Consistency Determination on May 14, 2024. The RDP generated from this approval is predicated on the site's developability as described during the variance application.

All affordable homes shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (*N.J.A.C. 5:80-26.1 et seq.*) and the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301 et seq.*). This shall include but is not limited to affordability controls, income distribution, bedroom distribution, and phasing.

Satisfaction of the Third & Fourth Round Unmet Need

There are significant limitations in the Borough's ability to provide "realistic zoning" for affordable homes equal to 25% of the 101 fourth round unmet need (102 fourth round obligation – 1 fourth round RDP). To do so the Borough must identify enough land likely to redevelop prior to the end of the fourth round in 2035 that can support 130 homes ($.25(101)=25.25$ affordable homes, rounded up to 26; $26(5)=130$). The factors that constrain the Borough's ability to identify such lands include the following:

- 97% of Borough lands within the Highlands Preservation Area – all but 325 acres;
- Limited lands within the Preservation Area with adequate impervious cover, other than those already included in this Housing Plan, to support realistic zoning since the vast majority are single-family detached homes;
- Lack of additional nonresidential properties within the sewer service areas as the Borough has already applied overlay zoning to the majority of nonresidential uses in the sewer services area (excluding institutional uses such as schools);
- Lack of water availability as the Borough's watersheds are identified as having water deficits by the Highlands Council; and
- Lack of properties likely to redevelop as there are few nonresidential vacancies and areas in need of revitalization – other than those which are already included in this Housing Plan.

Notwithstanding, the Borough expanded the existing unmet need strategies to provide realistic zoning where it could be created – the Meadtown Theater property. As such, the Borough employs overlay zoning, a newly designated redevelopment area, and the mandatory set-aside ordinance to address the unmet need.



Kinnelon Mall

This strategy applies to a shopping center at 25 Kinnelon Road. The property is 13.04 ac., of which 10.17 ac. is developable. The property has frontage along Kinnelon Road, Kakeout Road and Keil Avenue. Primary site access exists in two locations along Kinnelon Road, and second site access exists in one location along Kiel Avenue. It is developed with the Kinnelon Mall, a single story shopping mall with a grocery store and a variety of other retail and commercial uses. The overlay zoning for the site permits mixed use development with a residential density of 6 du/ac with a 20% set-aside of affordable homes. The Borough's Judgment of Repose approved this unmet need strategy that was included in the 2017 Settlement Agreement with FSHC. Since inclusionary development has not yet been approved, the Borough engaged the property owner in 2023 and 2024 to discuss redevelopment of the site and any potential changes to the zoning. The property owner declined to request amended zoning at this time.

The property is in the Highlands Preservation Area, with the developed portion in the Existing Community Zone. The site will be eligible for Highlands approval since it is a near entirely paved site within the Existing Community Zone that will be redeveloped. The site has access to public water and sewer.

All affordable homes shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (*N.J.A.C. 5:80-26.1 et seq.*) and the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301 et seq.*). This shall include but is not limited to affordability controls, income distribution, bedroom distribution, and phasing.

Meadtown Theater

This new strategy consists of Block 45301 Lot 102, with an area of approximately 2.6-acres. The property is developed with a 5,084 square foot vacant movie theater, an associated parking lot, and a small portion of the building located on adjacent Lot 1.03 located in Butler Borough. Access to the site, via Route 23, is provided through Block 54 Lot 1.03 to the east and through Butler Borough. The site has frontage on Kakeout Road, however there is no vehicle or pedestrian access. Block 54 Lot 1.03 is developed with a 35,032 square foot shopping center and an associated parking lot. Lot 102, the Study Area, and Lot 1.03 essentially function as one subject property given that access to Route 23 is provided through Lot 1.03.

The Borough designated Lot 102 as an Area in Need of Redevelopment in 2024 and has been working with the property owner and developer to craft a redevelopment plan that will permit a mixed use building in the approximate location of the theater that will include retail / restaurant and 20 multi-family homes. The property will provide a 15% set-aside for 3 affordable homes.

The property is in the Highlands Preservation Area, with the developed portion in the Existing Community Zone. The site will be eligible for Highlands approval since it is an entirely paved site within the Existing Community Zone that will be redeveloped. The site has access to public water and sewer.

All affordable homes shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (*N.J.A.C. 5:80-26.1 et*



seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to affordability controls, income distribution, bedroom distribution, and phasing.

Mandatory Set-aside Ordinance

The Borough adopted a mandatory set-aside ordinance that requires, where via use variance, rezoning, or redevelopment, the Borough permits multi-family housing with 5 homes or greater that an affordable housing set-aside will be imposed on the development. While the Ordinance requires a 20% set-aside of affordable homes, the Borough's 2017 Settlement Agreement with FSHC required a 15% set-aside for rental homes and 20% set-aside for sale homes. All affordable homes shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to affordability controls, income distribution, bedroom distribution, and phasing.

Distribution of Third & Fourth Rounds Affordable Homes

In addition to meeting the total fourth round RDP, the Borough 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. These obligations may be amended should bonus credits be applied to the fourth round obligation.

Maximum Bonus = 0

- Maximum bonus credits = 25% (RDP) | $.25 (3) = .75$, rounded down to 0
- No bonus credits used to meet the RDP.

Minimum Rental = 1 home

- Minimum rental homes = 25% (homes meeting the RDP) | $.25 (3) = .75$, rounded up to 1
- The accessory apartment program satisfies this requirement. The Meadtown Theater site will provide family rental homes. None of the Borough's other unmet need strategies will be limited to owner occupied homes.

Maximum Senior = 1 home

- Maximum age-restricted homes = 30% (homes meeting the RDP) | $.3 (3) = 1$
- None of the Borough's homes meeting the RDP are restricted to seniors. None of the unmet need strategies are restricted to seniors.



Minimum Family = 2 homes

- Minimum family homes = 50% (homes meeting the RDP) | $.5 (3) = 1.5$, rounded up to 2
- All homes meeting the RDP are family homes. The Meadtown Theater site will provide family rental homes. None of the other unmet need strategies are restricted to non-family homes.

Minimum Family Rental = 2 homes

- Minimum family rental = 50% (rental obligation) | $.5 (3) = 1.5$, rounded up to 2
- The accessory apartment program satisfies this requirement. The Meadtown Theater site will provide family rental homes. None of the other unmet need strategies are restricted to non-family homes.

Minimum Very Low Income = 1 home

- Minimum very low income homes = 13% (fourth round homes created or approved on or after July 1, 2008) | $.13 (3) = .39$, rounded up to 1
- The accessory apartment program satisfies this requirement. The Borough's unmet need strategies, including Meadtown Theater, will also contribute 13% very low income home toward this requirement.

Minimum Family Very Low Income = 1 home

- Minimum family very low income homes = 50% (very low income obligation) | $.5 (1) = .5$, rounded up to 1
- The accessory apartment program satisfies this requirement. The Borough's unmet need strategies, including Meadtown Theater will also contribute 13% very low income home toward this requirement.

CONSISTENCY WITH THE STATE DEVELOPMENT AND REDEVELOPMENT PLAN

The Borough is located within the highlands region and is subject to the Highlands Regional Master Plan. Of the 12,310 acres in the Borough, 11,985 acres (97%) are within the Preservation Area and only 325 acres are within the Planning Area. While the Borough's affordable housing sites are in the Highlands Preservation Area, the Kinnelon Ridge and Heights development exist and predate the Highlands Council, the VanderValk site received a Highlands Exemption, and the Kinnelon Mall and Meadtown Theater sites are near fully developed with impervious cover and designated as the Existing Community Zone.

The Borough continues its third round vacant adjustment into the fourth round. This strategy is consistent with the environmental sensitivity of its lands, as well as the statutory designation of Highlands Preservation area, in that an affordable housing obligation will only be generated based on development that receives approval – ensuring that the affordable housing obligation is generated by developable



property. The Borough'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 Borough's Housing Plan is consistent with the *Highlands Affordable Housing Implementation Guidelines*. Two of 3 sites designated for affordable housing are occupied with existing nonresidential developments, which is of the preferred affordable housing mechanism within the Highlands Region, particularly with in the Preservation Area.

AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING

Kinnelon Borough'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 Borough's Affordable Housing Ordinance, Article XXI of the Borough Code governs the establishment of affordable homes in the Borough as well as regulating the occupancy of such homes. The Borough'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 Borough 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

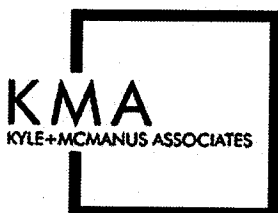


housing sites. The affirmative marketing plan will be designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable homes located in the Borough. 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 Borough's housing region, Region 2 consisting of Morris, Essex, Union and Warren Counties.

The affirmative marketing plan provides regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and 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 housing and must cover the period of deed restriction or affordability controls on each affordable home.

AFFORDABLE HOUSING TRUST FUND

The Borough does not collect development fees and has not collected payments in lieu of construction, or other affordable housing funds. As such, the Borough does not have an affordable housing trust fund.

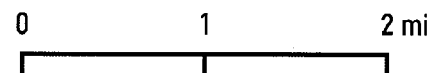


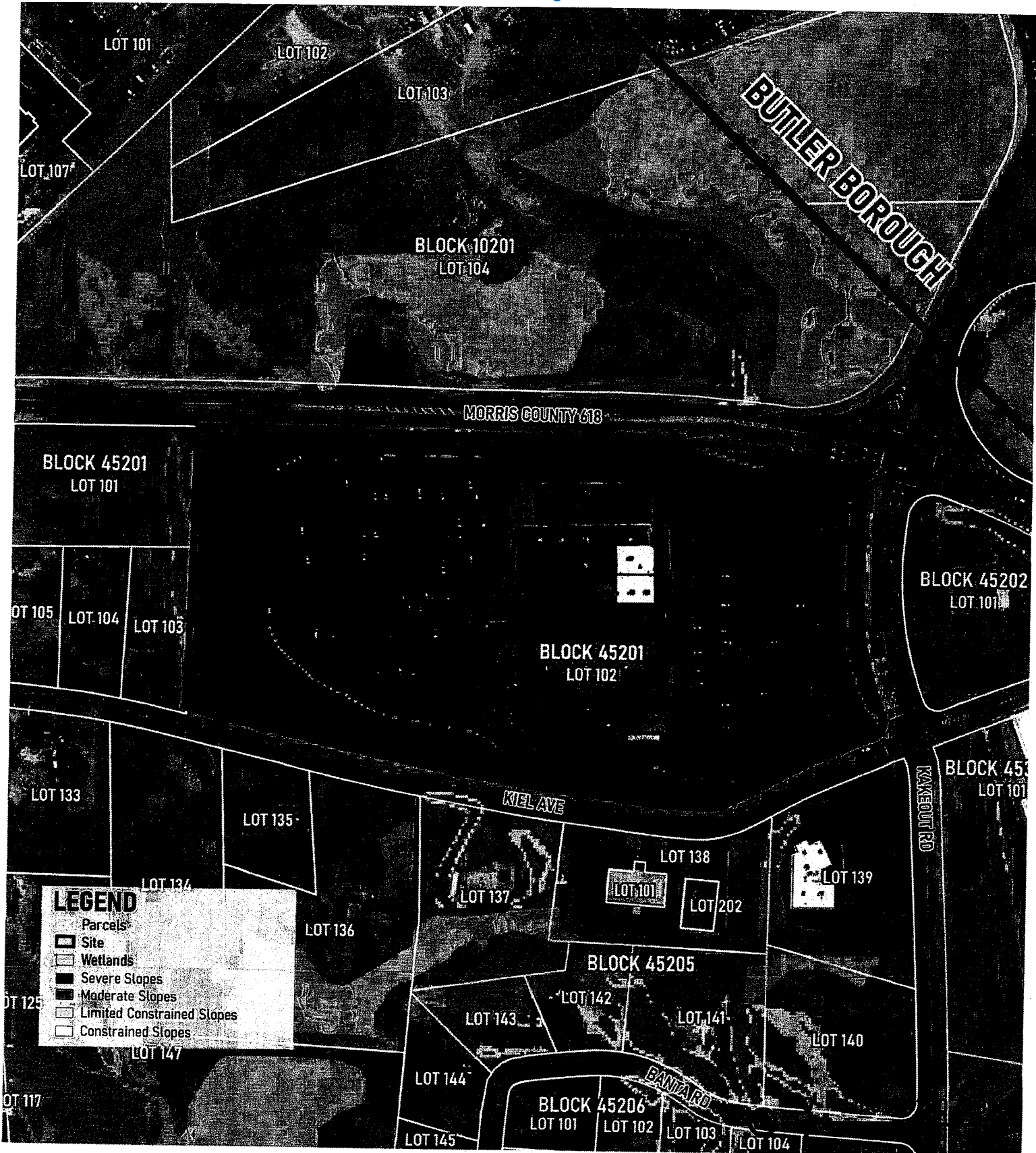
AFFORDABLE HOUSING SITES

FOURTH ROUND HOUSING PLAN

Borough of Kinnelon, Morris County

DATA SOURCES: Basemap, Google Earth; Flood Hazard Areas, FEMA;
Other GIS Data: NJ DEP

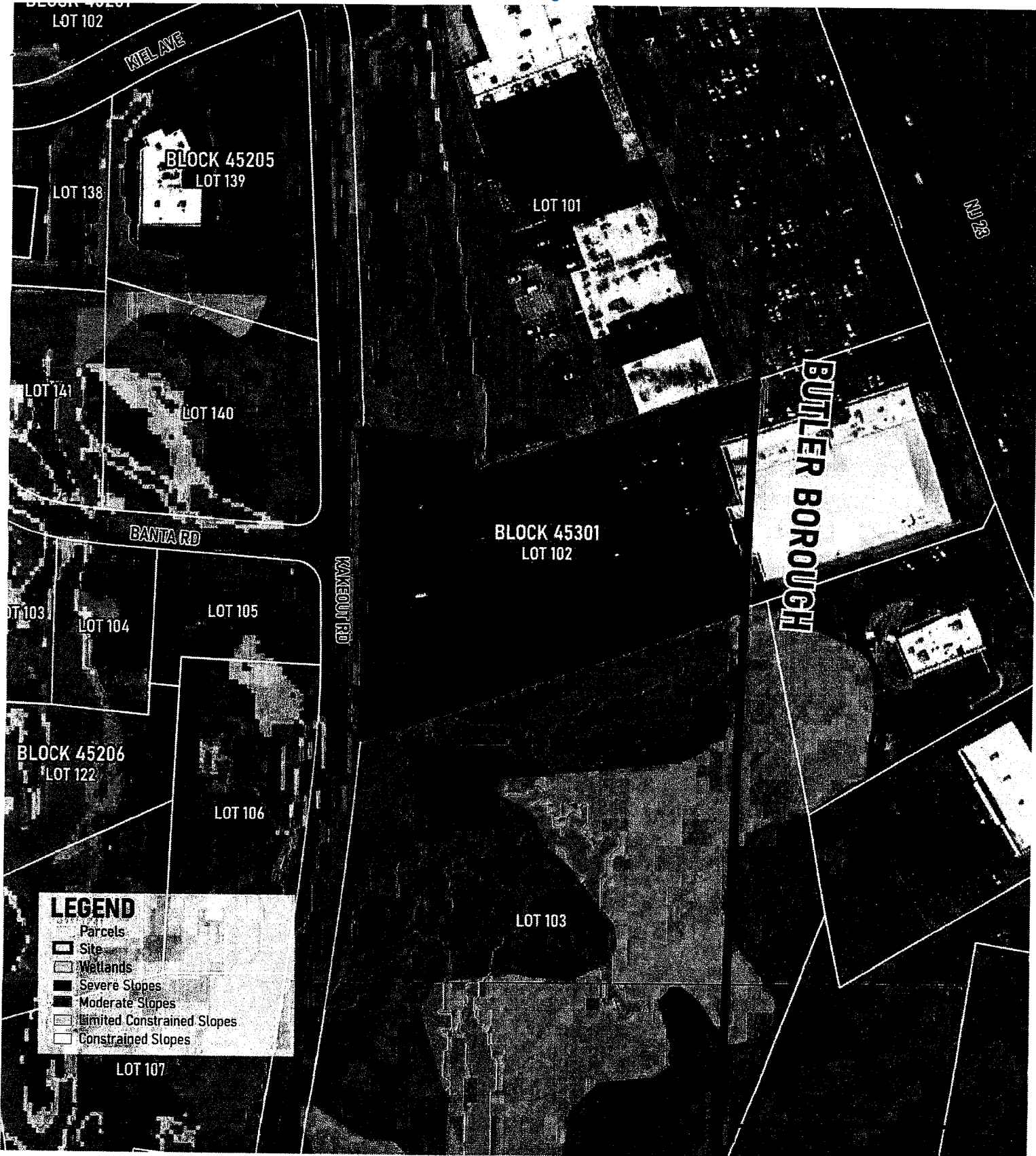




KINNELON MALL - BLOCK 45201 LOT 102 Borough of Kinnelon, Morris County NJ

POLICY
PLANNING
DESIGN

DATA SOURCE: Aerial Imagery, Google Earth 2021; NIGIN 2023 Morris County Parcels; NIDEP 2012 Wetlands; NJHighlandsCouncil 2012 Steep Slope Protection Area; NJHighlandsCouncil 2021 Planning & Preservation Area; NJHighlandsCouncil 2023 Land Use Capability; NJHighlandsCouncil 2019 Composite Zoning. This map was developed using NIDEP, NIGIN, & Highlands Council Data, but this secondary product has not been NIDEP, NIGIS, & Highlands Council verified and is not State authorized.

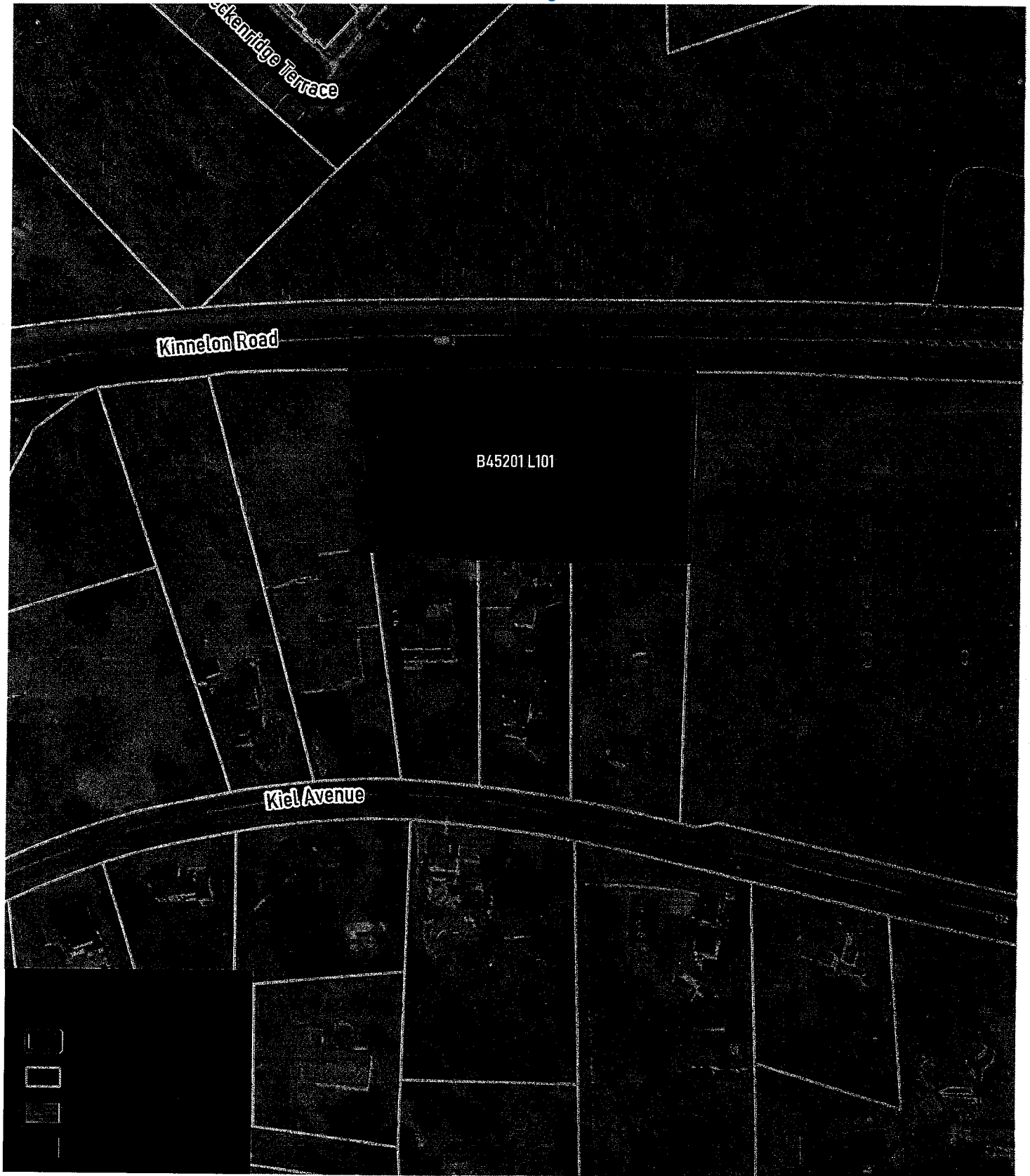


MEADTOWN - BLOCK 45301 LOT 102

Borough of Kinnelon, Morris County NJ

POLICY
PLANNING
DESIGN

DATA SOURCE: Aerial Imagery, Google Earth 2021; NJGIN 2023 Morris County Parcels; NJDEP 2012 Wetlands; NJHighlandsCouncil 2021 Steep Slope Protection Area; NJHighlandsCouncil 2021 Planning & Preservation Area; NJHighlandsCouncil 2023 Land Use Capability; NJHighlandsCouncil 2019 Composite Zoning. This map was developed using NJDEP, NJGIN, & Highlands Council Data, but this secondary product has not been NJDEP, NJOGIS, & Highlands Council verified and is not State authorized.



VANDERVALK
BLOCK 45201, LOT 101

Borough of Kinnelon, Morris County

DATA SOURCES: Basemap, Google Earth; Flood Hazard Areas, FEMA;
Other GIS Data, NJ DEP

