

2025 FOURTH ROUND HOUSING PLAN

HOUSING ELEMENT & FAIR SHARE PLAN
TOWNSHIP OF POHATCONG
WARREN COUNTY
NEW JERSEY

JUNE 20, 2025

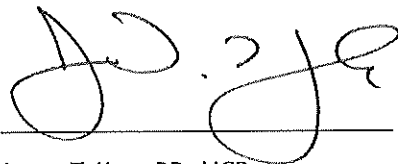
ADOPTED BY THE PLANNING BOARD

JUNE 30TH, 2025

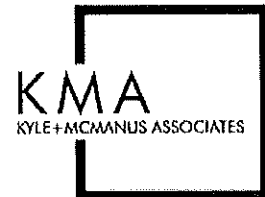
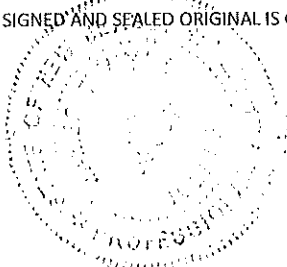
ENDORSED BY THE TOWNSHIP COUNCIL

JUNE 10TH, 2025

PREPARED BY:



JAMES T. KYLE, PP, AICP
NEW JERSEY PROFESSIONAL PLANNER LICENSE 5667
KYLE McMANUS ASSOCIATES
A SIGNED AND SEALED ORIGINAL IS ON FILE WITH THE TOWNSHIP CLERK



2 East Broad Street, Second Floor
Hopewell, NJ 08525
jkyle@kylemcmanus.com

Land Use Board

Edward Mirenda, Chairman

David Williams, Vice Chairman

Stephen Babinsky, Class I Member

Kevin Melvin, Class III Member

Darrell Swinicki

Kevin Cyphers

John Fennimore

Sandor "Alex" Gal

Reni Melvin

Cristian Ulate

Angela Merrick

Noelle Moeller, Board Secretary

Wayne J. Ingram, PE, Board Engineer

F. Clifford Gibbons, Esq., Board Attorney

James Kyle, PP/AICP, Board Planner

Township Council

David Siack, Mayor

Kevin Melvin, Council President

Ingrid Gray, Councilwoman

John Stillo, Councilman

Nelson Luzzetti, Councilman

Wanda Kutzman, Clerk

Scott D. Robb, Business Administrator

Kevin P. Benbrook, Esq., Township Attorney

Jeff Winitsky, Esq., Redevelopment Attorney

Table of Contents

<i>Introduction & Executive Summary.....</i>	<i>1</i>
<i>Affordable Housing in New Jersey</i>	<i>3</i>
The Compliance Process	6
Affordability Requirements	7
Overview of Compliance Requirements.....	8
<i>Affordable Housing in Pohatcong</i>	<i>10</i>
<i>Consideration of Lands Most Appropriate for Affordable Housing</i>	<i>10</i>
Highlands Buildout and RMP Requirements	11
<i>Opportunity for Multigenerational Housing</i>	<i>12</i>
<i>Demographic, Housing & Employment Analysis</i>	<i>12</i>
<i>Affordable Housing Obligation & Satisfaction</i>	<i>12</i>
Rehabilitation Obligation: 0 units	13
First & Second Rounds Obligation: 47 units, Fully Satisfied	13
EAI	13
Biding Peace.....	14
415 Liggett Blvd (Alternatives).....	15
Third Round Obligation: 138 Units, Fully Satisfied	15
Biding Peace.....	15
EAI	15
Larken (Block 93, Lot 5.04).....	15
Shimer School Redevelopment (Block 44, Lot 1)	16
Ingerman 100% Affordable Project (Block 38, Lot 1).....	17
Fourth Round Obligation	20
Present Need (Rehabilitation Share)	20
Prospective Need	20
Distribution of Fourth Round Units	21
Affordability Assistance	22
<i>Consistency with the State Development and Redevelopment Plan.....</i>	<i>22</i>
<i>Affordable Housing Administration & Affirmative Marketing.....</i>	<i>23</i>

<i>Affordable Housing Trust Fund</i>	23
--	-----------

Appendices

1. Highlands Buildout Analysis
2. Housing, Demographic & Employment Analysis
3. Larken Crediting Information
4. Block 38, Lot 1 Redevelopment Plan (Shimer School Redevelopment)
5. Spending Plan
6. Affordability Assistance Manual
7. Affordable Housing Ordinance
8. Affirmative Marketing Plan
9. Development Fee Ordinance

INTRODUCTION & EXECUTIVE SUMMARY

This Housing Plan addresses the Township of Pohatcong's newly assigned fourth round affordable housing obligation consisting of a present need (rehabilitation) of 0 units and a prospective need (new construction) of 65 units. To address these obligations, the Township will continue to utilize the Warren County Housing Rehabilitation Program for rehabilitatoin and is proposing to partner with Ingerman who will construct a 100% affordable housing development of 96 units on property they are under contract to purchase and that has already received tax credit financing and site plan approval from the Land Use Board. While this is a third round project, there is a sufficient number of units to carry forward to address the fourth round obligation.

Since the 1975 New Jersey Supreme Court decision known as "Mount Laurel I," New Jersey municipalities have a constitutional obligation to provide opportunities for creation of low and moderate housing units. This 1975 decision led to a body of case law, legislative changes and rulemaking by a state agency that, collectively, is now referred to as the "Mount Laurel Doctrine". Through these actions, New Jersey municipalities have been assigned their fair share of the region's affordable housing need for each compliance period and mechanisms must be created to address that need to have "satisfied" their constitutional obligation. The purpose of this Housing Element and Fair Share Plan (hereinafter the "Plan") is to detail how Pohatcong will satisfy its constitutional obligation.

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

Participation in this process, and therefore satisfaction of the affordable housing obligation, can be achieved voluntarily or involuntarily, however, voluntary compliance is heavily incentivized. Municipalities that do not successfully participate may be vulnerable to exclusionary zoning litigation or a builder's remedy, which is a litigation tool that can grant a developer the right to construct what is typically multifamily development on land that was not zoned to permit that use or density. Pohatcong seeks to avoid this possibility and has already taken substantial steps to do so, evidenced by its compliance with requirements for the first, second and third round. While the Township did not receive a Judgment of Compliance and Repose for its third round plan for various reasons, the obligation is fully addressed as detailed later in this plan.

This Plan supersedes all previously adopted housing plans and will serve as the foundation for the Township's filing with the New Jersey Affordable Housing Dispute Resolution Program and a request for Compliance Certification. As detailed in this Plan, the Township – like all New Jersey municipalities – has four components of its affordable housing obligation. Each component of the Township's obligation is identified below and further detail is provided in a later section.

- Rehabilitation Obligation: 0 units

The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Pohatcong that are occupied by low- and moderate-income households. This component is also referred to as “present need”.

- First & Second Rounds Obligation: 47 units

The first and second round obligations can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. This component is often referred to as the “prior round” obligation.

- Third Round Obligation: 138 units

The third round obligation can be defined as the 1999 through 2025 new construction affordable housing obligation.

- Fourth Round Obligation: 65 units

The fourth round obligation can be defined as the 2025-2035 new construction affordable housing obligation. The current round of affordable housing, now the fourth round, is also referred to as the “prospective need”.

It is important to note that the Township of Pohatcong is fully conforming to the requirements of the Highlands Regional Master Plan, having opted in to conforming for the Planning Area. While Pohatcong has not adopted its land use ordinance for the Planning Area, it has adopted a referral ordinance, which requires Highlands Council review as to consistency of projects with the Highlands Regional Master Plan prior to them being deemed complete for review by the Land Use Board.

AFFORDABLE HOUSING IN NEW JERSEY

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

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

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

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

On December 20, 2004, COAH’s first version of the third round rules became effective some five years after the end of the second round in 1999. At that time, the third round was defined as the time from 1999 to 2014 but condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The third round rules marked a significant departure from the methods utilized in COAH’s earlier rounds by creating a “growth share” approach that linked the production of affordable housing to residential and non-residential development within a municipality.

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

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

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

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

While the NJ Supreme Court's decision set a process in motion for municipalities to address their third round obligations, it did not assign those obligations. Instead, the task was completed by the trial courts. However, the NJ Supreme Court did direct that the method of determining municipal affordable housing obligations were to be "similar to" the methodologies used in the first and second round rules and municipalities should rely on COAH's 1993 second round rules (N.J.A.C. 5:93) and certain components of COAH's 2008 regulations that were specifically, as well as the Fair Housing Act (N.J.S.A. 52:27D – 301 et seq.), in their preparation of third round housing elements and fair share plans.

FSHC, the only public interest advocacy organization in New Jersey devoted exclusively to promoting the production of housing affordable to low and moderate income households, was permitted to serve as an interested party in every municipal Declaratory Judgment Action. In this role the organization calculated

municipal affordable housing obligations and offered to settle with municipalities. Such settlements addressed the municipal affordable housing obligation, compliance strategies and other terms intended to promote affordable housing production. Most municipalities that filed a Declaratory Judgment Action settled with FSHC, finding it to be in their best interest. The typical alternative to settlement with FSHC was conducting a trial in Superior Court to determine the municipal affordable housing obligation.

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

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

The Affordable Housing Dispute Resolution Program (hereinafter the “Program”) is a program within the judiciary made up of an odd number of Judges with a minimum of 3 and not more than 7. The Program, in its discretion and in accordance with Rules of Court, may consult or employ services of one or more special adjudicators or staff to assist it in rendering determinations, resolving disputes, and facilitating communication among municipalities and interested parties. The Program is responsible for reviewing municipal affordable housing obligations, housing plans, and conducting mediation. However, final determinations of compliance, disputes, and other issues, as well as Court orders may only be issued by a County-level housing judge.

In addition to changes addressing the compliance process and elimination of COAH, the amendment also revised minimum affordability controls for rental units from 30 years to 40 years and those for extension of affordability controls from 30 years to as little as 20 years, provided the total control period is not less than 60 years. It also created new roles for the Department of Community Affairs (hereinafter “DCA”), including calculation of non-binding rehabilitation and prospective need affordable housing obligations, oversight and adoption of rules regulating municipal affordable housing trust funds, municipal housing liaisons and affordable housing administrative agents, as well as oversight of affordable unit

administration. The amendment also directed the New Jersey Housing and Mortgage agency to revise the Uniform Housing Affordability Control Rules (*N.J.A.C. 5:80-26.1 et seq.*).

The Compliance Process

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

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

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

- Establishing the Affordable Housing Obligation
 - October 20, 2024: DCA Regional and Municipal Fair Share Obligation Report Issued.
 - January 31, 2025: Deadline for municipalities to adopt a binding committing to the affordable housing obligation and seeking a Compliance Certification through participation in the Program.
 - February 28, 2025: Deadline for an interested party to challenge the municipality's determination of its obligation to the Program. It shall apply "an objective assessment standard".
 - March 1, 2025: The municipality's determination of its obligation will be established by default if no challenge.
 - March 31, 2025: The Program must issue a decision on the obligation challenge.
- Obtaining a Compliance Certification
 - June 30, 2025: Municipality shall adopt a Housing Plan and propose drafts of ordinances and resolutions to implement the plan. If a municipality does not adopt a Housing Element and Fair Share Plan by June 30, 2025, the Rules of Court may permit the Program or County Level Judge to allow the municipality to secure a grace period. If a municipality does not adopt a Housing Plan by June 30, 2025 and does not secure a grace period, the municipality will have its immunity revoked.
 - August 31, 2025: Deadline for an interested party to file a challenge to the Housing Plan with the Program. If there is no challenge by this date the Program will begin review of the Housing Plan for consistency with the FHA.

- December 31, 2025: Deadline for a municipality to settle any challenge or provide an explanation as to why it will not make all, or some of the changes brought by the challenge.
- March 15, 2026: Municipality to amend the Housing Plan and implement the agreed upon revisions resulting from a challenge and adopt all pertinent ordinances. The Housing Plan and adopted ordinances shall be immediately filed with the Program.
- Ongoing Compliance
 - Midpoint (2030): Action by municipality or interested party filed to seek a realistic opportunity review of any developments that have not moved forward.

Affordability Requirements

Affordable housing is defined under New Jersey's Fair Housing Act as a dwelling, either for sale or rent, that is within the financial means of households of low- or moderate-income, as is measured within each housing region. Pohatcong is in Region 2, which includes Essex, Morris, Union and Warren counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of regional median income. Low-income households are those with annual incomes that are 50% or less of regional median income. Very low-income households are a subset of "low-income" households and are defined as those with incomes 30% or less of regional median income.

The Uniform Housing Affordability Controls (hereinafter "UHAC") at N.J.A.C. 5:80-26.3(d) and (e) requires that the maximum rent for a qualified unit be affordable to households with incomes 70% or less than the median income for the region, provided the development includes 13% or more very low income units. The number of units priced at 70% of regional median income cannot exceed the number of very low income units plus one additional unit. The average rent must be affordable to households with incomes no greater than 52% of the median income. The maximum sale prices for affordable units must be affordable to households with incomes 70% or less of the regional median income. The average sale price must be affordable to a household with an income of 55% or less than the median income.

The regional median income is defined using the federal income limits established by Department of Housing and Urban Development (hereinafter "HUD") on an annual basis. In the spring of each year, HUD releases updated regional income limits, and it is from these income limits that the rents and sale prices for affordable units are derived. The table on the following page reflects the 2025 affordable housing regional income limits for Region 2, prepared by the New Jersey Housing and Mortgage Finance Agency (NJHMFA).

2025 Income Limits for Region 2					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Median	\$94,800	\$108,300	\$121,800	\$135,300	\$146,200
Moderate	\$75,840	\$86,640	\$97,440	\$108,240	\$116,960
Low	\$47,400	\$54,150	\$60,900	\$67,650	\$73,100
Very Low	\$28,440	\$32,490	\$36,540	\$40,590	\$43,860
Source: 2025 Income Limits prepared by NJHMFA, effective May 16, 2025.					

Overview of Compliance Requirements

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

- Rental Obligation. Not less than 25% of affordable units addressing the obligation of a round must be rental housing units.
- Family Obligation. Not less than 50% of affordable units addressing the obligation of a round must be available to families, meaning they are not restricted to a particular population. This obligation does not apply to the first and second rounds.
- Family Rental Obligation. Not less than 50% of the units meeting the rental obligation of a round must be available to families, meaning they are not restricted to a particular population. This obligation does not apply to the first and second rounds.
- Senior Maximum. Up to 30% of affordable units addressing the obligation of a round may be reserved for seniors. The maximum was 25% for the first, second and third rounds.
- Income Distribution of Affordable Units
 - Very Low Income Obligation. Not less than 13% of affordable units created or approved on or after July 1, 2008 must be reserved for very low income units (30% or less than the regional median income). Very low income units are a subset of low income units.
 - Family Very Low Income Obligation. Not less than 50% of the units meeting the very low income obligation must be available to families, meaning they are not restricted to a particular population.
 - Low Income Obligation. Not less than 50% of affordable units in any development must be reserved for low income households (50% or less than the regional median income, which includes very low income units). The remaining may be available to moderate income households (51-80% of regional median income).
- Bedroom Distribution of Affordable Units

- The total bedrooms within the affordable units in any development must be not less than twice the number of affordable units. This requirement does not apply to the first, second or third round.
- Studio and 1-bedroom Units. Not more than 20% of units in any development.
- 2-bedroom Units. Not less than 30% of units in any development.
- 3-bedroom Units. Not less than 20% of units in any development.
- The above requirements do not apply to special needs housing or senior housing.
- Senior developments are subject to a modified bedroom distribution such that the total bedrooms within the affordable units must be not less than the number of affordable units.
- Senior and supportive housing developments with 20 or more affordable units shall have not less than 5% 2-bedroom and 3-bedroom affordable units. This requirement does not apply to the first, second or third round.
- Bonus Credits
 - No more than 25% of the obligation for each round.
 - Only one type of bonus credit may be applied to a unit.
 - Rental bonus credits (1.0) are only applicable to the first, second and third rounds.
 - The following unit types are eligible for 1.0 bonus credit in the fourth round.
 - Supportive and special needs bedrooms.
 - Market to affordable (conversion of a market rate unit to an affordable unit).
 - 100% affordable developments: Units within 100% development provided the municipality supplies the land or a minimum of 3% of the development costs.
 - The following unit types are eligible for 0.5 bonus credit in the fourth round.
 - Partnership with non-profit.
 - Proximity to transit: units within ½ mile of transit (rail, bus, ferry).
 - Senior: limited to 10% of the affordable age-restricted units proposed byt capped at 30% of the obligation.
 - Units with at least three bedrooms above the minimum number required by the bedroom distribution.
 - Redevelopment for units on land previously utilized for retail, office or commercial use.
 - Extension of affordability controls on rental housing only, provided the municipality funds the cost for extension.
 - Very Low-Income units above the 13% required.

AFFORDABLE HOUSING IN POHATCONG

Most of the Township's affordable housing activity has been the result of builder's remedy litigation, beginning in 1996. In the Prior Round, the Township was involved in litigation with two developers, and both matters were resolved through settlement agreement and a Final Judgment of Repose entered by the Court in 1998. EAI Investments, LLC was one of the parties as successor to Steven R. Howe, Peter W. Anderson and RDS Realty, Inc. During the course of the settlement process, Pohatcong's 1987-1999 cumulative obligation was reduced from 98 units to 78 units, and the other site (known as Penn Farm), was eliminated from the plan as the EAI site and other mechanisms addressed the 78 unit obligation.

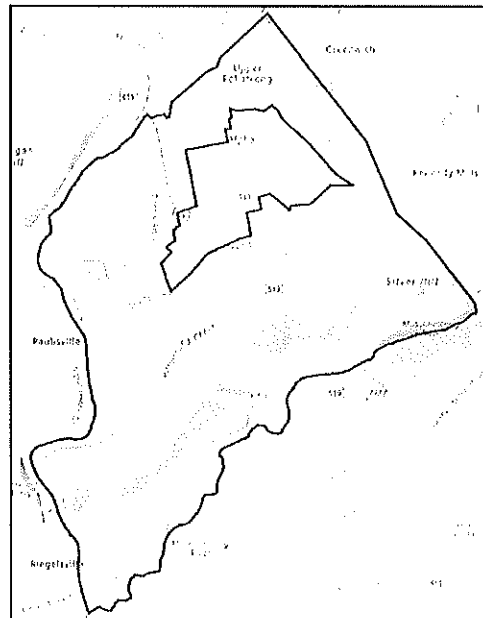
Over the course of the last 27 years, the EAI project has been the subject of revised settlement agreements and various approvals granted by the Land Use Board. The most recent approval granted was in 2019 and the developer has applied for amended approval, which is currently being considered by the Land Use Board. The settlement requires 44 affordable housing units be provided regardless of the number of market-rate units constructed.

The Township actively engaged in the settlement process relative to the third round period, and the original settlement agreement was revised in May of 2022. This Fair Share Plan notes some changes to the third round approach, although it is only relative to the compliance mechanisms addressing that obligation.

In October of 2024, the New Jersey Department of Community Affairs (DCA) released its calculation of fourth round obligations in compliance with A4, and determined the Township had a present need of zero (0) units and a prospective need of sixty-five (65) units. The Township adopted a binding resolution accepting these obligations, and on March 25, 2025 Judge William G. Mennen, J.S.C., entered an order fixing Pohatcong's obligation.

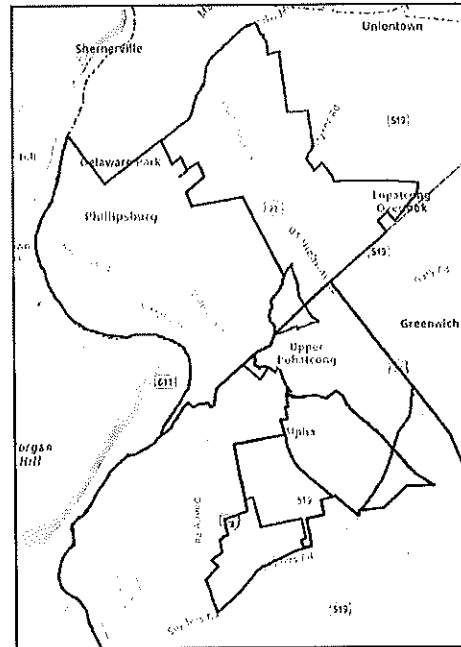
CONSIDERATION OF LANDS MOST APPROPRIATE FOR AFFORDABLE HOUSING

As part of this Plan, the Township considered land that is appropriate for the construction of low- and moderate-income housing. As noted earlier, the Township is fully conforming to the requirements of the Highlands Regional Master Plan for both the Preservation Area and Planning Area, with the Preservation Area covering 7,571 acres (86.24%, shown in green on the map to the right) and the Planning Area covering 1,208 acres (13.76%, shown in yellow on the map to the right). Given that the majority of the Township is located in the Preservation Area, the focus must be on the Planning Area, which is essentially all lands north and east of Interstate Route 78. As the Township is fully addressing its fourth round obligation with carryover credits from a third round 100% affordable project, specific sites did not need to be considered.



Pohatcong Township shares a Highlands Designated Center with the surrounding municipalities of Alpha, Phillipsburg and Lopatcong, which is depicted on the map to the right in yellow. The only affordable housing project not within the Center is EAI, although that project was long ago determined to be consistent with the Highlands RMP. Recently the boundary of the Center was expanded to include the property where the 100% affordable housing project is approved. That project has also been determined to be consistent with the Highlands RMP.

Considering the resource protection requirements and policies of the Highlands RMP, the Township has chosen lands that are most appropriate for the development of affordable housing, and has already taken significant steps to fully advance the projects proposed in this plan. Pohatcong's approach to affordable housing compliance is consistent with the Highlands RMP.



The map below shows the location of the Township's affordable housing sites, all of which are within the Planning Area.



Highlands Buildout and RMP Requirements

As a municipality fully conforming to the Highlands Regional Master Plan, Pohatcong utilized the Highlands Buildout tool to assess lands potentially developable consistent with the requirements of the RMP. After updating base data at the request of the Highlands Council, Council staff forwarded an updated analysis showing developable properties. The results of the buildout analysis depicting land that could be developed in a manner consistent with the RMP is included in Appendix 1.

The Highlands Council analysis identified a total of 112.13 acres of developable land in Pohatcong in the Planning Area, consisting of 103 acres of farmland on the south side of State Route 122 (New Brunswick Avenue) and east of Edge Road, 6.34 acres of land at

the end of Sinclair Avenue along the railroad and 2.2 acres along the east side of Route 22 in the northern part of the Township. It should be noted that the 103 acres along New Brunswick Avenue has a valid approval for an 815,000 square foot warehouse anticipated to commence construction by the end of 2025. The 2.2 acres along Route 22 is adjacent to the municipal boundary with Greenwich Township and abuts a car dealership to the immediate east. At its widest, this triangular parcel is only 140' deep, tapering to a point at its northwest terminus along the State highway. While developable in the context of the resource protection requirements of the RMP, practically speaking the depth of the property along the state highway could not reasonably accommodate residential development of any kind.

In July of 2024, the Highlands RMP was amended by the Highlands Council to specifically address affordable housing-related policies "to inform the appropriate location for affordable housing in the Highlands region." While amendments to the Fair Housing Act required the Regional Master Plan be taken into account in determining municipal obligations, conforming municipalities bear an obligation to ensure that housing plans meet the resource protection requirements of the RMP.

The July 2024 RMP amendment also discusses how the provision of affordable housing in conforming municipalities must address policies related to land use capability zones and resource protection standards requiring open water buffers, protection of prime groundwater recharge areas, development in severe steep slope areas and protection of critical habitat. Pohatcong will maintain consistency with the RMP policies through its current referral ordinance covering the Planning Area portion of Township and the eventual amendment to the land use ordinance for the Planning Area.

OPPORTUNITY FOR MULTIGENERATIONAL HOUSING

The Fair Housing Act requires "an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission". As of the date of this Housing Plan, there have been no recommendations by the Multigenerational Family Housing Continuity Commission on which to provide the required analysis. However, the Commission has the primary goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity. Township land use policies are not in conflict with this goal and much of the Township's housing stock is large enough to accommodate multigenerational living. Nothing in the zoning prohibits creation of additional living space consisting of a bedroom and bathroom, but inclusion of separate kitchen facilities would constitute a second dwelling unit, which is not permitted but is also not necessary to facilitate multigenerational living.

DEMOGRAPHIC, HOUSING & EMPLOYMENT ANALYSIS

See Appendix 2 to the Housing Plan for this analysis.

AFFORDABLE HOUSING OBLIGATION & SATISFACTION

Fourth round housing plans must address four components of a municipality's affordable housing obligation. These include the rehabilitation obligation to improve substandard housing occupied by low-

and moderate-income households, the first and second round obligation of new construction from 1987 to 1999, third round obligation of new construction from 1999 to 2025, and the fourth round obligation of new construction from 2025 to 2035.

Rehabilitation Obligation: 0 units

As the Township has no rehabilitation obligation, this need not be addressed as part of this plan.

First & Second Rounds Obligation: 47 units, Fully Satisfied

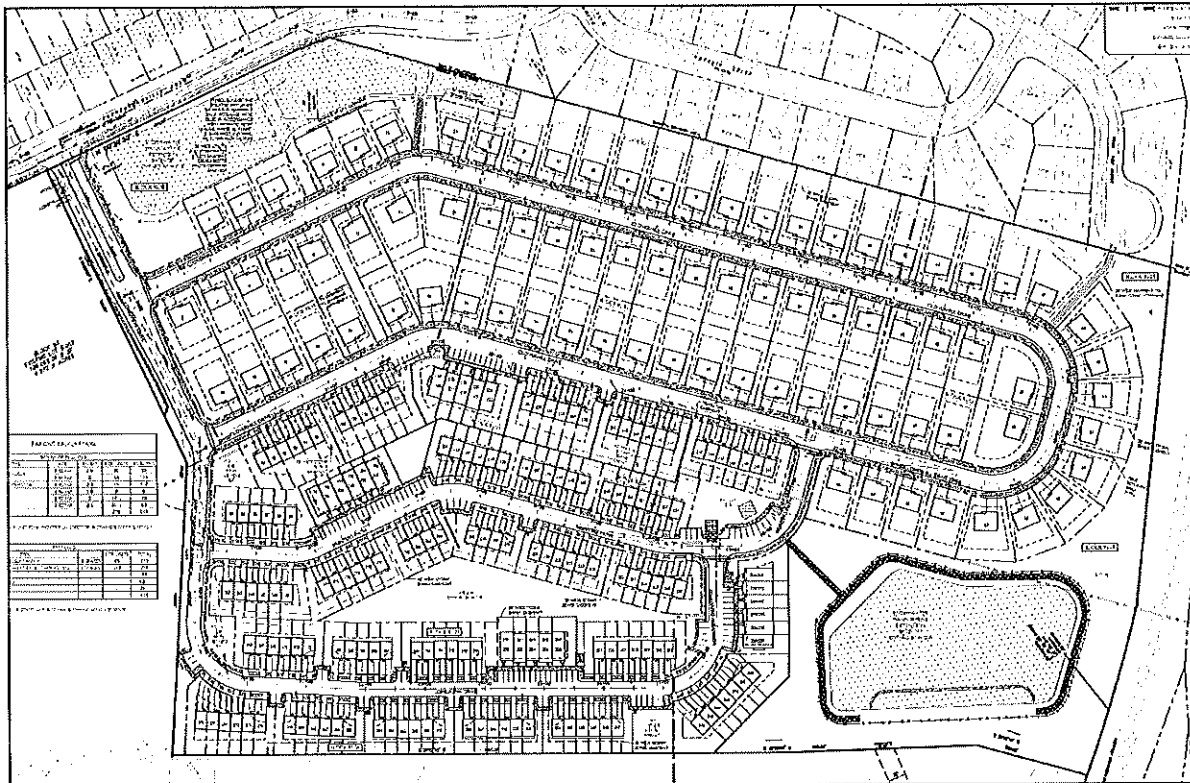
The Township addressed its 47 unit first and second round obligation with a total of 35 units and 12 rental bonus credits from an approved inclusionary project (EAI), existing age-restricted units from the Biding Peace project and an existing supportive housing project. Discussion is presented for each of the projects noted in the table below.

Satisfaction of the 47-unit Prior Round Obligation			
Project	Units	Bonus Credits	Total Credits
EAI	20	9	29
Biding Peace (Age-restricted rental)	12	0	12
415 Liggett Blvd. (supportive housing)	3	3	6
Total	35	12	47

EAI

This inclusionary project has a long history within the Township, as it is the product of settlement of builder's remedy litigation in 1996 relative to the prior round. While the proposal has undergone a number of iterations spanning nearly two decades and the settlement agreement has been amended a number of times, the work necessary to ensure the project becomes a reality is mostly complete. The biggest obstacle was inclusion of the property within the sewer service area, which was ultimately approved by NJDEP and the New Jersey Highlands Council long ago, resulting in 45 acres of the 170 acre property having sanitary sewer service available. While the developer received approval from the Land Use Board in 2020 for a total of 233 units (90 single-family homes, 99 market-rate townhomes and 44 affordable townhomes), an amended subdivision and site plan application is under consideration by the Land Use Board to now include 276 units consisting of 83 single-family homes, 149 market-rate townhomes and 44 affordable stacked townhomes as shown on the plan on the following page. The affordable units will be required to meet income tiering and bedroom distribution requirements.

Per the Township's settlement agreement with EAI, a total of 44 family rental units will be provided through inclusionary development per the current AH zone requirements, which were adopted as part of the zoning ordinance in compliance with the settlement agreement. While the Highlands Regional Master



EAI – Proposed Subdivision and Site Plan

Plan requires a 20% setaside of affordable units for any residential project, the settlement agreement predates the RMP and this requirement and the setaside required is 44 units regardless of the number of market-rate units. Based on the amended application noted above, however, the setaside proposed is 15.9%. A total of 20 of the 44 units are applied to the Prior Round obligation along with 9 rental bonus credits, resulting in 29 credits towards the 47-unit obligation.

While N.J.A.C. 5:93-5.3 (b) and (c) set forth specific requirements that must be demonstrated for new construction projects, the developer of this property has already received approval from the Pohatcong Township Land Use Board on a number of occasions and an amended application is currently under consideration. As such, these requirements are satisfied, as there is no question as to the ability of the project to be constructed.

Biding Peace

Based on a report issued by COAH on October 26, 1999, the Township is eligible to receive credits for existing age-restricted units within the Biding Peace project for senior citizens and the developmentally disabled. The project was completed in December of 1987 utilizing Section 202 funds from HUD. While located in Lopatcong Township, Pohatcong's participation in the project meant that 21 of the 82 units were attributable to the Township and 12 units of credit are applied to the Prior Round obligation. Crediting documentation was previously provided to COAH and certified as eligible for credit.

415 Liggett Blvd (Alternatives)

Alternatives, Inc. operates a 3 bedroom supportive housing project at 415 Liggett Boulevard. Originally opened on May 8, 2002, this project is still occupied and provides a total of 3 credits plus 3 rental bonus credits that are applied to the Prior Round Obligation. Crediting documentation was previously provided to COAH in conjunction with certification of the Township's prior round plan.

Third Round Obligation: 138 Units, Fully Satisfied

As noted previously, the Township's third round obligation was 138 units, as agreed to in the May 18, 2022 settlement agreement reached with Fair Share Housing Center as part of Pohatcong's declaratory judgment filing. Below is a summary of the compliance mechanisms that address the third round obligation, with crediting documentation provided in the Appendices as noted.

Satisfaction of the 138-unit Third Round Obligation			
Project	Units	Bonus Credits	Total Credits
Biding Peace (Age-restricted rental)	9	0	9
EAI	24	0	24
Larken (Block 93, Lot 5.04)	24	24	48
Shimer School Redevelopment	10	10	20
Ingerman (100% affordable)	36	1	37
Total	103	35	138

Biding Peace

Please see discussion in the prior round obligation section for a description of the project. A total of 9 of 21 credits are applied to the third round obligation.

EAI

Please see discussion in the prior round obligation section for a description of the project. A total of 24 of 44 units are applied to the third round obligation.

Larken (Block 93, Lot 5.04)

This inclusionary project consists of a total of 120 units, 24 of which are deed restricted for low and moderate income households. The High Street Redevelopment Plan was adopted by Township Council in 2021 and provided inclusionary zoning to permit the project. Larken received approval from the Land Use Board in 2022 and also negotiated a PILOT and redevelopment agreement with Township Council under the provisions of the Local Redevelopment and Housing Law and the Long Term Tax Exemption Law. The

project has been constructed and is occupied. A total of 24 family rental unit credits (see table below for bedroom distribution) are applied to the third round obligation along with 24 rental bonus credits for 48 total credits. Crediting information is provided in Appendix 3.

Larken – Bedroom Distribution		
# Bedrooms	# Units	% of Total Units
1 Bedroom	4	16.67%
2 Bedroom	15	62.5%
3 Bedroom	5	20.83%

While N.J.A.C. 5:93-5.3 (b) and (c) set forth specific requirements that must be demonstrated for new construction projects, the project is already constructed and occupied, therefore those standards are irrelevant.

Shimer School Redevelopment (Block 44, Lot 1)

The former Shimer School is an approximately 2 acre property designated as Block 44, Lot 1, with frontage on New Brunswick Avenue to the south and Pennsylvania Avenue to the north and currently containing a former school building and parking lot. Purchased by the Township around the year 2000, the site was sold to a potential developer at auction and was subsequently included within a designated redevelopment area in 2019. The Township adopted a redevelopment plan for the property (see Appendix 4) and the redeveloper has an application pending before the Land Use Board for site plan approval. The current proposal is for a total of 48 family rental units, of which 10 would be deed restricted for low and moderate income households. A total of 20 credits are applied to the third round obligation considering 10 rental bonus credits. The table below shows the distribution of units proposed, which complies with UHAC requirements.

Shimer School Redevelopment – Bedroom Distribution		
# Bedrooms	# Units	% of Total Units
1 Bedroom	2	20%
2 Bedroom	6	60%
3 Bedroom	2	20%

N.J.A.C. 5:93-5.3 (b) and (c) set forth site suitability requirements, which can all be met. As noted above the site is already owned by the redeveloper. Multifamily development is compatible with surrounding uses, which include commercial uses along New Brunswick Avenue and single family housing along Pennsylvania Avenue. Adequate water and sewer capacity exists and is already present on the site with

the former school use. The proposed development will comply with the Residential Site Improvement Standards.

Ingerman 100% Affordable Project (Block 38, Lot 1)

As part of its compliance plan, the Township worked with Ingerman to facilitate development of a 100% affordable housing project on Block 38, Lot 1. The project, which has already received site plan approval from the Land Use Board, consists of a total of 96 units (2 phases of 48 units) all affordable to low and moderate income households and developed through the NJHMFA 4% tax credit financing program in combination with the NJHMFA Affordable Housing Production Fund. Ingerman has already received approval from NJHMFA for funding under both programs. The Township is committing up to \$2.4 million in affordable housing trust funds to the project, \$1.2 million for each phase, however not less than \$1.2 million, as detailed in the spending plan in Appendix 5.

As required by N.J.A.C. 5:93-5.3, affordable housing sites shall be available, approvable, developable, and suitable, as defined in N.J.A.C. 5:93-1.3., for the production of low and moderate income housing. As demonstrated below, the site meets these criteria.

- The site(s) have clear title and are free of encumbrances which could preclude development of affordable housing. Ingerman is the contract purchaser of the property.
- The site is adjacent to compatible land uses and has access to appropriate streets. The site is located on along South Main Street, and there are a mix of both single family residential uses and commercial businesses in the area. Access to the site will be provided to South Main Street via connection to an existing driveway serving an adjacent commercial facility.
- Adequate sewer and water capacity is available. Water and sewer service will be provided by the appropriate utilities and is available immediately adjacent to the site. While not located within a sewer service area (the property abuts the sewer service area) and will be the subject of an application for an amendment to the NJDEP. This process will be facilitated through the property's locatoin within the Highlands Center, which allows for a sewer service area revision as opposed to a Water Quality Management Plan Amendment.
- The site can be developed in accordance with the New Jersey Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq and has already received site plan approval from the Land Use Board.

As required by N.J.A.C. 5:93-5.5(a), municipally-sponsored or 100% affordable housing projects must meet certain requirements as noted below with comments on compliance.

1. The municipality shall demonstrate that it has control or has the ability to control the site(s). Control may be in the form of outright ownership or an option on the property; *Ingerman is under contract to purchase the property from the current owner.*
2. An administrative mechanism shall be submitted for the development indicating who will income qualify applicants and administer the units once they are occupied. The

municipality may contract with an outside agency to provide these functions, provided a written agreement between the administrative agency and the municipality is submitted to the Council. *Ingerman will manage the income qualification process and affirmative marketing internally as it does with all its projects.*

3. The municipality shall submit detailed information demonstrating that it has adequate funding capabilities. The documentation shall include: i. A pro-forma statement for the project; and ii. Evidence that the municipality has adequate and stable funding. If State or Federal funds will be used, the municipality shall provide documentation indicating the funding available to the municipality and any applications still pending. In the case where an application for outside funding is still pending, the municipality shall provide a stable alternative source, such as municipal bonding, in the event that the funding request is not approved. As outside funds become available, the municipality may reduce its reliance on municipal resources; *A proforma statement is provided in Appendix 21. The Township and developer will rely on funding from the NJHMFA 4% tax credit program as well as the newly created Affordable Housing Production Fund. This will be supplemented with up to \$2.4 million and not less than \$1.2 million from the Township's affordable housing trust fund. Given the Township's current budget situation, bonding for the Township's subsidy is not an option. Two recently approved warehouse projects are anticipated to begin construction in the next 3-5 months, and over \$2,000,000 is expected to be paid to the trust fund upon issuance of building permits with an additional \$2,000,000 paid prior to issuance of certificates of occupancy. In conjunction with money already in the trust fund, this is sufficient to cover this mechanism. Additionally, payment of subsidy is not immediately required for the project to begin, and according to the developer, can be scheduled for later in the project's construction. All that is required by NJHMFA is a commitment to the funding by the Township, which has been provided.*

4. A construction schedule, or timetable, shall be submitted for each step in the development process: including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contractor and construction. The construction schedule shall provide for construction to begin within two years of substantive certification. The municipality shall indicate the entity responsible for monitoring the construction and overall development activity. *As noted, Ingerman has already received site plan approval from the Land Use Board and approval of financing through NJHMFA. Currently the developer is working to resolve permitting requirements with NJDEP and expects to commence construction once permits are received. While construction was intended to commence in late 2024, these permitting issues have delayed that to late 2025.*

In addition to site suitability, the project will meet the applicable requirements for affordable housing projects in the substantive rules, as well as the Uniform Housing Affordability Control rules (UHAC) (N.J.A.C. 5:80-26.1 et seq.). See below as well as supplementary documentation in support of this site in the Appendices.

- **Affirmative Marketing.** The affordable units will be affirmatively marketed in accordance with COAH's rules at N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.

- Controls on Affordability. The affordable units will have minimum 45-year affordability controls in accordance with COAH's rules and UHAC regulations.
- Bedroom Distribution. The developer will follow the UHAC requirements regarding bedroom distribution for the affordable housing units on the site. It should be noted the project will provide 25% of the units as 3 bedroom units, which amounts to 4 additional 3 bedroom units.

In order to create appropriate zoning for the project, the Township designated the property as an area in need of redevelopment and designated Ingerman as the redeveloper of the property. A redevelopment plan has already been adopted for the site and Ingerman has already received site plan approval from the Land Use Board. Currently they are working with NJDEP to resolve some permitting issues related to flood hazard area present on the property.

As the property is located within the Highlands Planning Area and the Township has adopted a referral ordinance, consideration must be given to Highlands resources on the property (see Appendix 15 for a full property report). The majority of the property is located within the Existing Community Zone (78.6%), with areas of Existing Community Environmentally Constrained Sub-Zone (21.4%). As noted earlier, the Highlands Council approved an expansion to the boundary of the Highlands Designated Center and the property is now within that Center and the project has already been deemed consistent with the Highlands Regional Master Plan.

Other Requirements

In addition to meeting the total 138 unit obligation, the Township must also meet requirements related to the minimum rental obligation, maximum number of age-restricted units, minimum family unit obligation, and the minimum very low income unit obligation of 13%. These requirements are detailed below.

Minimum Rental Obligation = 35 units

$$.25 \text{ (obligation)} = \text{Minimum \# rental units} \quad \text{or} \quad .25 (138) = 35 \text{ units}$$

The minimum obligation is satisfied with rental units proposed as part of the Larken (24), Shimer School (10) and Ingerman (96) projects.

Maximum Senior Units = 35 units

$$.25 \text{ (obligation)} = \text{Maximum \# age-restricted units} \quad \text{or} \quad .25 (138) = 35 \text{ units}$$

The only age-restricted units proposed for credit in the third round are those at Biding Peace, totaling 9 units. This is less than the maximum of 35 units permitted.

Minimum Family Unit Obligation = 69 units

$$.50 \text{ (obligation)} = \text{Minimum \# family units} \quad \text{or} \quad .50 (138) = 69 \text{ units}$$

With the exception of the Biding Peace project, all units proposed in the third round are family units.

Minimum Family Rental Obligation= 18 units

$$.50 \text{ (rental obligation)} = \text{Minimum \# Family Rental Units} \quad \text{or} \quad .50 (69) = 18 \text{ units}$$

For the third round obligation, the Township has a total of 94 family rental units proposed.

Minimum Very Low Income Unit Obligation = 13 units

$.13$ (units created or approved on or after July 1, 2008) = Minimum # very low income units or
 $.13$ (94) = 12.22 round up to 13

The total number of units created or approved after July 1, 2008 will be 94, resulting in a requirement for 13 very low income units. This obligation will be met through the following projects, which will create a total of 25 very low income units:

- EAI – 44 affordable units proposed with 13% or 6 units for very low income households
- Larken – 24 affordable units proposed with 13% or 4 units for very low income households
- Shimer School – 10 affordable units proposed with 13% or 2 units for very low income households
- Ingerman – 96 affordable units proposed with 13% or 13 units for very low income households

Fourth Round Obligation***Present Need (Rehabilitation Share)***

As calculated by DCA, Pohatcong's present need for the fourth round is zero (0) units. As such, no compliance mechanisms are needed.

Prospective Need

Pohatcong's fourth round obligation (also referred to as the prospective need) is 65 units. This obligation is defined as the new construction obligation for 2025-2035. The Fair Housing Act, *N.J.S.A. 52:27D-304.3.b.*, describes the obligation as a "projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations".

The methodology to calculate the obligation begins with determining the need for affordable housing in which the municipality is located. That regional need is then allocated to each municipality in the region, excluding qualified urban aid municipalities, based on an average of three factors: 1) equalized nonresidential valuation factor, which serves as a proxy for the municipal share of the region's change in employment during the previous affordable housing round, 2) income capacity factor, which is the municipal share of the region's median household income, and 3) land capacity factor, which is the municipal share of the region's developable land.

The DCA calculated municipal fourth round obligations in *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*, released on or about October 18, 2024. This DCA Report calculated a fourth round obligation of 65 units for the Township. The Township reviewed the land capacity factor data provided by DCA and in accordance with the requirements of the law and determined the calculation was appropriate. The Township's obligation was fixed in an order signed by Judge William G. Mennen, J.S.C. on March 25, 2025.

To address the fourth round obligation, the Township will rely on 48 units from the Ingerman 100% affordable project, along with 17 bonus credits associated with the project. The table below summarizes the fourth round obligation and how it is satisfied and notes the Township will have a surplus of 12 units to carry to the fifth round period.

Satisfaction of the 65-unit Fourth Round Obligation			
Project	Units	Bonus Credits	Total Credits
Ingerman 100% Affordable Project	48	17	65
Total	48	17	65
Surplus Units			12

The proposed distribution of units is detailed in the table below and meets the requirements of UHAC and in fact provides 4 additional 3 bedroom units. Half the units proposed will be available to low income households, including 13% being available to very low income households, with the other half available to moderate income households.

Ingerman 100% Affordable Project – Bedroom Distribution		
# Bedrooms	# Units	% of Total Units
1 Bedroom	16	16.67%
2 Bedroom	56	58.33%
3 Bedroom	24	25%

Distribution of Fourth Round Units

In addition to meeting the total 65 unit fourth round obligation, the Township must also meet a rental obligation, maximum senior units, family obligation, very low income obligation, and maximum bonus credits, as set forth in the Fair Housing Act.

Maximum Bonus = 17 credits

- Maximum bonus credits = 25% (obligation) | $25\% (65) = 16.25$, rounded up to 17 units.

As the Township will be contributing at least 3% of the cost of the Ingerman project, as a 100% affordable project, it is eligible for 2 for 1 credits up to a maximum of 17 credits, which are applied to the fourth round obligation.

Minimum Rental = 12 units

- Minimum rental units = 25% (of units meeting the obligation) | $25\% (48) = 12$ units

All of the units in the Ingerman project are rentals, so this requirement is met.

Maximum Senior = 14 units

- Maximum age-restricted units = 30% (units meeting the obligation) | 30% (48) = 14.4, rounded down to 14 units

There are no age-restricted units proposed for the fourth round.

Minimum Family = 24 units

- Minimum family units = 50% (units meeting the obligation) | 50% (48) = 24 units

All of the units in the Ingerman project are family units, therefore this requirement is met.

Minimum Family Rental = 12 units

- Minimum family rental = 50% (rental obligation) | 50% (24) = 12 units

All of the units in the Ingerman project are family rental units, so this requirement is met.

Minimum Very Low Income = 7 units

- Minimum very low income units = 13% (fourth round units created or approved on or after July 1, 2008) | 13% (48) = 6.24, rounded up to 7 units

The Ingerman project will be required to provide 7 very low income units, meeting this requirement.

Minimum Family Very Low Income = 1 unit

- Minimum family very low income units = 50% (very low income obligation) | 13% (7) = 0.91 units, rounded up to 1 unit

As the units in the Ingerman project are all family units, this requirement is met.

Affordability Assistance

As required, the Township will undertake a variety of affordability assistance activities to render units more affordable. These strategies are outlined in the spending plan (Appendix 5) and the affordability assistance program manual is provided in Appendix 6.

CONSISTENCY WITH THE STATE DEVELOPMENT AND REDEVELOPMENT PLAN

As noted in the State Plan policy maps, areas within the Highlands Region utilize land use capability designations of the Highlands Regional Master Plan rather than traditional planning areas. Although planning area-specific policies cannot be assessed, the Township's approach to affordable housing is generally consistent with the statewide goals of the State Development and Redevelopment Plan. Most notable are:

- Revitalize the State's cities and Townships
- Conserve the State's natural resources and systems
- Provide adequate housing at a reasonable cost

The Ingerman 100% affordable project, the Township's sole mechanism for the fourth round, is proposed within the Existing Community Zone and is within the Township's Highlands Center.

AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING

Pohatcong Township's Affordable Housing Ordinance is consistent with the Fair Housing Act, the Uniform Housing Affordability Control Rules, N.J.A.C. 5:80-26.1 et seq., and the Division of Local Planning Services Fair Housing Act Rules, N.J.A.C. 5:99. As of the adoption of this Housing Plan, the latter is in the process of being amended, therefore the existing ordinance will be relied upon until such time as those regulations are finalized. Ordinances adopted by March of 2026 will reflect appropriate requirements. The current affordable housing ordinance, adopted in 2023, is provided in Appendix 7.

The Township's Affordable Housing Ordinance, Chapter 285, Article VII, governs the establishment of affordable units in the Township as well as regulating the occupancy of such units. The Township's Affordable Housing Ordinance addresses the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc. All newly created affordable units, with limited exceptions, will comply with the affordability control period of 30 years for sale units or 40 years for rental units, as required by the Fair Housing Act and the Uniform Housing Affordability Control Rules.

The Township has established the position of the Municipal Housing Liaison. However, the Township will likely rely on its affordable housing administrator to conduct the administration and affirmative marketing of its affordable housing sites that will not be administered by the developers.

The Township's affirmative marketing plan is designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Township. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Township's housing region (Region 2), consisting of Essex, Morris, Union and Warren counties.

The affirmative marketing plans include regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance with N.J.A.C. 5:80-26.1 et seq. This plan must be adhered to by all private, non-profit, and municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit. A copy of the affirmative market plan is provided in Appendix 8.

AFFORDABLE HOUSING TRUST FUND

Pohatcong's existing development fee ordinance included in Appendix 9. The Township has prepared a new Spending Plan, provided in Appendix 5, which discusses anticipated revenues, collection of revenues, and the use of revenues, and it has been prepared in accordance with currently applicable rules. It should be noted, however, that 5:99, the Fair Housing Act Rules, which set forth requirements related to spending plans, are not yet finalized. All collected revenues will be placed in the Township's Affordable Housing Trust fund and will be dispensed for the use of eligible affordable housing activities including, but not limited to:

- Affordability assistance program; and

- Contribution to a 100% affordable housing project; and
- Any other activity as specified in the approved spending plan.

The Township is required to fund eligible programs in a Court-approved Housing Element and Fair Share Plan, as well as provide affordability assistance. At least 30% of collected development fees, excluding expenditures made since July 17, 2008, when affordability assistance became a statutory requirement in the Fair Housing Act, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. At least one-third (1/3) of the affordability assistance must be expended on very-low income units. Additionally, no more than 20% of the revenues collected from development fees each year shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program. The spending plan prepared reflects these requirements, but once amendments to 5:99 are finalized, the Township reserves the right to amend its spending plan related to affordability assistance requirements, which are proposed to change.