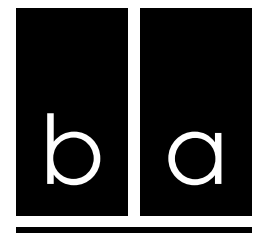


# Township of Allamuchy

## Housing Element & Fair Share Plan

Adopted June 26, 2025







Community Planning  
Land Development and Design  
Landscape Architecture

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

Principals:

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## Housing Element and Fair Share Plan

Township of Allamuchy  
Warren County, New Jersey

Prepared for the Township of Allamuchy  
Planning Board

BA# 4201.01

The original document was appropriately signed and sealed on June 26, 2025 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners

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# Executive Summary

The following **2025 Housing Element and Fair Share Plan (HE&FSP) of the Master Plan** has been prepared for the Township of Allamuchy.

This plan is designed to outline the manner in which the Township will address its affordable housing obligations. Ultimately, these obligations were derived from a variety of different sources, including: the Council on Affordable Housing (COAH); a prior settlement agreement with Fair Share Housing Center (FSHC); and, most recently, by calculations provided by the Department of Community Affairs (DCA) and a judgment made through the Administrative Office of the Court's (AOC's) Resolution Dispute Program.

These obligations are summarized as follows:

Table 1: Affordable Housing Obligation Summary

Category	Obligation
Prior Round Obligation (1987-1999)	13
Third Round Obligation (1999-2025)	17
Fourth Round Obligation (2025-2035)	95
Present Need (Rehabilitation) Obligation	0

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## Prior Round Obligation (1987 through 1999)

Township was assigned a Prior Round Obligation of **thirteen (13) affordable units**.

This obligation was addressed through the development of the Village of Mountainside (otherwise known as Village VI). This development produced thirty (30) affordable units. Eight (8) of these units, as well as four (4) bonus credits, were applied to satisfy the Township's Prior Round Obligation, while the remaining twenty-two (22) units were credited towards its rehabilitation obligation.

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## Third Round Obligation (1999 through 2025)

Pursuant to a Settlement Agreement signed with FSHC, the Township was assigned a Third Round Obligation of **seventeen (17) affordable units**.

This was satisfied through the Village IX development, which produced thirteen (13) affordable units through a program sponsored by the Township in Panther Valley. Twelve (12) of these affordable units, as well as five (5) corresponding bonus credits, were applied to satisfy the Township's Third Round Obligation. The one (1) remaining affordable unit was credited towards the Township's rehabilitation obligation.

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#### Fourth Round Obligation (2025 through 2035)

Pursuant to a judgment offered through the Resolution Dispute Program, the Township was assigned a Fourth Round Obligation of **ninety-five (95) affordable units**.

As detailed in Section 3.2 of this HE&FSP, the Township utilized the Highlands Build-Out analysis to conduct a vacant land adjustment (VLA), which determined its realistic development potential (RDP) to be **three (3) affordable units**.

The Township shall address this obligation by creating a new RMF Residential Multifamily Zoning District, which shall encapsulate Block 802 Lot 13. As discussed in greater detail herein, this District shall permit the reutilization of this site as an inclusionary multifamily development consisting of thirteen (13) total units, including three (3) affordable units.

In addition, the Township shall adopt a mandatory set-aside ordinance for all new multifamily residential developments of five (5) or more units that are permissible or become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or a new redevelopment plan. This ordinance shall require a twenty percent (20%) set-aside regardless of tenure status.



Accordingly, the remainder of this 2025 HE&FSP is divided into the following sections:

❖ Section 1: Introduction

The first section of the 2025 HE&FSP provides an introduction to affordable housing. It summarizes what affordable housing is, offers an overview of the history of affordable housing in the state and explains the role of a housing element and fair share plan.

❖ Section 2: Housing Element

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

❖ Section 3: Fair Share Obligation

Next, Section 3 provides an overview of the Township's fair share obligation. It includes a brief history of the methodologies utilized to calculate affordable housing obligations throughout the state.

❖ Section 4: Fair Share Plan

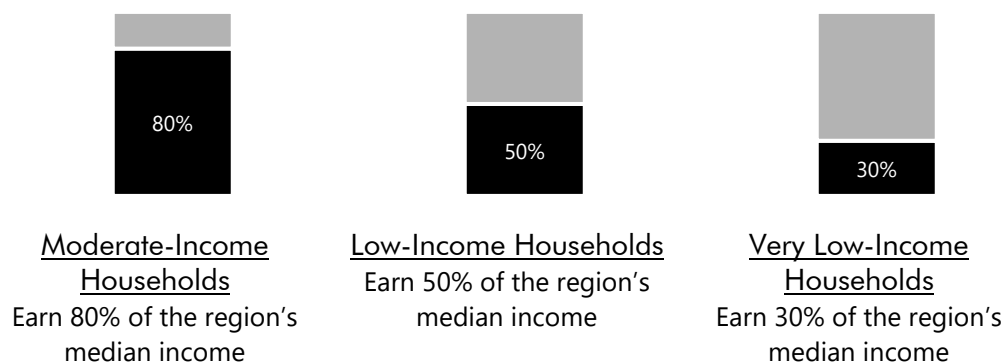
Finally, Section 4 details the manner in which the Township has addressed its Prior Round and Third Round Obligations, as well as how it will address its Fourth Round Obligation.

# Section 1: Introduction

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

## 1.1: What is Affordable Housing?

Affordable housing is income-restricted housing that is available for sale or for rent. Typically, affordable housing is restricted to very-low, low-, and moderate-income households. These categories are derived from median regional income limits established for the state. New Jersey is delineated into six (6) different affordable housing regions. Allamuchy is located in Region 2 which includes Essex, Morris, Union, and Warren Counties.



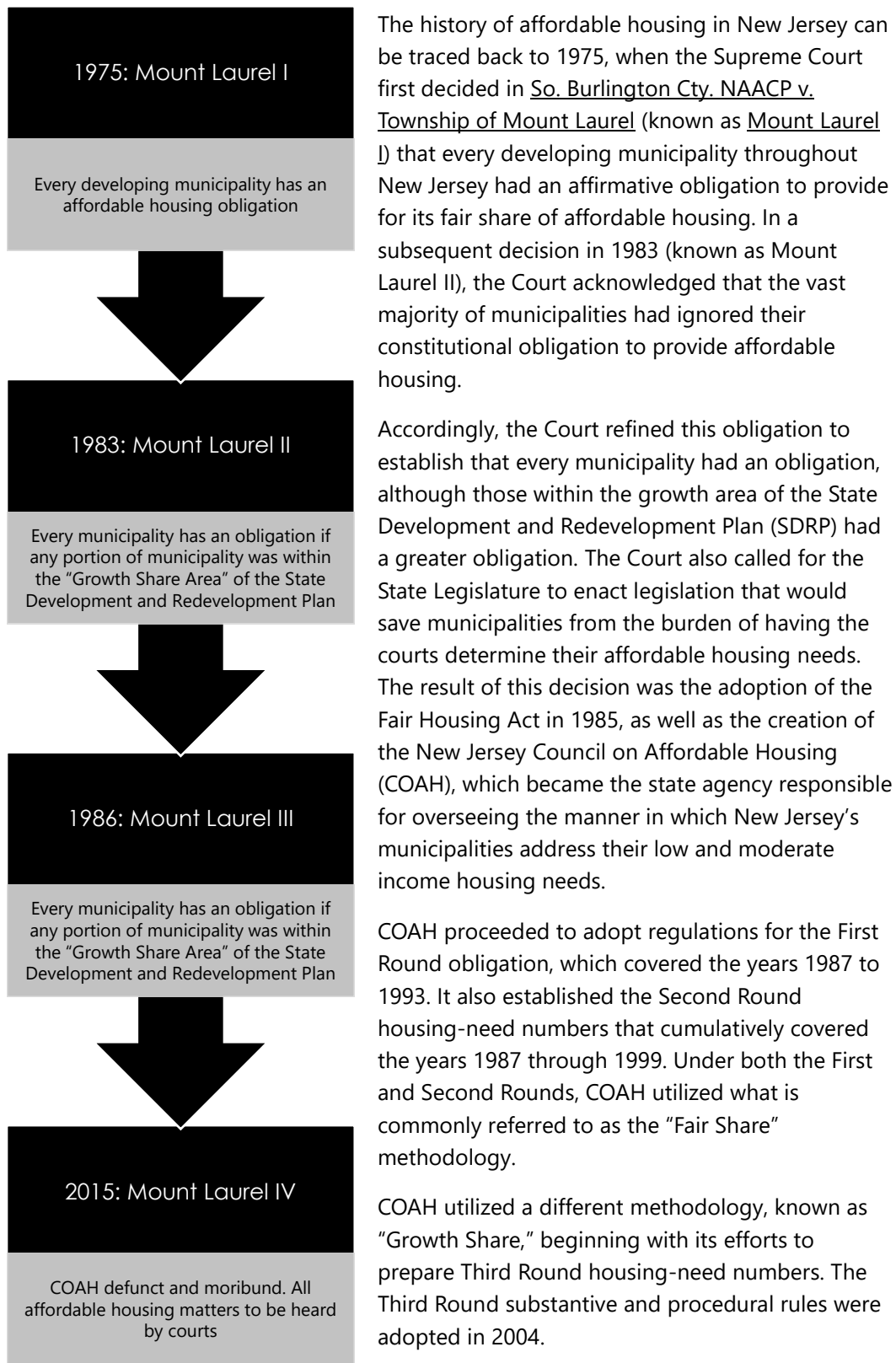
Regional income limitations are updated every year, with different categories established for varying household sizes. Table 2 identifies the 2024 regional income limits by household size for Region 2. As shown, a three-person family with a total household income of no greater than \$93,180 could qualify for affordable housing in the Township's region.

Table 2: 2024 Affordable Housing Region 2 Income Limits by Household Size

Income Level	2 Person	3 Person	4 Person	5 Person
Median	\$103,533	\$116,475	\$129,416	\$139,769
Moderate	\$82,826	\$93,180	\$103,533	\$111,816
Low	\$51,766	\$58,237	\$64,708	\$69,885
Very-Low	\$31,060	\$34,942	\$38,825	\$41,931

One of the most common forms of affordable housing is inclusionary development, in which a certain percentage of units within a multifamily development are reserved for affordable housing. Affordable housing can also be found in a variety of other forms, including but not limited to: one hundred percent affordable housing developments, deed-restricted accessory apartments, assisted living facilities, alternative arrangements such as supportive housing or group homes, and age restricted housing.

## 1.2: What is the History of Affordable Housing in New Jersey?

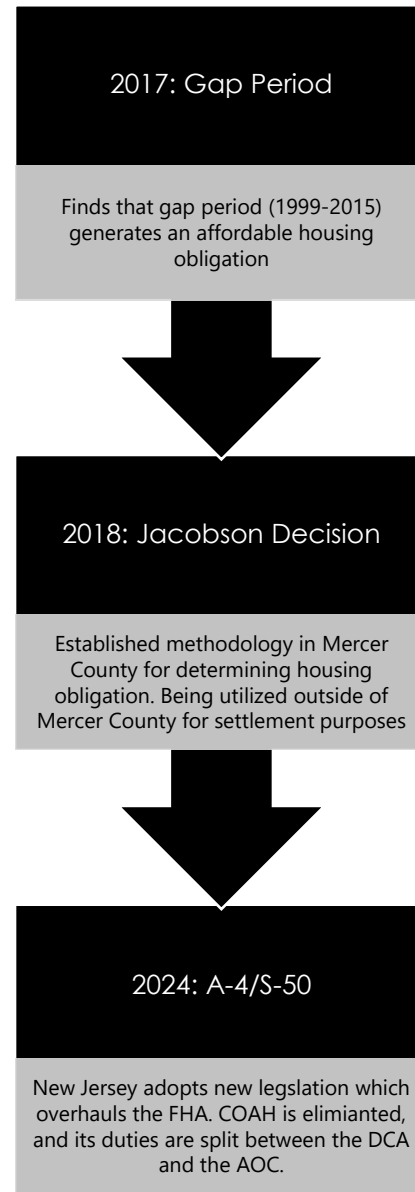


However, these regulations were challenged and in January 2007, the Appellate Division invalidated various aspects of them and remanded considerable portions of the rules to COAH with the directive to adopt revised regulations.

In May 2008, COAH adopted revised Third Round regulations, which were published and became effective on June 2, 2008. Coincident to this adoption, COAH proposed amendments to the rules they had just adopted, which subsequently went into effect in October 2008. These 2008 rules and regulations were subsequently challenged again, and in an October 2010 decision the Appellate Division invalidated the Growth Share methodology and also indicated that COAH should adopt regulations pursuant to the Fair Share methodology utilized in Rounds One and Two. The Supreme Court affirmed this decision in September 2013, which invalidated much of the third iteration of the Third Round regulations and sustained the invalidation of Growth Share. As a result, the Court directed COAH to adopt new regulations pursuant to the methodology utilized in Rounds One and Two.

Deadlocked with a 3-3 vote, COAH failed to adopt revised Third Round regulations in October 2014. Fair Share Housing Center (FSHC), who was a party in both the 2010 and 2013 cases, responded by filing a motion in aid of litigants' rights with the New Jersey Supreme Court. The Court heard the motion in January 2015 and issued its ruling on March 20, 2015. The Court ruled that COAH was effectively dysfunctional and consequently returned jurisdiction of affordable housing issues back to the trial courts where it had originally been prior to the creation of COAH in 1985.

This 2015 Court decision created a process in which municipalities may file a declaratory judgment action seeking a declaration that their HE&FSP is constitutionally compliant and receive temporary immunity from affordable housing builders' remedy lawsuits while preparing a new or revised HE&FSP to ensure their plan continues to affirmatively address their local housing need as may be adjusted by new housing-need numbers promulgated by the court or COAH.



Subsequently, the Supreme Court ruled, on January 18, 2017, that municipalities are also responsible for obligations accruing during the so-called "gap period," the period of time between 1999 and 2015. However, the Court stated that the gap obligation should be calculated as a never-before calculated component of Present Need, which would serve to capture Gap Period households that were presently in need of affordable housing as of the date of the Present Need calculation (i.e. that were still income eligible, were not captured as part of traditional present need, were still living in New Jersey and otherwise represented a Present affordable housing need).

On March 20, 2024, the State of New Jersey adopted a package of affordable housing bills which overhauled the Fair Housing Act. This legislation ultimately eliminated COAH and split its duties and functions between the Department of Community Affairs (DCA) and the Administrative Office of the Courts (AOC).

The DCA was designated by the legislation as the entity responsible for calculating the state's regional needs as well as each municipality's present and prospective fair share obligations pursuant to the Jacobson Decision. However, the legislation makes clear that these numbers are advisory and that each municipality must set its own obligation number utilizing the same methodology. Meanwhile, the Affordable Housing Dispute Resolution Program (the "Program") within the AOC is tasked to handle any disputes regarding affordable housing obligations and plans.

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### 1.3: What is a Housing Element and Fair Share Plan?

A Housing Element and Fair Share Plan (HE&FSP) serves as the blueprint for how a municipality will address its fair share of affordable housing. It is designed to help a community broaden the accessibility of affordable housing.

While technically a discretionary component of a municipal master plan, a HE&FSP is nevertheless an effectively obligatory plan element. As established by NJSA 40:55D-62.a of the Municipal Land Use Law (MLUL), a municipality must have an adopted HE&FSP in order to enact its zoning ordinance.

Thus, from a public policy perspective, a HE&FSP is an essential community document. Moreover, without a HE&FSP, a municipality may be susceptible to a builder's remedy lawsuit in which a developer could file suit to have a specific piece of property rezoned to permit housing at higher densities than a municipality would otherwise allow, provided a certain percentage of units are reserved as affordable.

The **Municipal Land Use Law (MLUL)** is the enabling legislation for municipal land use and development, planning, and zoning for the State of New Jersey.

The Fair Housing Act (FHA), which was adopted in 1985 and has been amended multiple times since then, establishes the required components of a HE&FSP. These are summarized as follows:

1. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
2. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
3. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing;
6. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;

7. 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;
8. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands conforming municipalities;
9. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

## Section 2: Housing Element

The following section provides the housing element for the Township of Allamuchy. It offers a community overview of the Township, as well as background information regarding its population, housing, and employment characteristics. It also provides projections of the Township's housing stock and employment.

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### *Information Regarding Data Sources*

*The information contained in Section 2.2 entitled "Demographic and Population Data," Section 2.3 entitled "Inventory of Housing Stock," and Section 2.4 entitled "Housing & Employment Projections" was obtained from a variety of publicly available data sources. These are summarized below:*

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



## 2.1: Community Overview

The Township of Allamuchy is located in the easterly corner of Warren County. It is bounded by six (6) municipalities: the Township of Frelinghuysen and the Township of Green to the north; the Township of Byram to the east; the Township of Mount Olive and the Township of Hackettstown to the southeast and south; and the Township of Independence to the west.

Allamuchy has a land area of approximately 20.45 square miles, making it the ninth largest municipality in Warren County. As summarized in the following table and on Map 2, the Township is a predominantly rural community characterized by a concentrated residential population within Panther Valley, large swaths of preserved open space and over 4,000 acres of farmland.

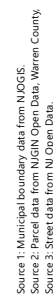
In terms of residential development, single-family residential uses account for 792 parcels of land comprising approximately 1,069 acres. Multifamily residential uses, which typically take the form of townhouse units, account for an additional 1,513 parcels of land comprising approximately 96.0 acres of land. Common elements associated with residential development, which often contain restricted open space and recreational amenities, comprise nearly 678.2 acres of land

Nonresidential development throughout the Township is fairly limited. This is most noticeable in commercial development, as only ten (10) properties comprising approximately 36.4 acres are devoted to this use. Conversely, open space accounts for nearly one-half of the Township's parcel area, while farmland accounts for an additional one-third.

Table 3: Existing Land Uses

Land Use	Parcels	Parcels %	Acres	Acres %
Residential: Single Family	792	28.5%	1,069.0	8.7%
Residential: Multifamily	1,513	54.4%	96.0	0.8%
Residential: Assisted Living	1	0.0%	8.0	0.1%
Residential: Common Elements	72	2.6%	678.2	5.5%
Commercial	10	0.4%	36.4	0.3%
Open Space	210	7.6%	5,726.9	46.8%
Farmland	117	4.2%	4,216.8	34.5%
Public and Quasi-Public	17	0.6%	170.6	1.4%
Public School	2	0.1%	83.5	0.7%
House of Worship/Cemetery	2	0.1%	6.1	0.0%
Rail Line	1	0.0%	0.8	0.0%
Vacant	42	1.5%	138.5	1.1%
Total	2,779	100.0%	12,230.8	100.0%

Source: ArcGIS Calculations



## Map 1: Community Overview

COMMUNITY PLANNING | LAND DEVELOPMENT AND DESIGN | LANDSCAPE ARCHITECTURE  
225 Westwood Avenue  
Westwood, New Jersey 07675  
p: 201.666.1811  
f: 201.666.2599

## Housing Element and Fair Share Plan

Township of Allamuchy | Warren County, New Jersey

5

Municipal Boundary

## Parcels

DZ

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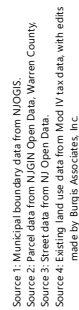
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## Overview

community

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Mc



## Map 2: Existing Land Use

Project Title	Housing Element and Fair Share Plan
Township of Allamuchy   Warren County, New Jersey	

2

DN

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## 2.2: Demographic and Population Data

Analyzing demographic and population data is a necessary and integral step in planning for the future needs of a community. As such, the following section outlines the demographic changes experienced by the Township of Allamuchy over the past several decades.

### Population Changes

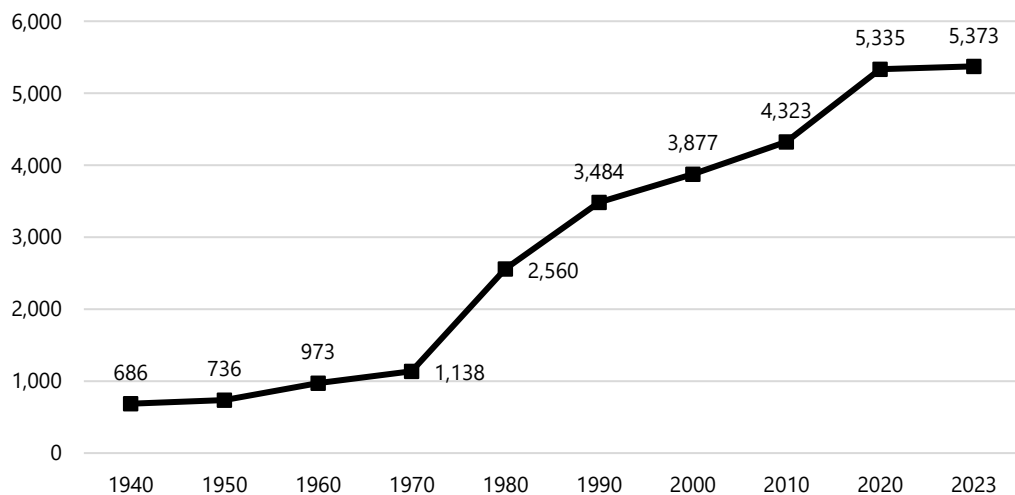
The Township's population has consistently grown since 1940, when it was comprised of just 686 residents. The biggest percentage increase occurred between 1970 and 1980, in which the Township's population increased by approximately 125.0%. More recently, the Township's population increased approximately 23.4% between 2010 and 2020. Since that time, however, its rate of growth is estimated to have decreased to approximately 0.7%. This is indicative of the limited amount of developable land left remaining in Allamuchy. As of 2023, the ACS estimates that the Township has a population of approximately 5,373 residents.

Table 4: Population Growth, 1940-2023

Year	Population	Population Change	Percent Change
1940	686	--	--
1950	736	50	7.3%
1960	973	237	32.2%
1970	1,138	165	17.0%
1980	2,560	1,422	125.0%
1990	3,484	924	36.1%
2000	3,877	393	11.3%
2010	4,323	446	11.5%
2020	5,335	1,012	23.4%
2023	5,373	38	0.7%

Source: US Census Bureau; 2023 American Community Survey Five-Year Estimate

Figure 1: Population Growth, 1940-2023



Source: US Census Bureau; 2023 American Community Survey Five-Year Estimate

### Age Characteristics

The Township's median age is estimated to have increased from 43.8 years in 2000 to 49.5 years in 2023. This ageing is particularly evident when analyzing those residents aged 65 and over. In 2000, it was estimated that approximately 16.3% of the Township's population was aged 65 and over. By 2023, this percentage is estimated to have increased to approximately 26.2%. The total number of residents within this cohort is also estimated to have increased 122.3% during that time period.

Similarly, the percentage of the Township's population under the age of 19 decreased from 2000 to 2023, albeit at a less dramatic pace. In 2000, an estimated 19.8% of the Township's population was 19 years old or younger. By 2023, this percentage decreased to 16.6%. Nevertheless, the total number of residents within this age cohort is estimated to have increased by approximately 22.9% during that time period.

Table 5: Age Characteristics, 2000-2023

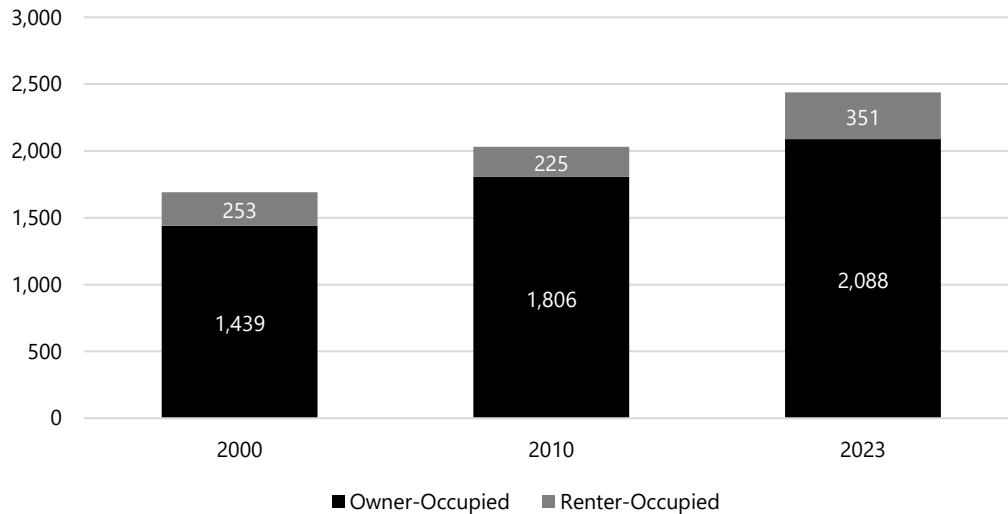
Age Group	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	245	6.3%	253	5.9%	424	7.9%
5 to 9 years	175	4.5%	128	3.0%	212	3.9%
10 to 14 years	179	4.6%	231	5.4%	236	4.4%
15 to 19 years	171	4.4%	217	5.1%	74	1.4%
20 to 24 years	104	2.7%	146	3.4%	205	3.8%
25 to 34 years	492	12.7%	572	13.3%	508	9.5%
35 to 44 years	632	16.3%	731	17.0%	582	10.8%
45 to 54 years	655	16.9%	700	16.3%	883	16.4%
55 to 59 years	384	9.9%	220	5.1%	323	6.0%
60 to 64 years	207	5.4%	375	8.7%	519	9.7%
65 to 74 years	385	9.9%	382	8.9%	1013	18.9%
75 to 84 years	182	4.7%	286	6.6%	329	6.1%
85 years and over	66	1.7%	54	1.3%	65	1.2%
Total	3,877	100.0%	4,295	100.0%	5,373	100.0%
Median Age (years)	43.8		44.2		49.5	

Source: US Census Bureau; 2010 and 2023 American Community Survey Five-Year Estimate

### Household Tenure and Occupancy

Historically, the majority of the Township's housing stock has been owner-occupied. Nevertheless, the number of renter-occupied units has increased approximately 38.7% over the past twenty-three years. In 1990, approximately 15.0% of all units were renter-occupied. By 2023, this decreased slightly to approximately 14.9%.

Figure 2: Owner-Occupied and Renter-Occupied Units, 2000-2023

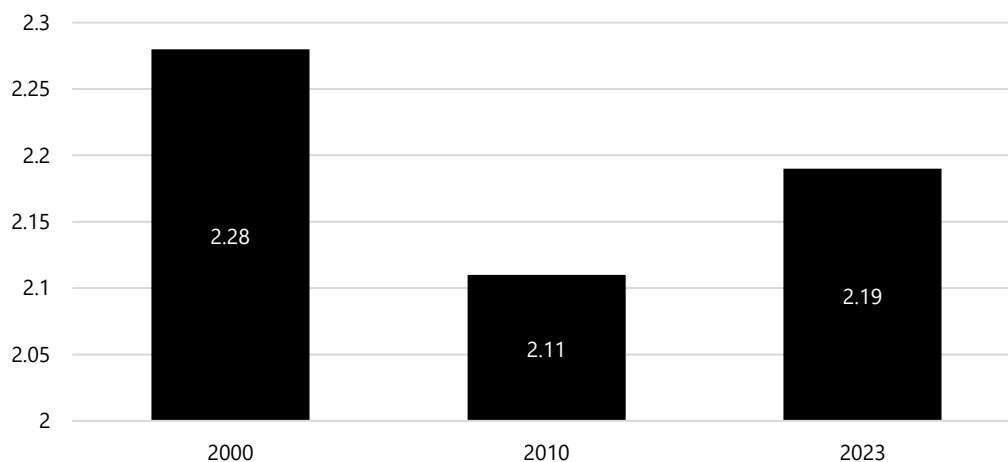


Source: US Census Bureau; 2010 and 2023 American Community Survey Five-Year Estimate

### Average Household Size

The Township's average household size has fluctuated since 2000. Between 2000 and 2010, it is estimated that the average household size decreased approximately 7.5%. Between 2010 and 2023, however, the average household size increased approximately 3.8%. As of 2023, the ACS estimates that the Township's average household size is approximately 2.19 people per unit.

Figure 3: Household Sizes, 2000-2023



Source: US Census Bureau; 2010 and 2023 American Community Survey Five-Year Estimate

### Household Income

Household incomes have increased throughout the Township since 1999. This is particularly evident within upper-tier incomes. In 1999, an estimated 16.1% of the Township's households reported an income of \$150,000 or more. By 2023, this percentage increased to approximately 36.2% of households.

Overall, the Township's median household income has historically been higher than the median household incomes recorded by both Warren County and the State of New Jersey as a whole. Furthermore, the Township's median household income is estimated to have increased approximately 85.7% between 1999 and 2023, which represents a higher percent increase than those estimated for Warren County (79.2%) and the State (80.9%). As of 2023, the Township's median household income is estimated to be \$130,170.

Pursuant to the ACS, an estimated 3.6% of the Township's population reported an income below the federal poverty line in 2023. This is below the County's estimated rate of 9.2%.

Table 6: Household Incomes, 1999-2023

Income Level	1999		2010		2023	
	Households	Percent	Households	Percent	Households	Percent
Less than \$10,000	10	0.6%	37	1.8%	39	1.6%
\$10,000 to \$14,999	23	1.3%	27	1.3%	58	2.4%
\$15,000 to \$24,999	83	4.9%	103	5.1%	17	0.7%
\$25,000 to \$34,999	150	8.8%	74	3.6%	49	2.0%
\$35,000 to \$49,999	265	15.5%	176	8.7%	90	3.7%
\$50,000 to \$74,999	368	21.6%	433	21.3%	404	16.5%
\$75,000 to \$99,999	214	12.5%	480	23.6%	211	8.7%
\$100,000 to \$149,999	318	18.7%	257	12.7%	687	28.2%
\$150,000 to \$199,999	158	9.3%	196	9.7%	359	14.7%
\$200,000 or more	116	6.8%	248	12.2%	525	21.5%
Total	1,705	100.0%	2,031	100.0%	2,439	100.0%
Median Income	\$70,107		\$104,826		\$130,170	
Warren County	\$56,100		\$71,832		\$100,532	
New Jersey	\$55,146		\$67,681		\$99,781	

Source: US Census Bureau; 2010 and 2023 American Community Survey 5-Year Estimates.

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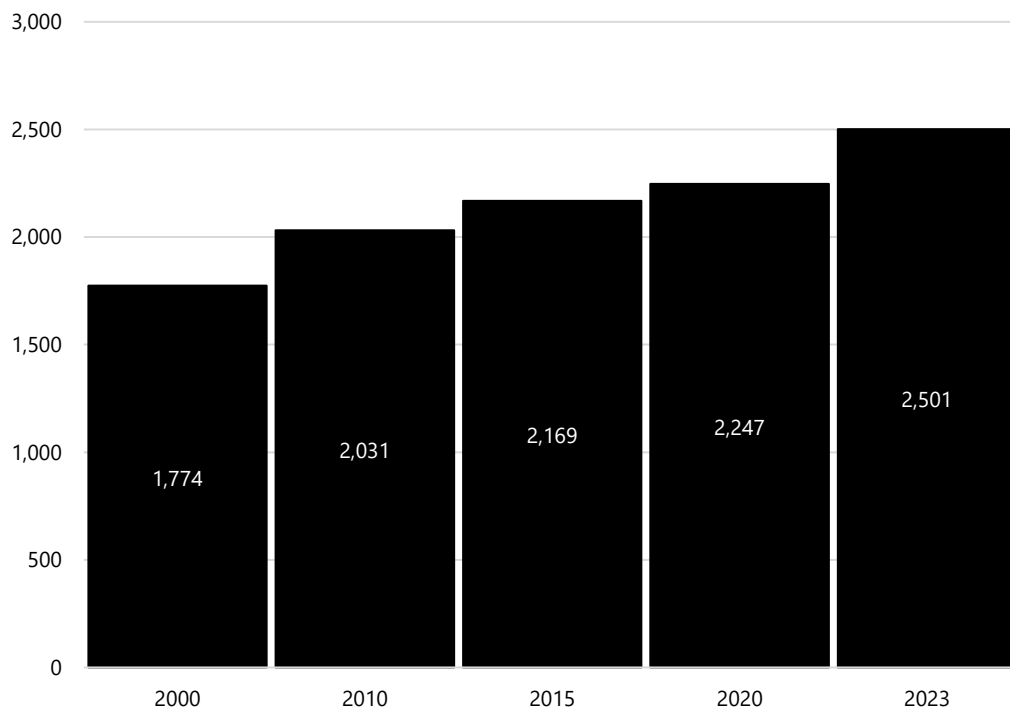
## 2.3: Inventory of Housing Stock

The following section provides an inventory of the Township's housing stock. It inventories several housing characteristics such as age, condition, purchase/rental value, and occupancy.

### Number of Dwelling Units

Since 2000, the Township's housing stock has consistently increased. This can largely be attributed to the construction of Panther Valley. As of 2023, the ACS estimates there are 2,501 housing units in the Township. However, due to limited opportunities for new development, it is anticipated that unit growth will taper off over the next several years.

Figure 4: Housing Units, 2000-2023



Source: US Census Bureau; 2010, 2015, 2020, and 2023 ACS Five-Year Estimate



### Units in Structure for Occupied Units

Information regarding the number of dwelling units in different types of housing structures provides insights into the types of housing which exists throughout the Township. Thus, the following table summarizes the unit-composition of the Township's structures since 2000.

The Township's housing stock has historically been comprised of single-family detached and attached dwellings. However, since 2000, the percentage of the Township's housing stock comprised of detached single-family dwellings is estimated to have decreased slightly from 42.1% to 39.5%. The percentage of attached single-family dwellings, on the other hand, is estimated to have increased from 44.4% to 46.0% during that same time period. This can be attributed to the completion of the Panther Valley development.

Table 7: Units in Structure, 2000-2023

Units in Structure	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Single Family, Detached	746	42.1%	845	41.6%	988	39.5%
Single Family, Attached	788	44.4%	923	45.5%	1,150	46.0%
2 Units	39	2.2%	33	1.6%	0	0.0%
3 to 4 Units	39	2.2%	47	2.3%	203	8.1%
5 to 9 Units	125	7.0%	147	7.2%	160	6.4%
10 to 19 Units	19	1.1%	36	1.8%	0	0.0%
20 or More	18	1.0%	0	0.0%	0	0.0%
Other	0	0.0%	0	0.0%	0	0.0%
Total	1,774	100.0%	2,031	100.0%	2,501	100.0%

Source: US Census Bureau; 2010 and 2023 American Community Survey Five-Year Estimates.

### Purchase and Rental Value of Housing Units

The following two tables identify purchase values and rental values for the specified owner-occupied and renter-occupied units in Allamuchy.

As shown in Table 8, the purchase values of the Township's owner-occupied housing stock have typically exceeded those of Warren County's. In recent years, however, the median purchase value of occupied housing in the State as a whole has surpassed the Township's.

Over the past twenty-three years, the Township's owner occupied housing stock is estimated to have increased approximately 93.8%, from \$192,500 in 2000 to \$373,100 in 2023. This represents a lower percentage increase than that of the County (125.4%) and the State (169.9%).

The median contract rent in the Township, on the other hand, has typically remained higher than those in both Warren County and the State. Since 2000, the 2023 ACS estimates that the Township's median contract rent has also increased at a higher rate (116.9%) than those of the County (112.9%) and the State as a whole (99.8%). As of 2023, the ACS estimates that the median contract rent in the Township is \$1,944.

Table 8: Value of Owner-Occupied Units, 2000-2023

Value Range	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Less than \$50,000	0	0.0%	20	1.1%	89	4.3%
\$50,000 to \$99,999	96	6.7%	12	0.7%	24	1.1%
\$100,000 to \$149,999	446	31.0%	0	0.0%	60	2.9%
\$150,000 to \$199,999	268	18.6%	123	6.8%	117	5.6%
\$200,000 to \$299,999	339	23.5%	672	37.2%	381	18.2%
\$300,000 to \$499,999	247	17.1%	629	34.8%	941	45.1%
\$500,000 to \$999,999	45	3.1%	350	19.4%	466	22.3%
\$1,000,000 or More	0	0.0%	0	0.0%	10	0.5%
Total	1,441	100.0%	1,806	100.0%	2,088	100.0%
Township Median Value	\$192,500		\$320,700		\$373,100	
Warren County Median Value	\$155,500		\$287,700		\$350,500	
New Jersey Median Value	\$170,800		\$357,000		\$461,000	

Source: US Census Bureau; 2010 and 2023 American Community Survey Five-Year Estimates.

Table 9: Specified Renter Occupied Housing Units by Rent, 2000-2023

Value Range	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Less than \$200	6	2.4%	0	0.0%	0	0.0%
\$200 to \$299	0	0.0%	0	0.0%	0	0.0%
\$300 to \$499	16	6.5%	16	7.1%	0	0.0%
\$500 to \$749	35	14.3%	0	0.0%	0	0.0%
\$750 to \$999	122	49.8%	21	9.4%	0	0.0%
\$1,000 to \$1,499	54	22.1%	49	21.8%	67	19.1%
\$1,500 to \$1,999	0	0.0%	77	34.2%	164	46.7%
\$2,000 or more	0	0.0%	14	6.2%	93	26.5%
No Cash Rent	12	4.9%	48	21.3%	27	7.7%
Total	245	100.0%	225	100.0%	351	100.0%
Township Median Value	\$896		\$1,516		\$1,944	
Bergen County Median Value	\$621		\$799		\$1,322	
New Jersey Median Value	\$751		\$1,092		\$1,498	

Source: US Census Bureau; 2010 and 2023 American Community Survey Five-Year Estimates.

### Deficient Housing Units

Neither the Census nor the ACS classify housing units as deficient. However, the Fair Housing Act defines a “deficient housing unit” as housing which: is over fifty years old and overcrowded; lacks complete plumbing, or; lacks complete kitchen facilities.

Accordingly, the following tables are intended to provide insights into the extent to which the Township has deficient housing units. First, Table 10 examines the extent to which there is overcrowding in the Township’s housing stock. Overcrowding is typically associated with housing units with more than one occupant per room. As shown, the estimated number of occupied housing units considered to be overcrowded is zero (0).

Table 10: Occupants Per Room (2023)

Occupants per Room	Owner-Occupied	Renter-Occupied
0.50 or Fewer	1,837	234
0.51 to 1.00	251	117
1.01 to 1.50	0	0
1.51 to 2.00	0	0
2.01 or More	0	0
Total	2,088	351

Source: 2023 American Community Survey Five-Year Estimates.

Table 11 identifies housing units with complete plumbing and kitchen facilities. As shown, all occupied units in the Township were identified as having complete plumbing and kitchen facilities.

Table 11: Plumbing and Kitchen Facilities (2023)

	Units with Complete Facilities	Units without Complete Facilities
Plumbing	2,439	0
Kitchen	2,439	0

Source: 2023 American Community Survey Five-Year Estimates.

## 2.4: Housing and Employment Projection

The following section identifies the extent to which housing and economic development have occurred in the community, which can assist in the determination of future residential and employment projections.

### Recent Residential Development Activity

One way of examining the stability of a community's housing stock is by comparing the number of residential building permits issued for new construction as well as demolition permits issued every year. Since 2013, the Township has annually issued an average of 21.9 and 0.2 building permits for new construction and demolition permits, respectively. This results in an average positive net of 21.7 permits annually.

However, of the 241 building permits for new construction issued since 2013, approximately 95.9% were issued before 2020. This is reflective of the construction of Panther Valley. Since that time, only ten (10) building permits have been issued. This is reflective of the overall lack of additional opportunities for growth remaining in the Township.

Table 12: Residential Building Permits for New Construction and Demolition Permits

Year	Building Permits				Demos	Net
	1 & 2 Family	Multifamily	Mixed Use	Total		
2013	48	0	0	48	0	48
2014	25	0	0	25	0	25
2015	33	0	0	33	1	32
2016	28	0	0	28	0	28
2017	26	0	0	26	0	26
2018	40	0	0	40	0	40
2019	31	0	0	31	0	31
2020	9	0	0	9	0	9
2021	0	0	0	0	0	0
2022	1	0	0	1	0	1
2023	0	0	0	0	1	-1
Total	241	0	0	241	2	239

Source: Department of Community Affairs

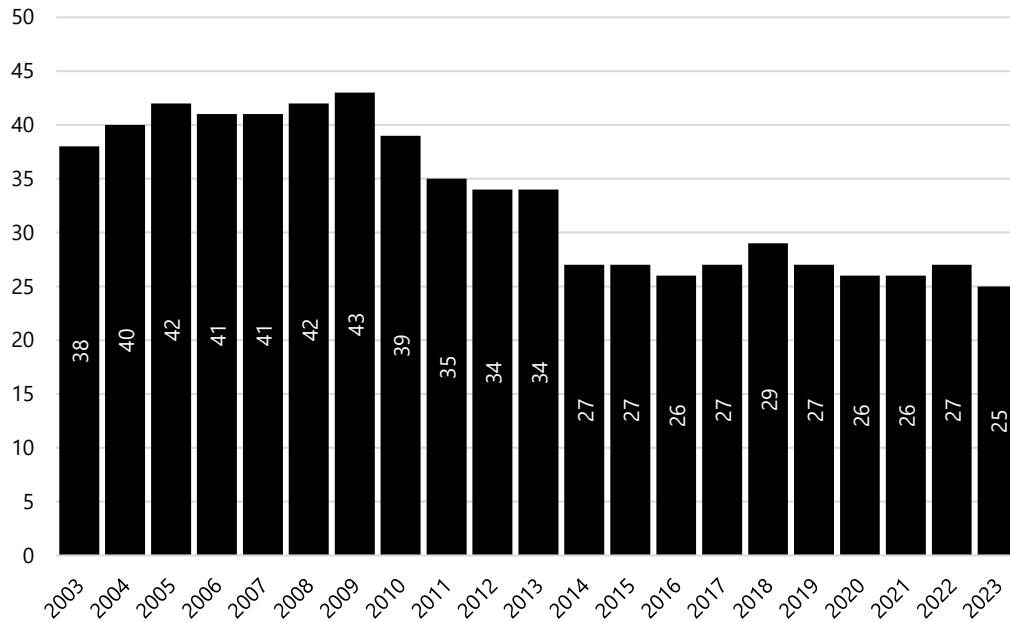
### Covered Employment

Figure 5 and Figure 6 provide data on the Township's covered employment trends between 2004 and 2023, as reported by the New Jersey Department of Labor and Workforce Development. "Covered employment" refers to any employment covered under the Unemployment and Temporary Disability Benefits Law. Generally, nearly all employment in the state is considered to be "covered employment."

Figure 5 depicts the number of reported "employment units" within the Township. An "employment unit" is defined as an individual or organization which employs one or more workers. As shown, the Township has experienced a fairly consistent loss of employment units since 2009. As of 2023, there were a reported twenty-five (25) employment units in the Township.

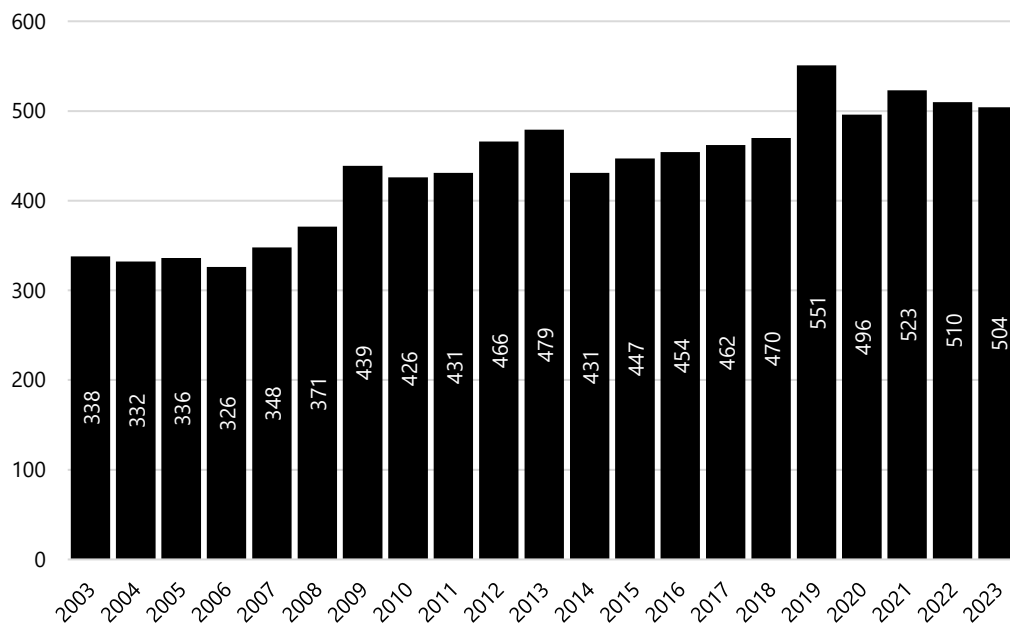
Employment levels, on the other hand, have increased since 2003. Between 2018 and 2019 alone, the estimated number of employees in the Township increased approximately 17.2%. Employment levels decreased the following year but have since remained relatively stable. As of 2023, there are an estimated five hundred and four (504) covered employees in the Township.

Figure 5: Covered Employment Units, 2003-2023



Source: Department of Labor and Workforce Development

Figure 6: Covered Employment, 2003-2023



Source: Department of Labor and Workforce Development

## Section 3: Fair Share Obligation

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

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### 3.1: Summary of Fair Share Obligation

On March 20, 2024, the State of New Jersey adopted a package of affordable housing bills which overhauled the Fair Housing Act (FHA). This legislation eliminated the Council on Affordable Housing (COAH) and split its duties and functions between the Department of Community Affairs (DCA) and the Administrative Office of the Courts (AOC).

The DCA was designated as the entity responsible for calculating the state's regional needs. NJSA 52:27D-304.2 establishes the methodology to be utilized by the DCA to determine the state's regional prospective needs of low- and moderate-income housing for the ten-year period spanning from July 1, 2025 to June 30, 2035. In summary, the projected household change for this period is estimated by establishing the household change experienced in each region between the most recent federal decennial census and the second-most recent decennial census. This household change, if positive, is then to be divided by 2.5 to estimate the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region for the next ten years. This methodology resulted in a statewide prospective need of 84,698 low- and moderate-income units.

Furthermore, the DCA was also designated as the entity responsible for calculating each municipality's present and prospective fair share obligations. However, the FHA makes clear that these calculations are advisory and that each municipality must set its own obligation number utilizing the same methodology. Meanwhile, the AOC was tasked to establish the Affordable Housing Dispute Resolution Program (the "Program") which was responsible for handling any disputes regarding affordable housing numbers or plans.

On January 22, 2025, the Township adopted Resolution #2025-43 which established its affordable housing obligations for the Fourth Round. A copy of this resolution is located in Appendix A.

This resolution accepted the DCA's **Present Need Obligation calculation of zero (0) units**. However, while the resolution accepted the methodology utilized by the DCA its Prospective Need Obligation, it noted errors in the data utilized to calculate its land capacity factor. These errors included: inaccuracies in the NJDEP's sewer service area GIS file which conflicts with the Township's adopted and approved 2009 Wastewater Management Plan; undeveloped segments of developed properties that were identified as developable; and, preserved open spaces or otherwise encumbered lots that are not available for development including common open space elements on condominiums and multi-family developments that are not available for additional development.

Accounting for these errors adjusted the Township's calculated land capacity factor from 3.38% to 0.02%. When averaged with the equalized nonresidential valuation factor and median household income factor, the Township determined that its Fourth Round Obligation should be adjusted from two hundred and eighty-one (281) affordable units to fifty-one (51) affordable units. Resolution #2025-43 also noted that the Township reserves the right to conduct a vacant land adjustment (VLA) to determine its realistic development potential (RDP) at a later date. This is discussed in greater detail in the next subsection.

Subsequently, the Township received one objection regarding its calculated Prospective Need obligation from the New Jersey Builder's Association. In a Statement of Reasons dated April 15, 2025, the Affordable Housing Program assigned a Prospective Need Obligation of **ninety-five (95) affordable units**. This determination was adopted by the Superior Court of New Jersey on April 23, 2025. A copy of the Decision and Order on Fair Share Obligation can be found in Appendix B.

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### 3.2: Realistic Development Potential (RDP)

Due to its conformance with the Highlands RMP, its limited public water and public sewer service infrastructure, significant environmental constraints and extensive swaths of preserved open space, the Township has little capacity for future growth and is therefore entitled to adjust its obligation in accordance with a procedure set forth in the FHA and by the Highland Council.

In regard to the former, NJSA 52:27D-310.1 permits municipalities to perform a realistic development potential (RDP) analysis by seeking a vacant land adjustment (VLA). A RDP analysis is intended to determine which sites in a municipality are most likely to develop for low- and moderate-income housing. Municipalities may present documentation that eliminates a site or part of a site from its inventory of vacant land. Such eliminating factors include: lands dedicated for public uses other than housing since 1997; park lands or open space; vacant contiguous parcels in private ownership of a size which would accommodate fewer than five housing units; historic and architecturally important sites listed on the State Register of Historic Places or the National Register of Historic Places; preserved architectural lands; sites designated for active recreation; and environmentally sensitive lands.

In addition to the above, the amendments to the FHA as discussed in Section 1.2 continued to recognize the importance of the Highlands Regional Master Plan as a necessary input for the responsible production of affordable housing in the Highlands Region. Moreover, the FHA was amended to require conforming municipalities to include in their HE&FSP a "consideration of the most recent Highlands Municipal Build Out report." Accordingly, on April 18, 2024, the Highlands Council adopted an amendment to the RMP which provides standards based upon the RMP and the FHA as to where it is appropriate to locate affordable housing based upon the goals, policies, and objectives of the RMP. Affordable housing developments in conforming municipalities must be consistent with the RMP Land Use Capability Zone (LUCZ) designations while providing for the protection of individual resource protections.

Accordingly, to guide this development, the Highlands Council developed a Build-Out Update. The Highlands Council worked collaboratively with municipalities to apply environmental and regulatory constraints to develop a dataset identifying parcels that can support the development of five (5) units or more and have a net developable acreage of 0.83 acres or greater. The dataset also provided information as to whether these properties can be serviced by public wastewater or via on-site septic systems. For those properties that could only be serviced by on-site septic systems, the dataset provided maximum residential unit septic densities. For a full explanation of the Highlands Build-Out process, see Appendix C.

On March 10, 2025, the Township completed its Highlands Build-Out. This analysis generated a **RDP of three (3) affordable units**. The sites which contributed to the Township's RDP are identified in the table below. As shown, these properties have a combined septic density of 14.46 residential units. Applying a set-aside of twenty percent (20%) results in an RDP of 2.89 affordable units.

Table 13: Highlands Buildout Contributing Properties

Block	Lot	Address	Combined Septic Density
301	7	551 Ervey Road	9.36
201	33	Quaker Church Road Rear	5.10
Total			14.46



## Section 4: Fair Share Plan

The following Fair Share Plan outlines the components and mechanisms the Township has utilized and will utilize to address its affordable housing obligations. These obligations are summarized as follows:

Table 14: Affordable Housing Obligation Summary

Category	Obligation
Prior Round Obligation (1987-1999)	13
Third Round Obligation (1999-2025)	17
Fourth Round Obligation (2025-2035)	95
Present Need (Rehabilitation) Obligation	0

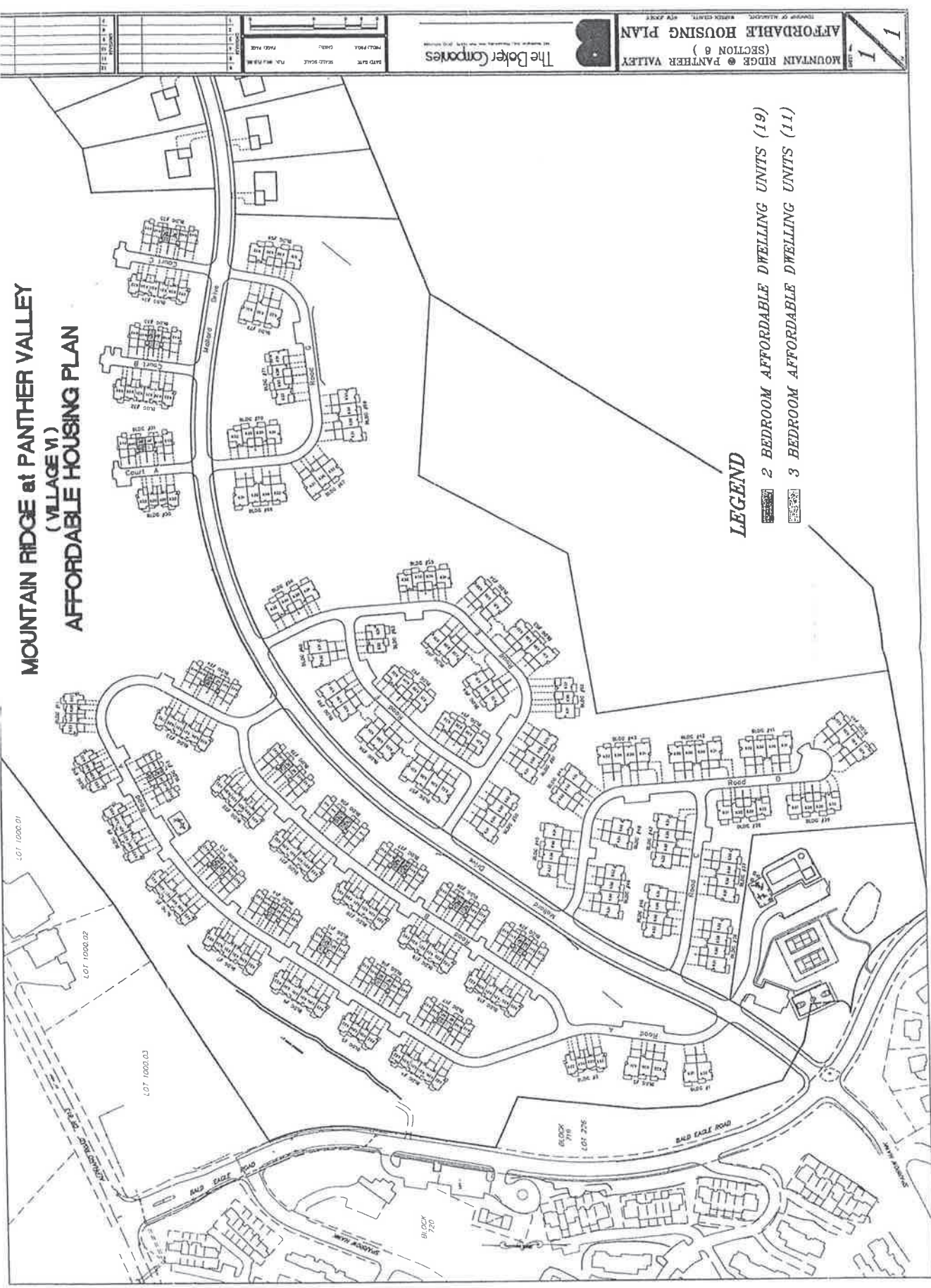
### 4.1: Prior Round Obligation

The Township was assigned a Prior Round Obligation of thirteen (13) units.

This obligation was addressed through the "Village VI" (otherwise known as the "Village of Mountainside") development, which is a 368-acre tract consisting of multiple parcels within Blocks 701, 701.05, and 701.18. On August 19, 2002, the Township Planning Board granted final major site plan and subdivision approval for the construction of this development which consists of three hundred and twenty-four (324) townhouses and forty-seven (47) single-family units.

Thirty (30) affordable rental units were included with this development, which consisted of nineteen (19) two-bedroom affordable rental units and eleven (11) three-bedroom affordable units. Eight (8) of these units, as well as four (4) corresponding rental bonus credits, were applied to satisfy the Township's thirteen-unit prior round affordable housing obligation. This was noted in the Township's certified 1993 HE&FSP.

The remaining twenty-two (22) affordable units within Village VI were applied to the Township's rehabilitation obligation, which as per a Structural Conditions Survey was twenty-three (23) units. The remaining one (1) rehabilitation unit left after applying these credits was addressed by an excess credit from the Third Round. This is discussed in the following subsection.



**MOUNTAIN RIDGE at PANTHER VALLEY  
(VILLAGE VI)  
AFFORDABLE HOUSING PLAN**

- LEGEND**
- 2 BEDROOM AFFORDABLE DWELLING UNITS (19)
  - 3 BEDROOM AFFORDABLE DWELLING UNITS (11)

---

## 4.2: Third Round Obligation

Pursuant to a Settlement Agreement signed with FSHC, the Township was assigned a Third Round Obligation of seventeen (17) units.

The Township addressed this obligation by purchasing twenty-two (22) of the one hundred and sixty-eight (168) apartment units constructed in the "Village IX" development, which is located within Block 27 along the northerly side of Alphano Road in the Panther Valley community. These units consist of ten (10) one-bedroom family rental units and twelve (12) two-bedroom family rental units. Of these units, thirteen (13) are affordable consisting of five very-low, two low-, and six moderate-income households.

Twelve (12) of these thirteen (13) units, as well as five (5) corresponding bonus credits, were applied to satisfy the Township's seventeen (17) unit Third Round affordable housing obligation.

The remaining one (1) unit was credited toward the Township's rehabilitation obligation. When considered with the aforementioned twenty-two (22) affordable units within Village VI, this satisfied the Township's rehabilitation obligation.

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## 4.3: Fourth Round Obligation

Pursuant to a judgment offered through the Resolution Dispute Program, the Township was assigned a Fourth Round Obligation of ninety-five (95) affordable units.

As detailed in Section 3.2 of this HE&FSP, the Township utilized the Highlands Build-Out tool to conduct a vacant land adjustment (VLA) which determined its realistic development potential (RDP) to be three (3) affordable units.

The Township shall address this obligation by creating a new RMF Residential Multifamily Zoning District which shall encapsulate Block 802 Lot 13. The site, which is located at the intersection of Allamuchy Road and Ridge Road, has an area of approximately 3.73 acres. It is presently developed with a restaurant and associated parking areas. While it is located within the Highlands Preservation Area and outside of the Township's sewer service area (SSA) pursuant to its adopted Wastewater Management Plan (WMP), the site has an existing septic system with a NJDEP permit (NJG0170062) of 0.0048 MGD. This translates to 4,800 gallons per day which can support thirteen (13) residential units.

Accordingly, the MFR Multifamily Residential Zoning District shall permit a density of 3.5 units per acre which would allow for a maximum of thirteen (13) residential units. A minimum affordable set-aside of twenty percent (20%) shall also be required, resulting in three (3) affordable units.

This site represents an appropriate location for affordable housing and meets the Four-Prong Test as follows:

1. Approvable Site

The Township has already prepared a draft zoning ordinance to rezone the site. This ordinance creates a new zoning district which would permit an inclusionary housing development. The Township will adopt the ordinance after the HE&FSP is adopted. A copy of this ordinance can be found in Appendix D.

2. Available Site

The Township is unaware of any title or easement issues on the site.

3. Developable Site

The site is located within the Highlands Preservation Area as well as outside the Township's SSA. Nevertheless, the site may be redeveloped in a manner consistent with the Highlands Regional Master Plan. Specifically, the site has an existing septic system with a NJDEP permit (NJG0170062) of 0.0048 MGD. This translates to 4,800 gallons per day which can support the proposed thirteen (13) residential units.

Moreover, the building and main parking area presently located on the property comprise approximately 44,200 square feet of existing improvement coverage. An overflow parking area located within the westerly portion of the site comprises an additional 11,200 square feet of existing improvement coverage. In comparison, the concept plan contained in Map 5 features approximately 17,900 square feet of improvement coverage. Thus, while exemptions are available for existing developments within the Preservation Area, the site could be redeveloped with a multifamily use while decreasing its existing improvement coverage.

Finally, as evidenced in Map 5, the majority of the site is relatively free of environmental constraints including steep slopes, riparian areas, and wetland buffer areas.

4. Suitable Site

The site is presently developed with a more intensive commercial use and thus may accommodate a lesser intensive multifamily use. The site can also accommodate adequate setbacks of seventy-five (75) feet from both Allamuchy Road and Ridge Road, thus complementing the rural residential nature of the Township. The site is located in close proximity (1.1 miles) to the Panther Valley Mall and is approximately 2.5 miles from Route 80 which provides access to the greater region.



PANTHER VALLEY SECTION 9  
AFFORDABLE HOUSING PLAN

VILLAGE 9 at PANTHER VALLEY  
AFFORDABLE HOUSING PLAN

TAX BLOCK 602, LOTS 26.07 & 27  
TOWNSHIP OF ALLAMUCHY, WARREN COUNTY, NEW JERSEY

SCALE: 1"=120  
DATE: 12/14/05

485 Washington Ave., Pleasantville, New York 10570 (914) 747-1550

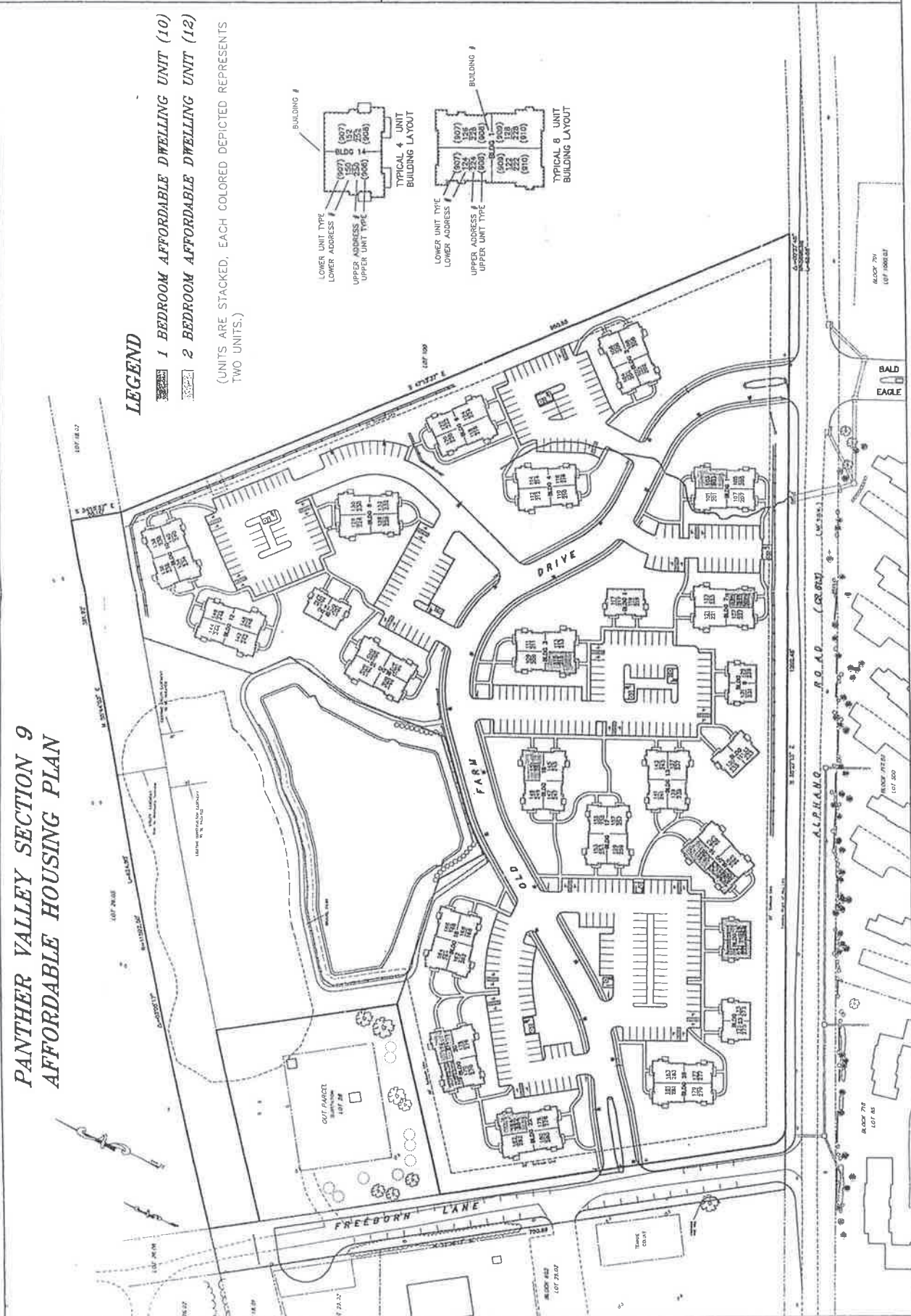
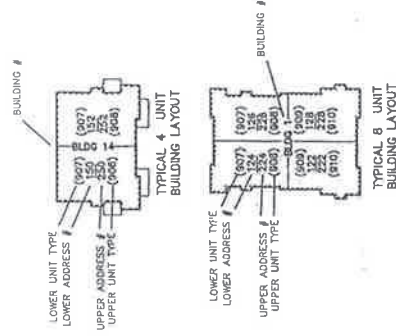
The Baker Companies



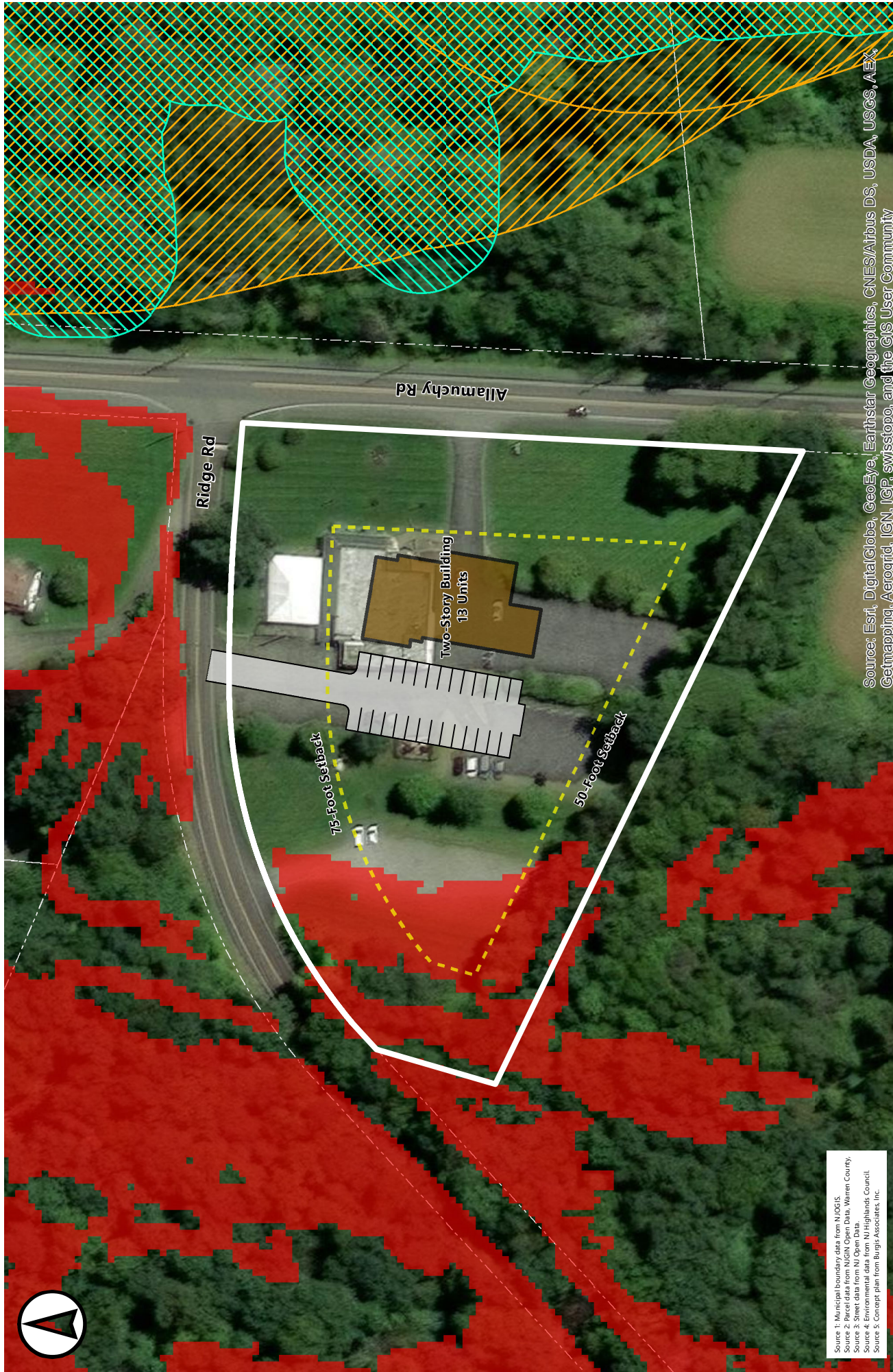
LEGEND

- 1 BEDROOM AFFORDABLE DWELLING UNIT (10)
- 2 BEDROOM AFFORDABLE DWELLING UNIT (12)

(UNITS ARE STACKED, EACH COLORED DEPICTED REPRESENTS TWO UNITS.)







Source 1: Municipal boundary data from NJGIS.  
Source 2: Parcel data from NGIN Open Data, Warren County.  
Source 3: Street data from NJ Open Data.  
Source 4: Environmental data from NJ Highlands Council.  
Source 5: Concept plan from Burgis Associates, Inc.

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Dwg. Title

### Map 5: MFR Concept Plan



**BURGIS ASSOCIATES, INC.**  
COMMUNITY PLANNING | LAND DEVELOPMENT AND DESIGN | LANDSCAPE ARCHITECTURE  
p: 201.666.1811  
f: 201.666.2599  
Westwood, New Jersey 07675

Project Title  
**Housing Element and Fair Share Plan**  
Township of Allamuchy | Warren County, New Jersey

#### Legend

- C-1 Stream: 300' Buffer
- Wetlands: 100' Buffer
- Steep Slopes

Project No.	Date	Dwg. No.
4201.01	05.14.25	map 5
Scale	1" = 100'	

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#### 4.4: Present Need Obligation

The Township was assigned a Present Need (Rehabilitation) Obligation of zero (0) units. Thus, no action is needed at this time.

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#### 4.5: Other Provisions

The following additional requirements are noted:

1. *Fourth Round Bonuses*. Fourth Round bonuses will be applied in accordance with NJSA 52:27d-311.k.
2. *Very-Low Income and Low-Income Units*. At least fifty percent (50%) of the units addressing the Fourth Round Prospective Need shall be affordable to very-low income and low-income households with the remainder affordable to moderate-income households. A minimum of thirteen percent (13%) of the affordable units will be made available to very low income households, defined as households earning thirty percent (30%) or less of the regional median income by household size.
3. *Rental Component*. At least twenty-five percent (25%) of the Fourth Round Obligation shall be met through rental units, including at least half in rental units available to families.
4. *Families*. At least half of the units addressing the Fourth Round RDP and unmet need in total must be available to families.
5. *Age-Restricted Cap*. The Township shall comply with the age-restricted cap of thirty percent (30%) and will not request a waiver of this requirement. This shall be understood to mean that in no circumstances may the municipality claim credit towards its fair share obligation for age-restricted units that exceed thirty percent (30%) of all units developed or planned to meet its cumulative Prior Round, Third Round, and Fourth Round fair share obligations.
6. *Development Fees*. The Township will continue to impose development fees as permitted by COAH's prior round rules. The funds generated by the collection of development fees will be applied directly towards any activity approved by State regulations for addressing the municipal fair share. A copy of the development fee ordinance can be found in Appendix E.
7. *Spending Plan*. As noted in the Spending Plan attached in Appendix F, the Township shall reserve monies for emergent opportunities. An emergent opportunity is defined as "a circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of compliance certification."



8. *Mandatory Set-Aside Ordinance*. The Township shall adopt a mandatory set-aside ordinance for all new multifamily residential developments of five (5) or more units that become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or a new redevelopment plan. This ordinance shall require a twenty percent (20%) set-aside regardless of tenure status.

This provision will not affect residential development sites that have already been zoned for inclusionary development as part of the Township's HE&FSP, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning. This mandatory set-aside ordinance will also not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Allamuchy to grant such rezoning, variance, or other relief. See Appendix G for a copy of this draft ordinance.

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#### 4.6: Consistency with State Planning Initiatives

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

- ❖ An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, and;
- ❖ An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

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

##### Multigenerational Family Housing Continuity Commission

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

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



### State Development and Redevelopment Plan

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

As indicated by the SDRP’s Policy Map, the Township is largely split into four (4) Planning Areas: Planning Area 4B (Rural Environmentally Sensitive); Planning Area 5 (Environmentally Sensitive); Planning Area 8 (Open Space); and the Highlands Preservation Area.

The intent of Planning Area 4B is to: maintain the environs as large contiguous area of farmland and other lands; revitalize cities and towns; accommodate growth in Centers; promote a viable agricultural industry; protect the character of existing, stable communities, and; confine programmed sewers and public water services to Centers. Similarly, the intent of Planning Area 5 is to: protect environmental resources through the protection of large contiguous areas of land; accommodate growth in Centers; protect the character of existing stable communities; confine programmed sewers and public water services to Centers, and; revitalize cities and towns.

Furthermore, and as discussed on the following page, one of the overarching goals of the Preservation Areas as per the Highlands Regional Master Plan (RMP) is to preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state in order to ensure the continuation of the Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the region. Accordingly, the Preservation Area seeks to prohibit or limit, to the maximum extent possible, construction or development which is incompatible with the preservation of this region. The Preservation Area also promotes compatible agricultural, horticultural, recreational, and cultural uses and opportunities within the framework of protecting the Highlands environment.

Accordingly, there are limited opportunities for additional growth throughout the Township. This 2025 HE&FSP recognizes these significant constraints and plans for affordable housing in a manner which respects the state’s greater planning initiatives.

### Highlands Regional Master Plan

The Highlands RMP broadly separates the Highlands Region into two general areas: the Preservation Area and the Planning Area.

The Highlands RMP establishes that one of the overarching goals of the Preservation Areas is to preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state in order to ensure the continuation of the Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the region. Accordingly, the Preservation Area seeks to prohibit or limit, to the maximum extent possible, construction or development which is incompatible with the preservation of this region. The Preservation Area also promotes compatible agricultural, horticultural, recreational, and cultural uses and opportunities within the framework of protecting the Highlands environment.

Approximately 5,278 acres of the Township are located within the Preservation Area. The Preservation Area is generally located in two areas of the Township: to the southeast of Allamuchy Road (Route 517); and near the northwest portion of the municipality, between the former rail line and Route 80. These two areas respectively coincide with Allamuchy Mountain State Park as well as the Pequest River Greenway State Park. A smaller residential neighborhood centered near Cornerstone Drive is also located within the Preservation Area.

In regard to the Planning Area, the RMP also seeks to preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes. Nevertheless, the RMP also supports appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth in or near areas already utilized for such purposes within the Planning Area. Instead of piecemeal, scattered, or inappropriate development, the Planning Area envisions local and regional growth and economic development to be conducted in an orderly way which protects the Highlands environment from individual and cumulative adverse impacts. The Planning Area also promotes the continuation and expansion of agricultural, horticultural, recreational and cultural uses and opportunities as well as a sound, balanced transportation system.

Approximately 7,695 acres of the Township are located within the Planning Area. The Planning Area is generally located within the central and northerly portions of the Township. It encapsulates those areas located to the north of Cat Swamp Road and to the northeast of Route 517 including Panther Valley, as well as the land located to the north of Route 80.

In addition to the general delineations established by the Planning Area and the Preservation Area, the Highlands RMP further divides the Highlands Region into more refined Land Use Capability Zones (LUCZs). The overarching goal of these LUCZs is to address the requirements of the Highlands Act and provide regional guidance for the implementation of the policies contained within the RMP.

LUCZs are designated areas which identify those lands which are best suited for different types of development and other lands where special consideration is required to protect regionally significant resources. While they are referred to as zones, LUCZs do not replace existing municipal zoning. Rather, they build upon municipal zoning by establishing additional standards and criteria. They are intended to provide a means to address issues of special interest (such as watershed management areas, open space and historic preservation, urban enterprise zones, etc.) which underlying zoning may not otherwise take into consideration.

The following table summarizes the LUCZs which exist within the Township. As shown, ninety-two percent (92%) of the Township is located in either the Protection Zone, the Conservation Zone, or the Conservation Zone – Environmentally Constrained Subzone. In general, these LUCZs place a high priority on land acquisition and/or agricultural purposes. Development activities are extremely limited.

Thus, future development opportunities throughout the Township are significantly limited. This 2025 HE&FSP recognizes the constraints of the Highlands RMP and plans for affordable housing in a manner which reutilizes existing infrastructure and limits the expansion of additional improvement coverage or septic facilities.

Table 15: Highlands LUCZs

Land Use Capability Zone	Acres	%
Existing Community Zone	805.8	6.4%
Lake Community Subzone	160.6	1.3%
Existing Community - ECSZ	39.3	0.3%
Protection Zone	5,823.3	46.0%
Conservation Zone	234.7	1.9%
Conservation Zone - ECSZ	5,581.8	44.1%
Total	12,645.6	100.0%

## Appendices

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Appendix A: Resolution 2025-43

## **RESOLUTION # 2025-43**

### **RESOLUTION OF THE TOWNSHIP OF ALLAMUCHY ADOPTING FOURTH ROUND AFFORDABLE HOUSING OBLIGATIONS PURSUANT TO P.L. 2024, c.2 AND THE FAIR HOUSING ACT, N.J.S.A. 52:27D-302**

**WHEREAS**, on March 20, 2024, Governor Philip D. Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"), which requires each municipality to provide its fair share of affordable housing obligations under the Mount Laurel Doctrine based on a new process and updated methodology as set forth in the Amended FHA; and

**WHEREAS**, on October 18, 2024, the New Jersey Department of Community Affairs (the "DCA") calculated the non-binding statewide and regional affordable housing needs and released a non-binding determination of each municipality's Fourth Round (2025 to 2035) affordable housing obligation as set forth in DCA's report, entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" (the "DCA Report"); and

**WHEREAS**, the DCA Report calculates the Township of Allamuchy's Round 4 (2025-2035) obligations as follows: (a) a Present Need Obligation of 0, and (b) a Prospective Need Obligation of 281; and

**WHEREAS**, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support a lower fair share calculation; and

**WHEREAS**, substantial activity has occurred surrounding the Amended FHA and is ongoing since the Amended FHA was signed into law that warrants the Township of Allamuchy explicitly reserving certain rights to avoid any claim that it has waived them; and

**WHEREAS**, for example, the Township of Allamuchy notes that the New Jersey Institute of Local Government Attorneys ("NJILGA") has expressed its support for legislation (hereinafter the "NJILGA Legislation") which, if adopted would reduce the Township of Allamuchy Round 4 prospective need from 281 to 48 and which further provides that municipalities would have 90 days from receipt of revised fair share obligations from the [DCA] to provide amended Housing Element and Fair Share Plans addressing the new number; and

**WHEREAS**, the Township of Allamuchy supports the NJILGA Legislation and would have the right to reduce its Round 4 obligation in the event that the Legislature enacts the NJILGA Legislation; and

**WHEREAS**, the Amended FHA specifically provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are



**RESOLUTION # 2025-43**

contradicted by statute, including P.L. 2024, c.2, or binding court decisions” (N.J.S.A. 52:27D-311 (m)); and

**WHEREAS**, COAH regulations authorize the award of a durational adjustment predicated upon a lack of sewer or lack of water, as well as a and vacant land adjustment; and

**WHEREAS**, based on a review of the DCA Report and findings made by the Township Planner, David Novak PP, AICP of Burgis Associates, Inc. (the “Township Planner”), it is recommended that the Township Council adopt a binding resolution accepting the present need obligation of 0; and

**WHEREAS**, based on a review of the DCA Report and finds made by the Township Planner, it is recommended that the Township Council adopt a binding resolution determining a reduced municipal prospective need obligation of 51 based on a recalculation of the Land Capacity Allocation Factor to account for DCA’s methodological errors and as supported by the Township Planner’s Report and the mapping and data which are attached hereto and incorporated herein as Exhibit A; and

**WHEREAS**, the Township Planner has determined that the Land Capacity Allocation Factor must be adjusted from 181.318 acres to .927 acres by removing the following land which was improperly included as developable land in the DCA’s calculation:

- (1) Areas or portions of areas less than 25 feet wide;
- (2) Open space/parkland properties with deed restrictions and/or on Recreation and Open Space Inventory (“ROSI”);
- (3) Properties under construction or recently developed;
- (4) Public utility parcels, railroad properties, rights-of-way, areas used for stormwater management facilities, etc., and
- (5) Properties with easements restricting development within developable area; and

**WHEREAS**, upon correcting the Land Capacity Allocation Factor from 181.318 acres to .927 acres, the Township’s prospective need is 51 based on the approved Fourth Round Methodology; and

**WHEREAS**, the Township of Allamuchy reserves the right to comply with the NJILGA Legislation if the Legislature enacts it; and

**WHEREAS**, the Township of Allamuchy also reserves all rights to adjust its position in the event of any rulings in Borough of Montvale, et al. v. State of New Jersey, et al., Docket No. MER-L-1778-24 (hereinafter the “Montvale Case”) or any other such action that alters the deadlines and/or requirements of the Amended FHA; and

**RESOLUTION # 2025-43**

**WHEREAS**, the Township of Allamuchy reserves the right to conduct a vacant land adjustment (VLA) to determine its realistic development potential (RDP) and/or seek a durational adjustment at a later date; and

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

**WHEREAS**, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

**WHEREAS**, pursuant to Directive #14-24 of the Acting Administrative Director, a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, the Township of Allamuchy seeks a certification of compliance with the FHA and, therefore, directs its affordable housing Counsel to file a declaratory relief action in the Superior Court of New Jersey, Warren County within 48 hours of the adoption of this resolution.

**NOW, THEREFORE, BE IT RESOLVED**, on this 22<sup>nd</sup> day of January, 2025 by the Mayor and Council of the Township of Allamuchy, Warren County, State of New Jersey, as follows:

1. All of the Whereas Clauses set forth above are incorporated into the operative clauses of this resolution as if fully set forth herein.

2. The Township of Allamuchy hereby accepts a present need obligation of 0 and a prospective need obligation of 51 as its Fourth Round (2025 to 2035) affordable housing obligation pursuant to P.L. 2024, c. 2 and the Fair Housing Act, N.J.S.A. 52:27D-302, et seq., and hereby binds itself to the adoption of a housing element and fair share plan based on this determination, subject to: (a) the right to comply with the NJILGA Legislation if the Legislature enacts it; (b) the right to adjust its obligation in the event of any future legislation, including but not limited to the NJILGA Legislation, that adjusts the obligations the DCA reported on October 18, 2024; (c) the right to adjust its obligations based upon any ruling in the Montvale Case or other litigation; (d) the right to adjust its obligations in the event of a third-party challenge to the obligations and the Township's response thereto; and (e) the right to conduct a VLA to determine its RDP and/or seek a durational adjustment at a later date.

3. The Mayor and Council of the Township of Allamuchy hereby direct the Township Attorney to file a declaratory judgment complaint in Warren County



**RESOLUTION # 2025-43**

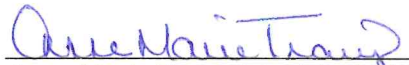
within 48 hours after adoption of this resolution, attaching this resolution and the Planner's Report thereto.

4. The Mayor and Council of the Township of Allamuchy authorize the Township Attorney to file this resolution with any such entity as may be determined to be appropriate and necessary.

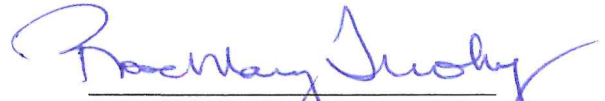
This resolution shall take effect as provided by law.

MEMBERS	MOTION	2 <sup>ND</sup>	YES	ABSTAIN	NO	ABSENT
S. Chamberlin	✓		✓			
M. Quinoa		✓	✓			
E. Fabula			✓			
D. Bonanno			✓			
R. Tuohy - Mayor			✓			

ATTEST:

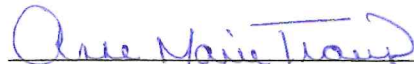
  
Anne Marie Tracy, Municipal Clerk

TOWNSHIP OF ALLAMUCHY

  
Rosemary Tuohy, Mayor

**CERTIFICATION**

I, Anne Marie Tracy, hereby certify that the foregoing Resolution is a true, complete and accurate copy of a Resolution adopted by the Mayor and Council of the Township of Allamuchy at a meeting held on January 22, 2025.

  
Anne Marie Tracy, Municipal Clerk

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Appendix B: Judgement from Program

**Township of Allamuchy**  
**WRN-L-38-25**  
**STATEMENT OF REASONS**

This matter came before the Affordable Housing Program pursuant to a complaint for declaring judgment brought by petitioner (Allamuchy) pursuant to NJSA 52:270-304.2-304.3 and 304(1)(f)(1)(c) of the New Jersey Fair Housing Act, NJSA 52:27D-301 et seq. (collectively, the FHA) and in accordance with Section II.A of Administrative Directive #14-24 (Directive 14-24) of the Affordable Housing Dispute Resolution Program (“the Program”).

On October 18th 2024, pursuant to the FHA (as amended) the New Jersey Department of Community Affairs (“DCA”) issued its report entitled, “Affordable Housing Obligations for 2025-2035 (Fourth Round)”. The report set forth the “Present Need” and “Prospective Need” obligations of all New Jersey municipalities for the Fourth Round cycle.

With regards to the Petitioner, the “Present Need” obligation of the Petitioner has been calculated and reported by the DCA as 0 affordable units. Its “Prospective Need” obligation was calculated and reported as by the DCA 281 affordable units. The DCA calculations are “presumptively valid” for purposes of the FHA.

Previously the Petitioner adopted a resolution seeking a deviation from its assigned Prospective Need obligation based upon recommendation of its counsel and/or experts. In this case, the municipality requests that its Prospective Need obligation be reduced to 51 units. The municipalities complaint was timely and properly with the Program.

The municipalities position has been challenged by the New Jersey Builders Association (“NJBA”). Their application was supported by its own expert report.<sup>1</sup>

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<sup>1</sup> This particular municipal challenge was not objected to by the Fair Share Housing Center (FSHC).

The program assigned this case to program member Thomas C. Miller, A.J.S.C. (ret.) to address the case in accordance with the Statute and AOC Directive. The Program member convened a settlement conference, but when settlement negotiations failed, a session was held in order that each party present its position. The session was held “on the record”. At that time, the record that was before the program member was established and the parties were permitted to present arguments concerning their positions.

The following statement of reasons has been prepared to support the recommendation that is made by the program member to the locally assigned and designated “Mount Laurel Judge”.

#### **A. IN GENERAL**

In order to properly understand the issues presented, some historical background and context is appropriate.

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

[M]ust, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there, of course including those of low and moderate income. It must permit multi-family housing, without bedroom or similar restrictions, as well as small dwellings on very small lots, low cost housing of other types and, in general, high density zoning, without artificial and unjustifiable minimum requirements as to lot size, building size and the like, to meet the full panoply of these needs and Southern Burlington County N.A.A.C., DV Mount Laurel Township 67NJ 157, 179, 787 (1975).

As a result, the Mount Laurel Doctrine was born. The Doctrine was upheld and extended in 1983. Mount Laurel II, 92 NJ 158 205 (1983). The broad challenge to the persistent abuse of the zoning power turned out to be difficult to enforce, however, so in 1983, Chief Justice Wilentz focused the bright line standard of compliance on the provision specifically of homes for low and

moderate-income households. With “low and moderate income” defined by the Court as households making less than 80% of the median income in their area, the Mount Laurel doctrine directly affects approximately 40% of New Jersey’s population. Under the direction of Mount Laurel II, the needs of the future lower-income population would be numerically estimated and allocated to municipalities. Mount Laurel II, *supra*, 92 N.J. at 205. This framework was developed in case law and set the foundation for the New Jersey Fair Housing Act.

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

a. The Consensus Methodology addressed need from 1980 to 1990 and was created under Court direction. See i.e. AMG Realty Co. v. Township of Warren 207 NJ Super 388 (1984). The four (4) allocation factors were covered employment, the change in covered employment, a wealth measure using the municipality’s median income as a share of the region’s aggregate of all medians,<sup>2</sup> and the gross acres (developed or vacant) in the growth area under the old State Development Guide Plan.<sup>3</sup> As this model was developed in the context of town by town litigation, the “region” for each town was an area around that town and unique to itself. The projected need was based on the ODEA Economic/Demographic Model.

b. First Round, prepared by COAH, was the first allocation model created by that agency and addressed the need from 1987-1993, although it and all subsequent models allow units created after 1980 to be credited. N.J.A.C. 5:92, especially Appendix A (1986). This model used the same four (4) factors as the Consensus Methodology except that the wealth factor was changed to the 1983 per capita income of the municipality times its population and then taken as a share of the regional total for that figure.<sup>4</sup> This had the effect of shifting some of the obligation from small wealthy communities to larger suburban communities. The major innovation for this round was the creation of the six (6) permanent regions for determining the

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<sup>2</sup> The formula was the 1980 median divided by the regional median and that ratio was multiplied by the average of the two employment factors.

<sup>3</sup> State Development Guide Plan, Division of State & Regional Planning, Department of Community affairs, 1980.

<sup>4</sup> New Jersey Legislative Data Book: 1986, Bureau of Government Research, Rutgers,

regional share for each municipality. The projected need was still based on the ODEA Economic/Demographic Model.

c. Second Round, prepared by COAH, merged two 6-year compliance periods together and covered, in the aggregate, the 12-year period from 1987-1999. This allowed COAH to reduce retroactively the First Round obligation as part of a cumulative 12-year model. At the time, this was referred to as Cumulative Need. COAH's various unsuccessful rule-making efforts to cover the third round have referred to this obligation as the Prior Round (sometimes also called the Prior Obligation). N.J.A.C. 5:93, especially Appendix A (1994). The model introduced significant changes. First, the population projection used was the average of two models – the Economic/Demographic Model and the Historic Migration Model by ODEA. This has the effect of dampening need in edge areas and shifted some of the allocation towards the regions that had grown in the past. The economic component saw a shift from employment to the nonresidential real estate valuation and the change in the valuation of the prior 10-year period. This also tended to reallocate units from suburban employment centers to inner ring suburbs with older factories and shopping areas that still had real estate value even if employment was lower. The land factor was changed to an estimate of “vacant” land using remote sensing taking advantage of the then relatively new Geographic Information Systems (GIS) technology. The totals were then weighted based on the new State Plan's area designations. This greatly shifted portions of the obligation from developed communities in the growth area to greenfields communities. At that point, it was still a 4-factor model.

d. The third Round was delayed and ultimately addressed in what has been called the Jacobson methodology, reflecting the work of Judge Mary Jacobson to oversee a 40+- day trial in the case of *In the Matter of the Application of the Municipality of Princeton L-1550-15* (Law Div. March 8, 2018) (“Princeton Decision”). Judge Jacobson authored a comprehensive decision that was adopted throughout New Jersey for the Third Round. Judge Jacobson analyzed and worked through all of the many issues in developing that methodology. In fact, Judge Jacobson's decision is specifically referenced in the amendments to the FHA as a point of guidance.<sup>5</sup> The projection of

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<sup>5</sup> The quantitative outcome of that trial was published as *Statewide and Municipal Obligations Under Jacobson*

need was again based on the average of the two projections prepared by the NJDOL, but required significant adjustment procedures due to changes in the way the data was published by NJDOL. The primary change to the allocation model was that the Third Round model followed the choice of the various COAH-published models for the round which reduced the allocation factors from four (4) to three (3), using non-residential valuation change alone and without a stock or total factor.

e. The fourth or current round is governed by the revisions to the FHA reflected in P.L. 2024, c.2 which covers the time period from 2025 to 2035. and has been implemented through the work of the DCA pursuant to the specific In the statute, the New Jersey Department of Community Affairs (DCA) was charged with implementing the methodology directives now contained with the Act.<sup>6</sup> The Act currently provides for a three factor allocation model.

## **B. FACTUAL BACKGROUND**

1. On March 20, 2024, Governor Murphy signed into law revisions to the FHA that introduced a number of significant revisions to the FHA.
2. First, the revisions created the Program as the body intended to oversee municipal compliance with the Mount Laurel Doctrine.<sup>7</sup>
3. The FHA also now provides for each municipality to calculate its own present and Prospective Need. See N.J.S.A. 52:27D-304.1.a.
4. However, in calculating such need, a municipality, such as Plaintiff, is required to abide by the statutory formula set forth in the FHA, specifically N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3.

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*Opinion, dated March 18, 2018, prepared by Econsult Solutions.*

<sup>6</sup> *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background, Fourth Round Calculation Workbook, Consulting Report by Mercadien, PC essentially auditing the DCA work.*

<sup>7</sup> *The Mount Laurel Doctrine is collectively embodied by the judicial precedent established in Southern Burlington Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) ("Mount Laurel I"), Southern Burlington Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 92 N.J. 189 (1983) ("Mount Laurel II") and their judicial progeny, the Legislature's enactment of the Fair Housing Act, N.J.S.A. 52:27D-301, et seq., (the "FHA") and the regulations adopted by the New Jersey Council on Affordable Housing ("COAH"), N.J.A.C. 5:91-1, et seq., N.J.A.C. 5:92-1, et seq., and N.J.A.C. 5:93-1, et seq. (the "COAH Rules").*

5. The calculation of regional need and the allocation of that need involves the compilation, review and analysis of a substantial amount of regional data in order for a municipality's Prospective Need to be determined. See N.J.S.A. 52:27D-304.3.

6. Given the magnitude of that task, the FHA directed the DCA to prepare "a report on the calculations of regional need and municipal obligations for each region of the State." See N.J.S.A. 52:27D-304.1.d.

7. The DCA, one of the largest departments in the State, with a 2024 operating budget of \$1.485 billion, was allotted a period of seven (7) months to develop the report.

8. On October 20, 2024, the DCA issued its report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" (hereinafter the "DCA Report").

9. The DCA Report was also peer reviewed by the firm of Mercadien, P.C., that "confirmed the accuracy and consistency of the calculations and methodology required under the relevant public law."

10. The DCA Report both calculated the regional present and Prospective Need for all six (6) housing regions within the State (as required by N.J.S.A. 52:27D-304.2) and then allocated those regional need totals to the municipalities within each region (as required by N.J.S.A. 52:27D-304.3).

11. The calculation of regional Prospective Need was modified and simplified by the March 20, 2024 revisions to the FHA. In calculating that need, the FHA provides:

Regional Prospective Need for a 10-year round of low- and-moderate-income housing obligations shall be determined through the calculation provided in this subsection. Projected household change for a 10-year round in a region shall be estimated by establishing the household change experienced in the region between the most recent federal decennial census, and the second most recent federal decennial census. This household change, if positive, shall be divided by 2.5 to estimate the number of low- and-



moderate-income homes needed to address low- and moderate income household change in the region and to determine the regional Prospective Need for a 10-year round of low- and- moderate-income housing obligations. If household change is zero or negative, the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region and the regional Prospective Need shall be zero.

See N.J.S.A. 52:27D-304.2.b.(2).

12. Consistent with the above, the DCA Report calculated the Statewide Prospective Need as follows:

**Regional Obligations Calculations - 2010 and 2020 Census**

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

13. None of the parties to this matter dispute the DCA's overall calculation of regional need. Although the municipality contends that the regional need would be adjusted by any exclusions that it seeks to receive credit for.

14. After calculation of regional Prospective Need, the DCA Report then allocates that regional need in accordance with the provisions of N.J.S.A. 52:27D-304.3.c.

15. On the basis of its allocation methodology, the DCA established Plaintiff's Fourth Round Prospective Need at 485 units.

16. Pursuant to the FHA, on or before January 31, 2025, a New Jersey municipality was required to adopt a binding Resolution that both expressed

its intention to participate in the Program and “determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in [N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3.]” See N.J.S.A. 52:27D-301.f.(1)(a).

17. On or before the January 31, 2025 deadline, more than 440 municipalities filed their respective, binding resolutions with the Program with approximately 2/3 of the participating municipalities accepting and adopting the Prospective Need allocations established by the DCA Report.

18. Approximately 159 municipalities deviated from the Prospective Need allocations of the DCA Report and each of those 159 municipalities contends that the DCA Report contained errors in its calculation of the municipal Land Capacity factor as that calculation is to be performed pursuant to N.J.S.A. 52:27D-304.3.c.(4), leading all 159 of those municipalities to contend that their Prospective Need allocation should be less than that calculated in the DCA Report. No municipalities contended that their allocation should be higher than the calculation in the DCA Report as a result of their respective Land Capacity analyses.

19. Plaintiff is one of the 159 municipalities that deviated from the Prospective Need allocations set forth in the DCA Report, as Plaintiff maintains that its Prospective Need should be 51 units as opposed to the 281 units as set forth in the DCA Report. See Plaintiff’s January 21, 2025 Resolution and supporting documents.

20. In support of its proposed reduction from the Prospective Need allocation as determined by the DCA Report, Plaintiff has cited to the Program a number of municipal parcels that the DCA Report included as part of DCA’s calculation of the Land Capacity factor pursuant to N.J.S.A. 52:27D-304.3.c.(4). *Id.*

21. While Plaintiff has identified municipal parcels that it contends have been improperly included within the DCA Report’s Land Capacity analysis for purposes of calculating the Land Capacity factor, Plaintiff has not provided any similar Land Capacity analysis for the region as a whole.

22. With respect to the land allocation factor, the FHA provides, in relevant part:

A municipality's Land Capacity factor shall be determined. This factor shall be determined by estimating the area of developable land in the municipality's boundaries, and regional boundaries, that may accommodate development through the use of the "land use/land cover data" most recently published by the Department of Environmental Protection, data from the American Community Survey and Comprehensive Housing Affordability Strategy dataset thereof, MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from the Department of Community Affairs and weighing such land based on the planning area type in which such land is located. After the weighing factors are applied, the sum of the total developable land area that may accommodate development in the municipality and in the region shall be determined. The municipality's share of its region's developable land shall be its Land Capacity factor.

N.J.S.A. 52:27D-304.3.c(4), emphasis added.

### **C. REGARDING THE FOURTH ROUND MODEL**

The 2024 amendments to the New Jersey Fair Housing Act (the Act), established a process by which quantifies each municipalities 2025-2035 (Fourth Round) Prospective Need. The statute explicitly states that each municipality has the opportunity to calculate its own Fourth Round Prospective Need based on the criteria outlined in the Act.

In devising a statutory framework for the Fourth Round, the Legislature had the benefit of the past history of prior models as well as court decisions and administrative regulations that had been developed over a 40 year span. The legislature presumably considered the historical background and experience when it enacted the current legislation. The new legislation was

meant to streamline the process by providing for a model that would give clear direction to all concerned and to minimize disputes that previously resulted in protracted litigation.

In doing so, the legislature recognized that the new model was not perfect. In fact no model can be perfect.

Every court and/or agency that has been required to confront the calculation and allocation of fair share methodology pursuant to the Mount Laurel Doctrine has recognized that perfection is not attainable. The Supreme Court in Mount Laurel II acknowledged as much when it observed:

The most troublesome issue in Mount Laurel litigation is the determination of fair share. It takes the most time, produces the greatest variety of opinions, and engenders doubt as to the meaning and wisdom of Mount Laurel. . . . Each of these issues (region, regional need and allocation) produces a morass of facts, statistics, projections, theories and opinions sufficient to discourage even the staunchest supporters of Mount Laurel. The problem is capable of monopolizing counsel's time for years, overwhelming trial courts and inundating reviewing courts with a record on review of superhuman dimensions.

See Mount Laurel II, 92 N.J. at 248.

Methodology issues were presented to Judge Serpentelli in AMG Realty Co v. Warren, 207 NJ Super 388 (Law Division 1984) to the New Jersey Council on Affordable Housing (COAH) in developing the First and Second Round methodology and to Judge Jacobson in developing a Third Round methodology in Application of Municipality of Princeton, 480 NJ Super 70 (Law Division 2018).

In the FHA, the legislature provided that after the DCA developed and provided its calculations, that the municipalities would have a short and limited period to provide its own analyses of the calculations and their challenge to DCA's calculations.

If a municipality challenged the DCA calculations, the statute contemplated a Dispute Resolution Program (“The Program”) in order to address and resolve the disputes between the municipal calculations with that of the DCA. Other interested parties were allowed to participate in the process as long as their challenges met the Program criteria.

A remarkably short thirty-day period was allocated for the resolution of those disputes. It is clear that the legislature believed that the statutory methodology was so clear that the number of disputes would be minimal. In order for the Legislature to believe that any and all challenges could be effectively addressed and resolved within that short time frame by the seven retired judges who were assigned to mediate those disputes. It surely anticipated that the number of challenges would be few.<sup>8</sup>

A review of the model that was statutorily adopted for this round is an important step in determining how challenges to the statute should be addressed. The first step in the Fourth Round model is the determination of how much low and moderate income housing will be needed to meet the expanding population of our State.

As DCA explained and calculated in its October 2024 report:

The Affordable Housing Law requires that “Projected household change for a 10-year round in a region shall be estimated by establishing the household change experienced in the region between the most recent federal decennial census, and the second-most recent federal decennial census.” The most recent federal decennial census is the 2020 Census, and the second-most recent census is the 2010 Census. DCA collected household data at the county level from the Table H14 of the 2010 Census Summary File 1 and Table DP1 of the 2020 Census Demographic Profile. These figures were aggregated to the Housing Region level and the difference between the two was computed, representing the increase

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<sup>8</sup> The Program was eventually confronted with over 160 challenges including challenges from the Fair Share Housing Counce (FSHC), the New Jersey Builders Association (NJBA) and others.

in the number of households on the Final Summary tab of the Excel calculation model. The Affordable Housing Law requires that “this household change, if positive, shall be divided by 2.5 to estimate the number of low- and moderate income homes needed to address low- and moderate income household change in the region, and to determine the regional Prospective Need for a 10-year round of low- and moderate-income housing obligations.” Pursuant to this requirement, DCA divided the household change for each Housing Region by 2.5, producing Regional Prospective Need figures totaling 84,698 statewide.

In allocating the regional need to individual municipalities, the four prior models had the same overall structure, with an allocation of that need to individual municipalities through the use of factors correlated with economic capacity, relative wealth and a Land Capacity factor. The specific data sets that have been used to calculate the component parts of the calculation that is inherent in the methodology have varied over time in an effort to use the best available data and create fair distributions. It is the Land Capacity factor that has caused the vast majority of consternation and resultant challenges by the towns.

It is not disputed by the parties that each municipal obligation is merely a share of a regional obligation. The regions are established at Section 306(b) of the Act. The housing regions are prescribed by the Act. The regional need is based on actual growth as measured by census data. Again, the regional need is assigned to increase in non-residential valuations; (2) an income factor; and (3) a Land Capacity factor. Each regional share is the calculation resulting from dividing a municipal value by a total value for the housing region.

The methodology to calculate the municipal fair share and the municipal obligation has always been determined to be a share of the regional obligation.

At section 306(b)(2), the Act established the required formula for calculation the regional affordable housing obligations. It is calculated by subtracting the number of households as of the

2010 federal decennial census from the number of households as of the 2010 federal decennial census from the number of households to be divided by 2.5 to calculate to 2010-20 growth in low and moderate income households.

The Land Capacity factor was closely examined by the Legislature. It received submissions and testimony suggesting that redevelopment had played a stronger role in recent housing development, and it was suggested by some commentators that the use of simply the gross acres in the growth area (weighting by category) as had been done in the COAH's First Round model was again more appropriate than the "vacant land" approach adopted by COAH for the Second Round.

The Act provides a list of of data sources that can be used for calculating the Land Capacity factor: the most recent DEP land use/land cover data; data from the American Community Survey and Comprehensive Housing Affordability Strategy dataset; The MOD IV Property Tax List data from the Division of the Treasury; and construction permit data from the Department of Community Affairs.

The DCA Report describes its methodology to calculate the properties included in the Land Capacity factor. The methodology was uniform for each municipality in the State. Each undeveloped parcel was weighted as required by Section 307(c)4. These factors are designed to direct more of the regional housing need to places in which the State is encouraging growth. So, for example, vacant land in the State Development and Redevelopment Plan's (SDRP) Planning Areas 1 and 2 are weighted (multiplied) by a factor of 1. Undeveloped land in Planning Areas 4 and 5 are weighted (multiplied) by a factor of zero. There has been no challenge to the DCA's Land Capacity Factor.

Historical context is illuminating in this instance. In the second round, COAH realized that its first round allocations resulted in many large housing allocations to areas that had very little undeveloped land. To reduce the problem, COAH estimated undeveloped land through satellite (Landsat) imagery. The satellite imagery was used because there was no comprehensive database of undeveloped land in the State in the late 1980s/early 1990s. The satellite interpreted the data for developed versus undeveloped land in the same way throughout each region. The satellite imagery resulted in comprehensive estimates of undeveloped land by municipality. COAH was able to overlay the estimates of undeveloped land with the outline of SDRP Planning Areas and weight the undeveloped land based on Planning Area. The weighted municipal estimates were summed for each region to calculate each regional total estimate of undeveloped land; and the regional totals were divided into the estimate of undeveloped land for each of the region's municipalities to calculate each municipality's regional share of undeveloped land. COAH found the satellite data an acceptable way to estimate regional shares of undeveloped land.<sup>9</sup>

New Jersey Department of Environmental Protection (DEP) developed imagery and coded it into polygons that do not match municipal lot lines. The minimum mapping unit, for non-water and non-wetland polygons is one acre.<sup>10</sup> The coded data are classified into 18 land use codes that DCA identified as vacant, developable land.<sup>11</sup> DCA then used MOD-IV tax data to eliminate a perceived problem associated with forested areas that were not vacant; but were actually residential rear yards. The remaining undeveloped land was then reduced based on recent construction permit data. The remaining undeveloped land was further reduced based on GIS mapping of open space, preserved farms, category 1 waterways, wetlands (and associated buffers based on special resource

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<sup>9</sup> 25 NJR 1120.

<sup>10</sup> <https://www.arcgis.com>

<sup>11</sup> *Page 15 of DCA's Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background, October 2024.*



area restrictions), steep slopes and open waters. Clearly the process is not perfect as it is a more “broad brush” approach.

DCA, like COAH, has developed a consistent methodology for the entire region. The prior round undeveloped land factor was based on digital satellite imagery. The DCA Land Capacity factor is also based on digital imagery. In both cases, the imagery is interpreted consistently throughout the housing region. In both cases the imagery is being read the same way for each municipality in the housing region.

In both cases, the imagery does not coincide with municipal lot lines. In fact, it is not necessary for the imagery to coincide with municipal lot lines. It is only necessary for the methodology to use a consistent database to estimate undeveloped land within the municipal limits; then add the municipal estimates to calculate regional totals; and to divide the regional totals into the municipal totals to develop consistent regional shares of undeveloped land.

In this case the NJBA charges that the municipality has attempted to lower its Land Capacity factor by focusing on perceived or identified errors in calculations in developed land in their town (the numerator). The NJBA contends that, in its challenge, the municipality has not addressed any of the perceived errors that are unique to the region that it is located. In other words, the NJBA argues that the challenging municipality has not shown how the DCA calculations of the regional total of the Land Capacity would change if the same perceived errors were corrected for the housing region (the denominator).

As noted above, for the Fourth Round, the DCA determined the Regional Obligations for the Found Round to be as follows:

**Regional Obligations Calculations - 2010 and 2020 Census**

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

The Act, which has effectively adopted the Jacobson methodology, requires total Prospective Need must then be allocated to each non-urban aid municipality within the State in accordance with the allocation factors set forth in the FHA. It is clear that the DCA performed that allocation on a regional basis consistent with the provisions of the FHA.

The NJBA theorizes in its challenge that the municipality has effectively sought to reduce its individual allocation of Prospective Need as assigned by the DCA without placing their obligation in a regional context. The NJBA argues that the municipality has not even considered or addressed what their suggested approach would do to the allocation factors of the other municipalities in the region or the region as a whole. Further, the municipality has not reallocated the proposed decrease in the prospective units to the other towns in the region.

The municipal and region totals are based upon the same imagery. As a result, the NJBA postulates that if one municipality disagrees with a specific lot it has only addressed the municipal total (numerator). If a challenge were to challenge the regional share, it would have to address any change in the denominator as well.

The importance of allocating the entirety of regional Prospective Need was first articulated by Judge Serpentelli in the AMG Realty Co., supra, decision. In that matter, Judge Serpentelli, one of the three Mount Laurel judges designated in the wake of the Mount Laurel II decision, was

tasked with setting forth an appropriate fair share methodology for Warren Township (Somerset County). The first step was establishing the Prospective Need for the region. In doing so, Judge Serpentelli was cognizant that there would be municipalities within the region that would lack sufficient vacant land to meet their fair share allocations. To avoid the potential loss of Prospective Need in light of those anticipated adjustments, Judge Serpentelli calculated present and Prospective Need and then applied a 20% increase of that number prior to allocating the fair share numbers. In response to the municipal criticism for doing so, Judge Serpentelli explained:

Certain criticisms raised by defendant relate to both the present and Prospective Need methodology. Specifically, the defendant objects to the 20% adjustment for vacant developable land and the three percent adjustment for vacancies.

As discussed above, the methodology increases the surplus present and Prospective Need number of each municipality by 20% across the board. Underlying the concept of this adjustment is the desire to avoid the loss of housing units which occurs by virtue of the reduction of fair share obligations due to the absence of adequate land or credits given for prior Mount Laurel compliance. If the fair share methodology generates a number which a town cannot accommodate because it has inadequate land or if the town is entitled to a credit against that number because it has already built some lower income housing, the obligation of the town must be reduced. However, the regional need remains. That need is not a theoretical number. It represents housing required for lower income households. Unless that responsibility is transferred elsewhere, it is lost.

AMG Realty Co., 207 N.J. Super at 428-429, emphasis added.

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

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

The court concurs with Mr. Reading's assessment that, given yet another choice between two imperfect alternatives, following the Second Round approach is the best option, especially since the approach relied on data derived from a single consistent source that can be corrected during the compliance process. See in the matter of the Applicable of the Municipality of Princeton, Superior Court of New Jersey, Law Division Mercer County, *supra*.

Judge Jacobson's approach was consistent with forty (40) years of Mount Laurel jurisprudence. The DCA's methodology is consistent with Judge Jacobson's approach, and as such, with the statutory mandate.

While COAH's methodology differed from that set forth by Judge Serpentelli in that it did not apply a 20% surplus, COAH's insistence that the totality of the Prospective Need be allocated remained. To that point, similar to Plaintiff's criticism of the DCA Report's handling of the Land Capacity factor, COAH faced criticism for errors in its vacant land analysis such that it was suggested that COAH should revise its allocation models to account for errors that could be deciphered at the municipal level. COAH rejected such an approach and concluded that any errors that may be uncovered could be addressed as part of the compliance process:

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

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

See 25 NJR 5765, Comment 15, emphasis added.

Criticism of the imprecision of vacant land models within the Prospective Need allocation model continued into the Third Round. However, as had Judge Serpentelli and COAH, Judge Jacobson determined that choosing between the two options provided to her in the In re Princeton matter presented the choice between “two imperfect alternatives.” See In re Princeton, supra, at p. 106. However, Judge Jacobson, as had COAH, determined that any alleged vacant land errors that may have been identified by a municipality would be more appropriately addressed during the municipal compliance phase without any alteration to the allocation of the entire Prospective Need for the region. As Judge Jacobson explained:

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

*Id.*, emphasis added.

A review of all of the challenges that have been filed and now referred to the Program, there have only been a few that challenge the DCA regional calculations. There also are very few no challenges to the DCA's calculations of the income factor.

#### **D. Program Member Recommendation**

This Program member has considered the various positions of the parties in order to arrive at a recommendation for the Prospective Need number to be assigned to the municipality for the Fourth Round.

It is acknowledged that the NJBA has taken the position that the municipalities challenge is flawed in that it effectively seeks to reduce its individual allocation of Prospective Need as assigned by the DCA without placing their obligation in a regional context. They point out that none of the municipality's challenges, including, in their view this one, even considered or addressed an approach to address the reallocation of affordable units that would be lost by their analysis to other municipalities in the region. In other words, none of the challenging municipalities address the proposed decrease in the prospective units for in the region. It is that omission that the NJBA advocates is a deviation from the statutorily authorized methodology and is a fatal flaw that dooms the municipality's argument to reduce the Prospective Share obligation.

The FSHC has also challenged many of the municipalities' positions to reduce its Proposition Share. Unlike the NJBA, FSHC's position recognizes that there are certain flaws in DCA's Fourth Round calculations that would constitute a deviation from the DCA model.<sup>12</sup> The positions advocated by experts for the municipalities and the FSHC. recognizes that the calculations and methodology used by the DCA to determine the Land Capacity Factor is certainly not perfect and in certain, obvious situations where credible evidence to support a deviation is presented, the modifications to the DCA calculation is warranted. .

The FSHC offers that, if applied consistently, certain land could be considered as exclusions from the developable land totals. Those include:

A. Physical Characteristics

- Polygons or portions of polygons less than 25 feet wide, as DCA's minimum polygon dimensions was 25' by 100'
- Polygons less than 1.0 acre in area, for two reasons: (a) it is close to the threshold of 0.84 acre for generating one affordable unit in an inclusionary development of five (5) dwelling units, e.g., a small townhouse or apartment development, at a density of six (6) units/acre, the COAH presumptive minimum density in RDP analysis since 1986 and (b) it is a necessary cutoff for FSHC staff to be able to analyze all relevant polygons in the filings of the 157 municipalities that did not accept DCA's calculations during the month of February 2025
- Polygons undevelopable based on irregular configuration or shape that renders residential development problematic Polygons undevelopable based on lack of public street access or being landlocked
- Undeveloped polygons less than 1.0 acre in area of existing small developed lots, often in rear and side yards
- Incongruous alignments of the DCA geospatial layers that show polygons and/or slivers of land as developable that do not in fact exist on the ground

B. Regulatory Constraints

- Polygons within the regulatory floodway under the Flood Hazard Area Control Act, where most development is prohibited
- Wetlands and wetlands buffers (transition area) under the Wetlands Act and Freshwater Wetlands Protection Act, where most development is prohibited

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<sup>12</sup> To be sure, the municipalities and the FSHC. do not agree how any unit reductions should be addressed. The FSHC center's methodology requires another step which contemplates a reallocation of those "lost" units to certain other municipalities in the region.



- Steep slopes greater than 15%, a longstanding standard of COAH Rules
- Sites within the Highlands Riparian Area
- Sites within 1,000 feet of a confirmed vernal pool/habitat, if in the Highlands Region (otherwise 50 feet is acceptable)
- Sites that do not meet minimum septic density requirements, if in the Highlands Region

#### C. Development Status

- Developed properties, including recently developed sites, properties developed with a house of worship, cemeteries, schools, nonprofit facilities, active parking lots, or solar farms
- Properties under construction sites with active municipal site plan or subdivision approval (preliminary or final), general development plan approval, and/or construction permit issued for development, within the statutory periods of protection against zoning changes under the Municipal Land Use Law Inclusionary, municipally-subsidized and/or affordable housing development sites in a court-approved Third Round Settlement Agreement and Housing Element and Fair Share Plan, if approved by a site plan (preliminary or final), under construction, or built

#### D. Properties Restricted from Development by Deed or Statutory Restrictions

- Open space, parkland, and recreation areas, including public golf courses, if deed restricted and/or listed on the Recreation and Open Space Inventory (“ROSI”) maintained by the New Jersey Department of Environmental Protection
- Open space, parkland, and recreation areas on a municipal open space and/or recreation plan, if deed restricted or on a ROSI
- Areas of properties with deed restrictions that restrict development, including conservation easements, public utility easements, restrictions to a single use (e.g., golf course), stormwater management facilities, common open space controlled by a homeowners’ or condominium association, farmland preservation easements, Transfer of Development (TDR) sending areas for farmland preservation, and similar restrictions
- Airport safety zones, which preclude multifamily housing development under the Air Safety and Zoning Act of 1983

#### E. Ownership

- State-owned land, e.g., armories and N.J. Fireman’s Home County-owned land
- Federal owned land
- Lands owned by transportation agencies, including N.J. Department of Transportation, N.J. Turnpike Authority, and Delaware River Port Authority
- Railroad properties
- Rights-of-way

Some of those potential exclusions are unique to that municipality and are amenable to demonstrable proof in cases where those exclusions may be applicable.

It is readily apparent that the process the DCA used to determine Land Capacity Factor is “broad brush”. In fact, the determination of developable land has also been shown to be demonstrably and consistently inaccurate.

Most municipalities that have challenged the DCA Land Capacity Factor calculations have done so by conducting a parcel-by-parcel review in order to demonstrate the over inclusion of land that the DCA considered developable.

At the invitation of the DCA, the Township’s planner David Novak conducted a parcel-by-parcel study to review and analyze the DCA’s findings.

In that Analysis, Mr. Novak concludes that the Township’s weighted land area should be adjusted from 181.31 acres to 0.92 acres, resulting in an adjustment of the Township’s calculated share of the region’s land capacity from 3.38% to 0.02%. Mr. Novak provides detailed findings for each of the parcels identified in his Analysis.

Mr. Novak’s work can be summarized as follows:

Exhibit A: Allamuchy’s Wastewater Management Plan (WMP) maps showing that the NJDEP GIS data inaccurately reflects the Township’s 2009 WMP, which was approved by NJDEP in 2010 (the notice of approval is also attached, as is te NJDEP’s map for comparison purposes). The properties identified as developable by the DCA are predominantly located in planning areas 4B (Rural Environmentally as Sensitive) and 5 (Environmentally Sensitive). **As such, properties in those planning areas should be assigned a weighting factor of 0.0 rather than 1.0.**

Exhibit B: As to ID Nos. 5, 7 and 13, these properties are withi the Panther Valley Property Owners Association and are subject to recorded conservation easements, copies of which were attached to his report.

Exhibit C: As to ID Nos. 10 through and including 13, a water tower and cell tower antenna encumber these properties, which are owned by the Township's water utility and the Township, respectively. Copies of the property record cards were attached to his report.

Exhibit D: ID Nos. 44 is preserved open space, as identified by the state's own online mapping resources; the property record card showing NJDEP as the owner.

Exhibit E: Multiple parcels, as identified in Mr. Novak's Analysis, are actually common areas within the Panther Valley Owners Association and Mountain Ridge Estates. Copies of the property record cards showing same were attached to his report. It is noted that ID No. 24 is owned by Apex Panther Valley Gold Estates, which owns the golf course, and this parcel is also landlocked.

Exhibit F: Approved final plat for Mountain Ridge Homeowners Association showing the common areas. It is noted that as to ID No. 40, this property is not actually vacant. Rather, it is developed with multi-family buildings, and the vacant portions are owned by the HOA and deed-restricted.

Exhibit G: Item No. 16 is developed, with a single-family home occupied by a disabled veteran.

The Program Special Adjudicator Frank Banisch also reviewed Mr. Novak's work product and conducted his own analysis and said that the Prospective Share should be set between 70 to 75 units.

Mr. Banisch indicated that the only element of the DCA Report that Allamuchy challenged is the land capacity factor (LCF), not the calculations related to the income capacity factor and the nonresidential valuation factor. Of the three factors, LCF was the locally variable factor that municipalities frequently challenged based on more accurate data. The FHA states the LCF shall be determined by estimating the area of developable land in the municipality's boundaries and regional boundaries that may accommodate development through the use of the "land use / land cover data" most recently published by the Department of Environmental Protection, data from

the American Community Survey and Comprehensive Housing Affordability Strategy dataset thereof, MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from the Department of Community Affairs, and weighing such land based on the planning area type in which such land is located.

NJBA and Allamuchy participated in a settlement conference/session on March 27 when the Township had an opportunity to accept the DCA obligation with a 4% downward adjustment (from 281 to 270). This offer would have required Allamuchy to accept 175 more units than the Fair Share estimate.

The DCA Report identified 181.3 acres in the Township as developable, resulting in a LCF of 3.38% of Housing Region 2. The Planning Report of David Novak, AICP, PP, and Joseph Burgis, AICP, PP indicated only 0.927 developable acres, adjusting the Township's calculated share of the region's land capacity from 3.38% to 0.02%.

Without identifying any errors in the Township's exclusions from the DCA calculation of LCF, NJBA has opined that the Township's correction of the DCA data violates the requirements of the FHA as does the resulting reduction in the Township's prospective need in the official DCA workbook. However, the FHA provides municipalities with a presumption of validity in their calculation of prospective need, if determined in accordance with the FHA (N.J.S.A. 52:27D-304.2.6, 304.2.7).

Allamuchy determined its obligation by relying upon the official DCA workbook to make their 51- unit calculation and the FSHC used the same workbook for their 95-unit calculation. Mr. Banisch noted that the midpoint between the FSHC estimated need and the Township's estimate is 73 units. Based on his review, he recommended that the Township's municipal prospective need obligation for the period 7-1-2025 to 7-1-2035 should be set between 70 and 75 affordable units.

This Program member finds Mr. Banisch' s compromise number to be a pragmatic and enticing. Notwithstanding that finding this Program member finds the more reasoned approach is to adopt the Fair Share analysis and finding even though it is not a challenger in this case. As such it is recommended that the Township's Prospective Need be set at 95 units for the Fourth Round.

Lastly, this program member has permitted the NJBA to participate in this matter effectively providing it with standing. In fact the NJBA has been recognized to have standing in the context of a wide variety of housing land use and affordable housing matters, including in matters of fair share methodology. See, e.g. In Declaratory Judgment Actions Filed by Various Municipalities, 227 NJ 508 (2017).

This program member has also proceeded with the view that the NJBA has filed a valid objection pursuant to NJSA 52: 27D-304.1(f)(1)(b) and (c).

However, this program member's view and recommendation remains the same whether the NJBA is a participant or not.

**PREPARED BY THE PROGRAM:**

IN THE MATTER OF ALLAMUCHY TOWNSHIP	Superior Court of New Jersey Law Division, Civil Part  Docket No. WRN L 000038-25  DECISION & ORDER ON FAIR SHARE OBLIGATION
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**THIS MATTER**, having come before the Affordable Housing Dispute Resolution Program pursuant to a challenge/s filed by NEW JERSEY BUILDERS ASSOCIATION interested party/parties disputing the determination of present and prospective fair share obligation established by ALLAMUCHY TOWNSHIP on 02/27/2025, and;

The Program, having considered the submissions of counsel representing the ALLAMUCHY TOWNSHIP as well as any submissions filed thereto by interested parties NEW JERSEY BUILDERS ASSOCIATION hereby recommends an ORDER as follows:

- ☒ The municipality's filing and the challenge filed by NEW JERSEY BUILDERS ASSOCIATION is decided in accordance with the Program Recommendation and Statement of Reasons.

**Statement of Reasons:**

See the attached Statement of Reasons of Program Member.

**The Program:**

/s/ **Thomas C. Miller, J.S.C. (Ret.)**

Dated: 04/15/2025

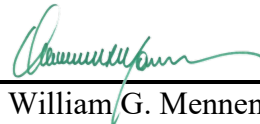
**Mount Laurel Judge:**

The Program's decision is ☒ accepted for the reasons set forth by the Program,

☐ accepted for the reasons set forth below, ☐ rejected, ☐ accepted/rejected in part.

**Findings of Fact and Conclusions of law (Rule 1:7-4(a)):**

The Court adopts the detailed findings and reasons set forth in the Program's decision as if set forth more fully herein.



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Hon. William G. Mennen, J.S.C.

Dated: 04/23/2025



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Appendix C: Highlands Build-Out Information



## Highlands Municipal Build-Out Update

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Prepared by the Highlands Water Protection and Planning Council in support of the Highlands Regional Master Plan

November 1,  
2024

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