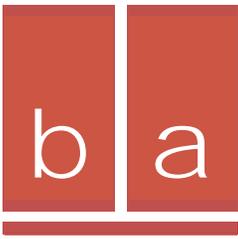


# HOUSING ELEMENT AND FAIR SHARE PLAN

TOWNSHIP OF CLINTON  
HUNTERDON COUNTY, NEW JERSEY

April 27, 2018  
Adopted May 7, 2018





COMMUNITY PLANNING  
LAND DEVELOPMENT AND DESIGN  
LANDSCAPE ARCHITECTURE

**B U R G I S**  
ASSOCIATES, INC.

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TOWNSHIP OF CLINTON  
HUNTERDON COUNTY, NEW JERSEY

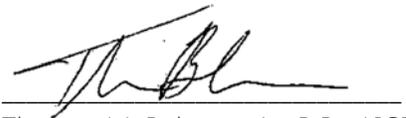
PREPARED FOR:  
TOWNSHIP OF CLINTON PLANNING BOARD

BA# 3155.02

The original document was appropriately signed and sealed on April 27, 2018 in accordance with the State Board of Professional Planners.



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## INTRODUCTION

The Township of Clinton's 2018 Third Round Housing Element and Fair Share Plan has been prepared in accordance with N.J.A.C. 5:93 as directed by the New Jersey Supreme Court in its March 10, 2015 'Mount Laurel IV' decision. As directed by the Court, the Township has been diligent in addressing the various requirements outlined in the Court process as it continued to evolve. Such efforts include the Planning Board's and Mayor and Council's active involvement in planning through an open public process for the affordable housing developments included in the Township's Fair Share Plan intended to satisfy its Third Round Obligation. Among these plan components are two redevelopment plan areas, three 100% affordable developments, several inclusionary developments and group homes, as well as other affordable housing credits. The Township's planning strategies generally aim to minimize impacts to the existing community and its environmentally sensitive areas while providing needed housing alternatives with access to transportation and utilities through projects which have been demonstrated to be feasible. In addition, as required by statute, the Plan also includes a profile of the Township's housing stock and demographic data to illustrate trends in its housing market and population supplemented with pertinent economic and regional information.

## HOUSING ELEMENT AND FAIR SHARE PLAN REQUIREMENTS

Every municipality in New Jersey with a zoning ordinance is required to adopt a master plan containing at least a land use plan element and housing plan element in accordance with the New Jersey Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et seq. The MLUL also requires the housing plan element to include residential standards and proposals for the construction and improvement of housing pursuant to the 1985 Fair Housing Act, N.J.S.A. 52:27D-310. This document is commonly referred to as the Housing Element and Fair Share Plan and must contain certain information, at a minimum, including the following:

- 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, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- 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;
- An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- 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; and,
- A consideration of the lands that are most appropriate for construction of low and moderate-income housing and of 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.

## HISTORIC OVERVIEW OF THE COURTS AND COAH

In 1975, the New Jersey Supreme Court in its So. Burlington Cty. NAACP v. Township of Mount Laurel decision commonly referred to as 'Mount Laurel I', determined every developing municipality in New Jersey had an affirmative obligation to provide for its fair share of affordable housing. Initially, this constitutional obligation was generally disregarded by municipalities given a lack of standard regulations, housing need numbers and designated entity to enforce any such requirement. As a result, the Court published its 1983 'Mount Laurel II' decision, in which it called upon the State legislature to enact legislation that would spare municipalities from the burden of having the Courts administer the affordable housing process and determine their affordable housing needs. The legislature responded by passing the Fair Housing Act in 1985 which established the frame work for the creation of the Council on Affordable Housing ("COAH"). The New Jersey Supreme Court affirmed the validity of the Fair Housing Act in its 1986 'Mount Laurel III' decision. COAH would become the designated State agency responsible for administering the affordable housing process and overseeing the manner in which municipalities would address their low- and moderate-income housing needs.

In accordance with its mandate, COAH prepared affordable housing regulations and associated housing need numbers for municipalities throughout New Jersey. These covered the period 1987 to 1993 known as the "First Round", and continued for the 'Second Round' spanning from 1993 to 1999, both utilizing a 'fair share' methodology. However, following the Second Round, COAH utilized a 'growth share' methodology in preparing Third Round substantive and procedural rules and affordable housing need numbers, first adopted in 2004. These regulations were challenged and various aspects of them were ultimately invalidated by the Appellate Division in January 2007 directing COAH to adopt revised rules.

In May 2008, COAH adopted revised Third Round Rules which were subsequently published and went into effect on June 2, 2008. Shortly thereafter, COAH amended the newly adopted rules which became effective in October 2008 and were again challenged. The Appellate Division, in an October 2010 decision, invalidated the 'growth share' methodology and indicated that COAH should revert back to the 'fair share' methodology utilized in the First and Second Rounds to adopt new Third Round regulations. This decision was affirmed by the New Jersey Supreme Court in September 2013 which sustained the invalidation of the growth share methodology and third iteration of the Third Round regulations. It also directed COAH to adopt new regulations in accordance with the methodology utilized in the First and Second Rounds.

COAH published new Third Round rules in June 2014 (N.J.A.C. 5:98, 5:99) pursuant to the Supreme Court's directive, again revising the previous methodology used to calculate affordable housing need and the methods in which municipalities could satisfy that need. However, on October 20, 2014, COAH failed to adopt these regulations deadlocked in a 3-3 vote. The Fair Share Housing Center ("FSHC"), a party in both the 2010 and 2013 cases, responded by filing a motion in aid of litigants' rights with the Supreme Court which heard the motion in January 2015. The Court decided on March 20, 2015 ('Mount Laurel IV') that COAH had effectively become dysfunctional, and consequently returned jurisdiction of affordable housing issues back to the trial courts as had been the arrangement prior to the creation of COAH in 1985.

The newly prescribed Court process directed participating municipalities to file declaratory judgments by July 8, 2015 in order to secure temporary immunity from exclusionary zoning (builder's remedy) law suits while preparing Third Round housing plans. This period was initially limited to five months, until November 2015, though most participating municipalities were granted extensions of their immunities as the process continued. In June 2015, over 270 municipalities formed a municipal consortium which contracted with Econsult Solutions, Inc. to prepare housing need numbers based on the Supreme Court's March 2015 decision. Simultaneously, housing need numbers were prepared by Fair Share Housing Center's consultant Dr. David Kinsey, P.P., FAICP. These two sets of numbers, first prepared in 2015, have been revised several times since to address various issues and concerns pertaining to the methodologies being employed and remain the most widely used figures in determining individual municipal obligations.

The Supreme Court rendered its 'Gap Period' decision in January 2017 resolving a major point of uncertainty in the process by affirming that municipalities did in fact have an affordable housing obligation for the period 1999 to 2015 in which COAH failed to adopt new Third Round Rules. Econsult and Dr. Kinsey again prepared new Third Round housing need numbers in April 2017 to include gap period need numbers. These would become the need numbers that would serve as the basis for Clinton Township's negotiations with Fair Share Housing Center. The Township and FSHC entered into a Settlement Agreement on December 12, 2018 which was amended on February 5, 2018. To date, over 170 municipalities have reached settlement agreements with FSHC to address their Third Round affordable housing obligations. The debate over housing need numbers continues for municipalities which have yet to reach a settlement agreement and/or receive substantive certification from the Courts

## THE TOWNSHIP'S RESPONSE TO ITS AFFORDABLE HOUSING OBLIGATION

As noted previously, COAH had originally adopted a 'fair share' methodology in 1987 (First Round) and again in 1994 (Second Round) to determine housing need numbers for all municipalities in the State. The combined First and Second Round housing need numbers for Clinton Township covering the years 1987-1999 yielded an affordable housing obligation of 335 units.

Clinton Township received substantive certification of its First Round Housing Plan from COAH on February 3, 1993, and later of its Second Round plan on March 7, 2001. Subsequently, the Planning Board adopted its amended Third Round Housing Element and Fair Share Plan based on COAH's growth share methodology, the prevailing policy at the time, on May 17, 2010 (filed with COAH on June 8, 2010 and deemed complete on July 25, 2010). COAH was never able to grant substantive certification to this Third Round Housing Plan given its now defunct status. In accordance with the Supreme Court's March 2015 decision, Clinton Township adopted a new Third Round Housing Element and Fair Share Plan in July 2016 based on COAH's Second Round fair share methodology which was amended and adopted on September 19, 2016.

After considerable negotiations and thorough evaluations of its various affordable housing development alternatives, the Township entered into a Settlement Agreement with Fair Share Housing Center on December 12, 2017 which was amended and finalized on February 5, 2018. The Township held its fairness hearing with the Honorable Judge Thomas Miller of the Somerset Superior Court on March 19, 2018. Judge Miller rendered his decision and entered an order approving the Township's compliance plan on April 3, 2018. Among other requirements stipulated in the Agreement, the Township must adopt a Housing Element and Fair Share Plan within 90 days of the Court order.

Since the March 2015 Supreme Court decision, the Township has been proactive in prioritizing and planning its alternative affordable housing developments as detailed in Section III: Fair Share Plan. These efforts include the adoption of two redevelopment plans, one for the Fox/Seals or 'Old Municipal Building' site, and another for the Beaver Brook Homestead property. The Planning Board approved the final site plan for the Beaver Brook Homestead site in March 2018 and anticipates construction to begin within the year. A developer was selected and a redevelopment agreement executed for the Fox/Seals site in 2017 for which the Planning Board anticipates receiving a preliminary site plan application in the Spring of 2018. The Township also plans to issue a request for qualifications for the Marookian site in April 2018 and has secured the available water and sewer capacity to accommodate a number of developments in its Fair Share Plan. A durational adjustment has been granted for those sites which cannot presently be accommodated due to the limited availability of water and sewer utilities.

The Township Planning Board and Governing Body have also remained active in evaluating various development proposals as they have been presented. These include several inclusionary and 100% affordable projects, one of which was awarded New Jersey Home Mortgage and Finance Agency's (HMFA) competitive 9% financing in August 2017. The plan's several inclusionary developments have affordable set-asides ranging from 20% to 26%, excluding the Fox/Seals site due to cost-prohibitive historic rehabilitation. The Township's various plan mechanisms to address its affordable housing obligation are discussed in further

detail in the Fair Share Plan section of this document.

This document is organized into four sections, as follows:

Section I      The Housing Element contains background data on the Township’s housing stock, population, and related demographic characteristics.

Section II     The Fair Share Obligation identifies the Township’s affordable housing obligation pursuant to the procedures identified in the Supreme Court’s March 10, 2015 decision, COAH’s Second Round Rules, as adjusted by the municipality’s continuing participation in the Highlands Council Regional Master Plan conformance process, and February 5, 2018 Settlement Agreement with Fair Share Housing Center.

Section III    The Fair Share Plan details the Township’s plan mechanisms for satisfying its Third Round affordable housing obligation. In the absence of adopted and judicially sanctioned rules, and in accordance with the most recent Supreme Court decision invalidating COAH’s Third Round Rules, this plan applies COAH’s adopted Second Round Rules (N.J.A.C. 5:93) to address Clinton Township’s affordable housing obligation. To reiterate, this has been done in recognition of the fact that in 2011 COAH re-adopted its Second Round Rules and extended them to October 16, 2016.

In summary, the Township’s 2018 Housing Element and Fair Share Plan incorporates a variety of mechanisms to address its Rehabilitation, Prior Round and Prospective (Third Round) affordable housing obligations. These mechanisms include municipally sponsored 100% affordable and inclusionary developments, an approved group home, a Regional Contribution Agreement (RCA) with the City of New Brunswick, private affordable rental development, credits-without-controls and bonus credits, which are discussed in greater detail in Section III Fair Share Plan.

SECTION I:  
HOUSING ELEMENT

## COMMUNITY OVERVIEW

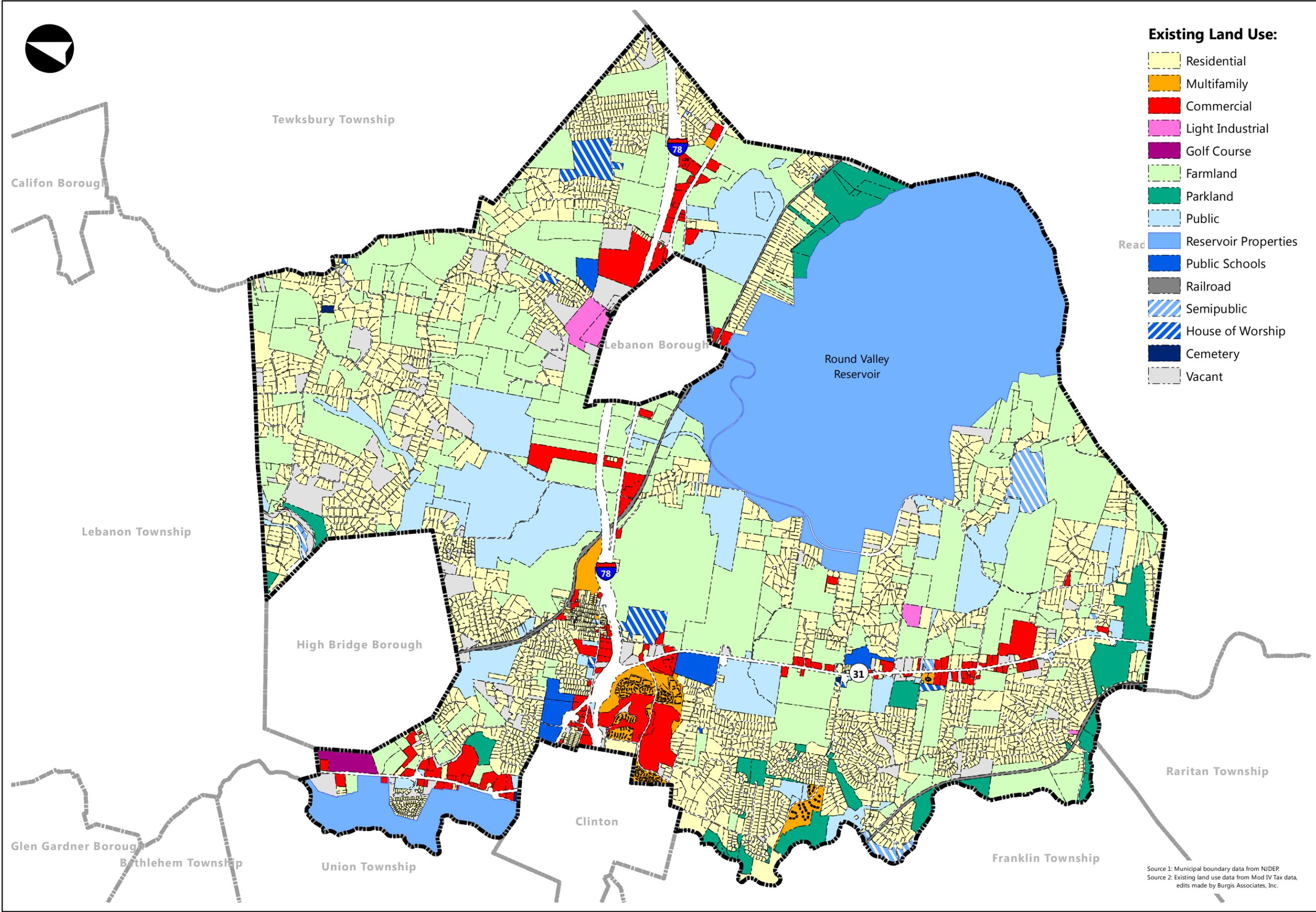
Clinton Township is located in northwest Hunterdon County encompassing a land area of approximately 21,693 acres. The municipality is within the Highlands Region, with 97% (21,054 acres) of its land area located in the Highlands Planning Area and 3% (639 acres) located in the Highlands Preservation Area. Adjacent municipalities include Tewksbury, Union, Readington, Raritan, and Franklin Townships as well as the Town of Clinton and the Boroughs of Lebanon and High Bridge. Regional access is provided via Interstate Route 78 (I-78), State Route 31, U.S. Route 22 and County Routes 623, 629, 639 and 641.

The Township is primarily characterized as a rural residential community with substantial areas devoted to permanent open space, farmland, and farmland preservation. Much of the residential development in Clinton Township has occurred in the western half of the municipality which mostly consists of single family homes with some townhouse and multifamily development.

In December 2009, the Clinton Township Mayor and Council adopted Resolutions 144-09 and 145-09 (appendices A-1 and A-2) petitioning the Highlands Council for plan conformance for its lands located in both Highlands Preservation and Planning Areas. The Highlands Council subsequently approved the Township's petition for plan conformance on June 18, 2015. Clinton Township is now fully conforming with the Highlands Regional Master Plan (RMP) having received approval for required components including Modules 1, 2 and 3 as well as the adoptions of the Township's Highlands Checklist (Ord. #1082-16) and Exemption Ordinances (Ord. #1083-16) on May 25, 2016.

The Township's Module 2 Build-Out Report provides an assessment of the municipality's ability to accommodate additional growth and development, including affordable housing units. This analysis highlights the availability of open space but recognizes environmental constraints and lack of sewer and water utilities which effectively limit the development potential of the community.

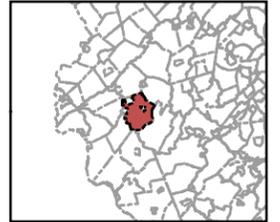
The accompanying Existing Land Use Map depicts the distribution of land uses throughout the Township.



**Existing Land Use:**

- Residential
- Multifamily
- Commercial
- Light Industrial
- Golf Course
- Farmland
- Parkland
- Public
- Reservoir Properties
- Public Schools
- Railroad
- Semipublic
- House of Worship
- Cemetery
- Vacant

Read



**Legend**

- Boundary
- Parcels

Rev	Description	Date	Dwn	Ckd

Dwg. Title

Existing Land Use Map



JOSEPH H. BURGIS AICP  
 PROFESSIONAL PLANNER  
 NEW JERSEY LIC. NO. 2450

Project No.	3022.01
Sheet No.	1 of 1
Date	03/05/15
Drawn	DN

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Source 1: Municipal boundary data from NJDEP  
 Source 2: Existing land use data from Mod IV Tax data,  
 edits made by Burgis Associates, Inc.

## RELATIONSHIP TO HIGHLANDS COUNCIL REGIONAL MASTER PLAN (RMP)

The Township's 2018 Housing Element and Fair Share Plan is designed to provide for a variety of housing opportunities sufficient to affirmatively address the Township's affordable housing obligation. The Plan also respects the development limitations prescribed by the Highlands Land Use Plan, the Township's resource constraints as detailed by the Highlands Council, and the numerous land use policies, goals and objectives set forth in the Clinton Township Master Plan.

In furtherance of the Township's efforts to ensure sound planning and consistency, this Plan incorporates the following goals and objectives with respect to future housing in the Highlands Area:

1. To the extent feasible, the zone plan will guide anticipated new residential development into compact or clustered, center-based projects incorporating a mix of housing types.
2. To provide a realistic opportunity for the provision of the municipality's share of the region's present and prospective housing needs for low-and moderate-income households without sacrificing Clinton Township's agricultural heritage, environmental resources or community character.
3. To the extent feasible, incorporate affordable housing units into any new residential construction that occurs within the Highlands Planning Area including any mixed use, redevelopment, and/or adaptive reuse projects. This goal should be understood to not preclude the construction of exclusively affordable developments.
4. To preserve, monitor and enhance existing stocks of affordable housing.
5. To reduce long term housing costs through:
  - a. The implementation of green building and energy efficient technology in the rehabilitation, redevelopment and development of housing. Recent innovations in building practices and development regulations reflect significant energy efficiency measures, and therefore cost reductions through building materials, energy efficient appliances, water conservation measures, innovative and alternative technologies that support conservation practices, and commonsense practices such as recycling and re-use;
  - b. The promotion of the use of sustainable site design, efficient water management, energy efficient technologies, green building materials and equipment, and retrofitting for efficiencies; and,
  - c. Maximizing the efficient use of existing infrastructure through such means as redevelopment, infill and adaptive reuse.

6. To use a smart growth approach to achieving housing needs:
  - a. Use land more efficiently to engender economically vibrant communities, complete with jobs, houses, shopping, recreation, entertainment and multiple modes of transportation;
  - b. Support a diverse mix of housing that offers a wide range of choice in terms of value, type and location. In addition, seek quality housing design consistent with the Township's agricultural heritage that provides adequate light, air, and open space; and,
  - c. Guide new housing to existing developed areas with relatively high densities and without environmental constraints, within walking distance of schools, employment, services, transit and community facilities with sufficient capacity to support them.

The Township's Housing Element and Fair Share Plan is consistent with the following goals, objectives, and policies related to housing and community facilities identified in the Highlands RMP:

1. Create market-rate and affordable housing sufficient to meet the needs of the Highlands Region within the context of economic, social and environmental constraints;
2. Establish a region-wide, comprehensive approach to addressing housing needs in the Highlands Region, serving all age groups, income levels and mobility options;
3. A comprehensive housing program addressing regional housing needs within the context of preserving the character and environmental integrity of the Highlands;
4. An interagency partnership with COAH in support of the achievement of both the resource protection requirements of both the Highlands RMP and the municipal constitutional obligation, in "growth areas" to provide a realistic opportunity for the construction of a fair share of affordable housing for low and moderate-income households;
5. Preserve and monitor existing stocks of affordable housing;
6. Promote where appropriate and permitted by the Land Use Capability Zone affordable housing within new residential and mixed-use development, redevelopment, or adaptive reuse projects;
7. To require that conforming municipalities implement both the resource protection requirements of the Highlands RMP along with the New Jersey Supreme Court's doctrine, in its Mount Laurel decisions, that every municipality in a "growth area" has a constitutional obligation to provide through its land use regulations, sound land use, and long-range planning, a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate-income families;

8. To require that conforming municipalities update and adopt a housing element, fair share plan, and implementing ordinance(s) to reflect current conditions and resource protection requirements of the Highlands RMP; and,
9. Conforming municipalities, through housing plans, will evaluate and provide for alternate mechanisms to address affordable housing obligations where Highlands RMP resource protection standards restrict the ability of planned but not built sites to be developed for affordable housing.

Clinton Township recognizes that its response to its affordable housing obligation must be crafted within the regulatory framework established by the Highlands Council Regional Master Plan (RMP). To this end, the Township has consulted with the Highlands Council throughout the planning process to ensure the regulatory compatibility of the several proposed developments as well as solicit guidance in petitioning for any necessary RMP adjustments.

## INVENTORY OF MUNICIPAL HOUSING STOCK

This section of the Housing Element provides an inventory of the Township’s existing housing stock, as required by the Municipal Land Use Law (MLUL). The inventory details housing characteristics such as age, condition, purchase/rental value, and occupancy. It also details the number of affordable units available to low- and moderate-income households and the number of substandard housing units capable of being rehabilitated. When reviewing this data some inconsistencies may be observed as different information sources were used in obtaining the most reliable and up-to-date information resulting in some variations between the data sources.

1. Number of Dwelling Units. As shown in the table below, the Township’s housing stock grew by 17 percent between 1990 and 2000, from 3,514 units to 4,234 units. However, the rate of growth has decreased greatly in subsequent years. Estimates for 2016 suggest that Clinton’s housing stock has decreased though the degree to which does not appear to be accurate based on the local experience.

**TABLE 1: DWELLING UNITS (1990 TO 2016), CLINTON TOWNSHIP, NEW JERSEY**

Year	Total Dwelling Units	Numerical Change	Percentage Change
1990	3,514	-	-
2000	4,234	720	17.0%
2010	4,516	282	6.7%
2016	4,050	(466)	(10.3%)

Sources: U.S. Decennial Census – 1990 & 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

2. Occupancy Status. The following table provides details regarding the tenure and occupancy of the Township’s housing stock. As shown below, nearly 82 percent of the Township’s housing stock was estimated to be owner-occupied in 2016, down from 86.8 percent in 2010 and 88.5 percent in 2000, indicating a decline. The number of vacant units has increased slightly since 2010 from 94 units (2.1 percent of all units) to 164 units (4.0 percent of all units) in 2016.

**TABLE 2: HOUSING UNITS BY TENURE AND OCCUPANCY STATUS (2000 TO 2016), CLINTON TOWNSHIP, NEW JERSEY**

Category	2000		2010		2016	
	No. Units	Percent	No. Units	Percent	No. Units	Percent
Owner-Occupied Units	3,748	88.5%	3,922	86.8%	3,320	82.0%
Renter-Occupied Units	381	9.0%	500	11.1%	566	14.0%
Vacant Units	105	2.5%	94	2.1%	164	4.0%
<b>Total Units</b>	<b>4,234</b>	<b>100.0%</b>	<b>4,516</b>	<b>100.0%</b>	<b>4,050</b>	<b>100.0%</b>

Sources: U.S. Decennial Census – 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

3. Housing Characteristics. The following tables provide information on the characteristics of the Township's housing stock, including data on the number of units in the structure and the number of bedrooms. As shown below, the housing stock is predominantly characterized by single-family detached units, which represented nearly 74.2 percent of all dwelling units in 2016. Townhouses comprise the second largest category of unit type representing 10.7 percent of the housing stock. Approximately 50 percent of the housing stock has 4 bedrooms or more while 1-bedroom units make up 7.6 percent of all units.

**TABLE 3: UNITS IN STRUCTURE (2000 TO 2016), CLINTON TOWNSHIP, NEW JERSEY**

Units in Structure	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
1-unit, detached	3,347	79.1%	3,321	73.5%	3,007	74.2%
1-unit, attached	430	10.2%	557	12.3%	433	10.7%
2 units	74	1.7%	89	2.0%	111	2.7%
3 or 4 units	117	2.8%	161	3.6%	94	2.3%
5 to 9 units	131	3.1%	198	4.4%	140	3.5%
10 to 19 units	111	2.6%	105	2.3%	205	5.1%
20 or more units	8	0.2%	85	1.9%	60	1.5%
Mobile home	16	0.4%	0	0.0%	0	0.0%
Boat, RV, van, etc.	0	0.0%	0	0.0%	0	0.0%
<b>Total</b>	<b>4,234</b>	<b>100.0%</b>	<b>4,516</b>	<b>100.0%</b>	<b>4,050</b>	<b>100.0%</b>

Sources: U.S. Decennial Census –2000, 2010 & 2016 American Community Survey 5-Year Estimates.

**TABLE 4: NUMBER OF BEDROOMS IN HOUSING UNITS (2000 TO 2016)  
CLINTON TOWNSHIP, NEW JERSEY**

Number of Bedrooms	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
0	0	0.0%	0	0.0%	0	0.0%
1	354	8.4%	389	8.6%	306	7.6%
2	613	14.5%	681	15.1%	646	16.0%
3	1,171	27.7%	1,106	24.5%	1,082	26.7%
4	1,783	42.1%	1,990	44.1%	1,717	42.4%
5 or More	313	7.4%	350	7.8%	299	7.4%
<b>Total</b>	<b>4,234</b>	<b>100.0%</b>	<b>4,516</b>	<b>100.0%</b>	<b>4,050</b>	<b>100.0%</b>

Sources: U.S. Decennial Census – 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

4. Housing Age. The following table details the age of the Township’s housing stock. As shown, more than the half (55.7%) of the Township’s housing units have been constructed since 1980. Less than 1 percent of the Township’s dwelling units were constructed in 2010 or later indicative of low growth.

**TABLE 5: YEAR STRUCTURE BUILT**  
**CLINTON TOWNSHIP, NEW JERSEY**

<b>Year Units Built</b>	<b>No. Units</b>	<b>Percent</b>
2010 or later	22	0.5%
2000 to 2009	199	4.9%
1990 to 1999	806	19.9%
1980 to 1989	1,231	30.4%
1970 to 1979	761	18.8%
1960 to 1969	335	8.3%
1950 to 1959	256	6.3%
1940 to 1949	62	1.5%
1939 or earlier	378	9.3%
<b>Total</b>	<b>4,050</b>	<b>100.0%</b>

Source: 2016 American Community Survey 5-Year Estimate.

5. Housing Conditions. An inventory of the Township’s housing conditions is presented in the following tables. The first table identifies the extent of overcrowding in the Township, defined as housing units with more than one occupant per room. The data indicates that the number of occupied housing units considered overcrowded has remained negligible since 2000.

**TABLE 6: OCCUPANTS PER ROOM (2000 TO 2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Occupants Per Room	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
1.00 or less	4,121	99.8%	4,416	99.9%	3,878	99.8%
1.01 to 1.50	8	0.2%	6	0.1%	8	0.2%
1.51 or more	0	0.0%	0	100.0%	0	0.0%
<b>Total</b>	<b>4,129</b>	<b>100.0%</b>	<b>4,422</b>	<b>100.0%</b>	<b>3,886</b>	<b>100.0%</b>

Sources: U.S. Decennial Census – 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

The table below presents other key characteristics of housing conditions, including the presence of complete plumbing and kitchen facilities and the type of heating equipment used. As of 2016, it is estimated that all dwelling units in the Township have standard kitchen and plumbing facilities while approximately 1.8 percent utilize non-standard heating sources.

**TABLE 7: EQUIPMENT AND PLUMBING FACILITIES (2000 TO 2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Facilities	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
<u>Kitchen:</u>						
With Complete Facilities	4,122	99.8%	4,422	100.0%	3,886	100.0%
Lacking Complete Facilities	7	0.2%	0	0.0%	0	0.0%
<u>Plumbing:</u>						
With Complete Facilities	4,113	99.6%	4,408	99.7%	3,886	100.0%
Lacking Complete Facilities	16	0.4%	14	0.3%	0	0.0%
<u>Heating Equipment:</u>						
Standard Heating Facilities	4,088	99.0%	4370	98.8%	3,816	98.2%
Other Means, No Fuel Used	41	1.0%	52	1.2%	70	1.8%

Sources: U.S. Decennial Census – 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

6. Rental and Purchase Values. As shown in the following table, 31 percent of Clinton’s rental housing stock had monthly rents of \$1,500 or more in 2010, and that has increased to more than 58 percent by 2016. The Township’s median monthly rent has risen steadily with an increase of approximately 16% since 2010. The Township’s \$1,591 median rent is 20.5% higher than the median monthly rent of Hunterdon County as a whole (\$1,320).

**TABLE 8: GROSS RENT OF RENTER-OCCUPIED HOUSING UNITS (2000 TO 2016)  
CLINTON TOWNSHIP, NEW JERSEY**

Gross Rent	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
Less than \$200	7	1.9%	0	0.0%	0	0.0%
\$200 to \$299	0	0.0%	0	0.0%	0	0.0%
\$300 to \$499	7	1.9%	0	0.0%	2	0.4%
\$500 to \$749	25	6.9%	0	0.0%	0	0.0%
\$750 to \$999	123	34.0%	70	14.0%	52	9.2%
\$1,000 to \$1,499	116	32.0%	230	46.0%	184	32.5%
\$1,500 or More	84	23.2%	155	31.0%	203	35.9%
\$2,000 to \$2,499	-	-	-	-	40	7.1%
\$2,500 to \$2,999	-	-	-	-	63	11.1%
\$3,000 or more	-	-	-	-	6	1.1%
No Cash Rent	0	0.0%	45	9.0%	16	2.8%
<b>Total</b>	<b>362</b>	<b>100.0%</b>	<b>500</b>	<b>100.0%</b>	<b>566</b>	<b>100.0%</b>
<b>Median Gross Rent</b>	<b>\$1,062</b>		<b>\$1,367</b>		<b>\$1,591</b>	
<b>Hunterdon County Median Gross Rent</b>	<b>\$867</b>		<b>\$1,154</b>		<b>\$1,320</b>	

Sources: U.S. Decennial Census – 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

Table 9 shows that 29.7 percent of Clinton’s owner-occupied units had a value of \$500,000 or more in 2016, whereas in 2010 that figure was 49.9% indicating a drop in local home values. Approximately 60 percent of the housing stock is valued at between \$200,000 and \$499,999 with only 0.6 percent accounting for those \$1,000,000 or more.

**TABLE 9: VALUE OF OWNER-OCCUPIED HOUSING UNITS (2000 TO 2016)  
CLINTON TOWNSHIP, NEW JERSEY**

Value Range	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
Less than \$50,000	0	0.0%	7	0.2%	80	2.4%
\$50,000 to \$99,999	36	1.1%	7	0.2%	6	0.2%
\$100,000 to \$149,999	182	5.4%	16	0.4%	62	1.9%
\$150,000 to \$199,999	312	9.2%	118	3.0%	185	5.6%
\$200,000 to \$299,999	1,385	40.7%	438	11.2%	457	13.8%
\$300,000 to \$499,999	1,347	39.6%	1,380	35.2%	1,544	46.5%
\$500,000 to \$999,999	122	3.6%	1,828	46.6%	965	29.1%
\$1,000,000 or More	16	0.5%	128	3.3%	21	0.6%
<b>Total</b>	<b>3,400</b>	<b>100.0%</b>	<b>3,922</b>	<b>100.0%</b>	<b>3,320</b>	<b>100.0%</b>
<b>Median Value</b>	<b>\$283,900</b>		<b>\$499,400</b>		<b>\$414,700</b>	
<b>Hunterdon County Median Value</b>	<b>\$245,000</b>		<b>\$446,700</b>		<b>\$389,500</b>	

Sources: U.S. Decennial Census – 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

7. Number of Units Affordable to Low- and Moderate-Income Households. Clinton’s housing region, Region 3, is comprised of Hunterdon, Middlesex and Somerset Counties. Based on the most current regional income limits provided by Affordable Housing Professionals of New Jersey (AHPNJ), the median household income for a three-person household is \$94,860. A three-person moderate-income household, established at no more than 80 percent of the median income, would have an income not exceeding \$75,888.

An affordable sales price for a three-person moderate-income household earning 80 percent of the median income is estimated at approximately \$165,000. This estimate is based on the UHAC affordability controls outlined in N.J.A.C. 5:80-26.3. As depicted in Table 9 above, 4.5% of the community’s dwellings were valued at less than \$150,000 according to the Census data.

For renter-occupied housing, an affordable monthly rent for a three-person household is estimated at approximately \$1,897. According to the most recent U.S. Census data, more than half (58 percent) of the Township’s rental units had a gross rent of \$1,500 or more.

8. Substandard Housing Capable of Being Rehabilitated. Clinton Township has a rehabilitation obligation of 10 units as adjusted through a structural conditions survey conducted in March 2018. The rehabilitation obligation is intended to capture the number of existing dwelling units in a municipality's housing stock which are in need of rehabilitation and are not likely to experience spontaneous rehabilitation. This issue is discussed further in the Fair Share Obligation section of this document.

## PROJECTION OF MUNICIPAL HOUSING STOCK

Pursuant to N.J.A.C. 5:93, municipalities must provide a projection of future housing based upon an assessment of data which minimally must include the number of housing units constructed or construction permits issued during the last ten years, the number of low and moderate income housing units constructed previously, the number of low and moderate income housing units rehabilitated previously, a projection of the community's housing stock for the next six year period, and the number of subdivisions and site plans approved for residential purposes during the last six years. Each of these items are identified and outlined below.

### 1. Housing Units Constructed

The table below provides data concerning building permits issued from 2004 to 2016. During this period, a total of 244 building permits were issued, primarily for single-family dwellings. A total of 165 of these 244 building permits were issued in 2004 and 2005. In the last ten years, the Township has issued an average of 6.7 permits per year.

**TABLE 10: NUMBER OF BUILDING PERMITS ISSUED (2004-2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

<b>Year Issued</b>	<b>Single and Two-Family</b>	<b>Multifamily</b>	<b>Total</b>
2004	93	0	93
2005	72	0	72
2006	12	0	12
2007	9	0	9
2008	8	0	8
2009	3	0	3
2010	3	0	3
2011	0	0	0
2012	1	0	1
2013	2	0	2
2014	3	0	3
2015	3	0	3
2016	0	35	35
<b>Total</b>	<b>209</b>	<b>35</b>	<b>244</b>

Source: New Jersey Construction Reporter.

2. Number of Low- and Moderate-Income Housing Units Previously Constructed

Table 11 lists constructed affordable housing development in Clinton Township and the number of units for each.

**TABLE 11: CONSTRUCTED AFFORDABLE HOUSING  
CLINTON TOWNSHIP, NEW JERSEY**

Development	Number of Credits
Credits without Controls	13
West Main Street Affordable Family Rentals	3
The Mews	35
Family Rental Bonus Credits	2
Senior Restricted Bonus Credits	3
<b>Total Credits</b>	<b>56</b>

In addition to the number of credits indicated in the table above, Clinton Township has funded a Regional Contribution Agreement with the City of New Brunswick whereby 108 units were transferred from Clinton to New Brunswick. It is noted the previously existing group home at 4 Wayside Lane is no longer operational and therefore, the Township no longer seeks credit for these units.

3. Number of Low and Moderate-Income Housing Units Previously Rehabilitated

In COAH’s resolution granting final substantive certification, dated March 7, 2001, of Clinton Township’s Second Round Housing Element and Fair Share Plan, the Township received 44 rehabilitation credits for units completed after April 1, 1990. Through the Hunterdon County Housing Corporation (HCHC) the 44 units were brought up to code with a major system having been completed at an average cost of \$14,890 per unit each placed with 6-year liens.

4. Projection of Community's Housing Stock for the Next Ten Years

In the past decade, Clinton Township has issued less than 6.7 building permits annually, as detailed in Table 10 above. Based on this recent building trend, available vacant land, difficulty in extending sanitary sewer and water service and the need to conserve the community’s environmental resources and community character, it is assumed that between 2018 and 2025 about 51 building permits will be issued for market rate housing, independent of the various residential development projects detailed in the Township’s Fair Share Plan. The plan calls for 372 affordable units alone in that time period with 417 market rate units totaling 789 units, subject to a durational adjustment for lack of available sewer and water capacity where applicable.

## POPULATION ANALYSIS

The COAH regulations call for an analysis of the community's socio-economic characteristics, including an assessment of population size, rate of population growth, age and sex characteristics, income levels, and household size. Each of these items is described in this section of the report.

### 1. Population Size and Rate of Population Growth

Table 12 presents the population size and growth rate for the Township of Clinton from 1960 to 2010. Clinton had 3,770 residents in 1960. In 1990 the township's population stood at 10,816 residents. The 2016 American Community Survey indicates a population of 13,119 residents, a 1.3 percent increase from the 2000 census count.

**TABLE 12: RATE OF POPULATION GROWTH (1960-2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Year	Population	Change (No.)	Change (%)
1960	3,770	--	--
1970	5,119	1,349	35.8%
1980	7,345	2,226	43.5%
1990	10,816	3,471	43.3%
2000	12,957	2,141	19.8%
2010	13,478	521	4.0%
2016	13,119	(359)	(2.7%)

Source: U.S. Decennial Census 1960 – 2010, 2016 American Community Survey 5-Year Estimate.

## 2. Age Characteristics

Data concerning characteristics of the Township's population by age is presented below. The cohort ages 20 to 24 years has increased from 9.6% of the population in 2010 to 17.1% in 2016 while the other cohorts experienced little change. As a result, it is estimated the median age decreased from 40.9 to 34.8 in the same period.

**TABLE 13: AGE CHARACTERISTICS (2000 TO 2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Age	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	852	6.6%	584	4.3%	381	2.9%
5 to 19 years	2,818	21.7%	2,975	22.1%	2,651	20.2%
20 to 24 years	1,166	9.0%	1,298	9.6%	2,244	17.1%
25 to 34 years	1,372	10.6%	1,032	7.7%	1,299	9.9%
35 to 44 years	2,363	18.2%	1,704	12.6%	1,168	8.9%
45 to 54 years	2,226	17.2%	2,647	19.6%	2,152	16.4%
55 to 64 years	1,209	9.3%	1,801	13.4%	1,785	13.6%
65 to 74 years	570	4.4%	863	6.4%	971	7.4%
75 to 84 years	261	2.0%	430	3.2%	276	2.1%
85 years and over	120	0.9%	144	1.1%	184	1.4%
<b>Total</b>	<b>12,957</b>		<b>13,478</b>		<b>13,119</b>	
<b>Median Age</b>	<b>36.4</b>		<b>40.9</b>		<b>34.8</b>	

Source: U.S. Decennial Census 2000 & 2010, 2016 American Community Survey 5-Year Estimate.

Table 14 depicts birth and death statistics for the Township from 2004 to 2016. This data indicates that for the selected years there has been a net population increase of the local population of 428 residents based on births and mortality alone. The number of births experienced a downtrend while the mortality rate has risen slightly during this period.

**TABLE 14: NUMBER OF BIRTHS AND DEATHS (2004 – 2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Year	Births	Deaths	Change
2004	118	59	59
2005	117	65	52
2006	131	39	92
2007	97	55	42
2008	109	53	56
2009	105	68	37
2010	82	69	13
2011	89	61	28
2012	80	69	149
2013	78	74	152
2014	79	79	158
2015	95	71	166
2016	81	71	152
<b>Total</b>	<b>1,261</b>	<b>833</b>	<b>428</b>

Source: New Jersey Department of Health, New Jersey Health Statistics (2004-2016).

### 3. Income Level

The following table provides data for household income. The median Clinton household income for 1999 was \$96,570; by 2016 this figure increased to \$129,375. Comparable data for Hunterdon County indicates that the median household income was \$79,888 in 1999 and \$108,177 in 2016 remaining almost 20 percent lower than that of Clinton Township.

**TABLE 15: HOUSEHOLD INCOME (1999-2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Income Category	1999		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
Less than \$10,000	53	1.3%	54	1.2%	127	3.3%
\$10,000 to \$14,999	37	0.9%	36	0.8%	53	1.4%
\$15,000 to \$24,999	117	2.8%	208	4.7%	109	2.8%
\$25,000 to \$34,999	112	2.7%	222	5.0%	141	3.6%
\$35,000 to \$49,999	252	6.1%	341	7.7%	222	5.7%
\$50,000 to \$74,999	793	19.2%	580	13.1%	401	10.3%
\$75,000 to \$99,999	781	18.9%	452	10.2%	466	12.0%
\$100,000 to \$149,999	983	23.8%	916	20.7%	749	19.3%
\$150,000 to \$199,999	577	14.0%	1,743	39.4%	662	17.0%
\$200,000 or more	421	10.2%	-	-	956	24.6%
<b>Total</b>	<b>4,126</b>	<b>100.0%</b>	<b>4,422</b>	<b>100.0%</b>	<b>3,886</b>	<b>100.0%</b>
Median Household Income	\$96,570		\$120,565		\$129,375	
Hunterdon County Median	\$79,888		\$100,980		\$108,177	

Source: U.S. Decennial Census 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

#### 4. Household Size

As shown in Table 16, Clinton's household size has, on average, declined from 1990 to 2010 and has risen to its highest level in 2016 over the 26-year period. Clinton Township's household size increased from 2.68 in 2010 to 3.38 in 2016.

**TABLE 16: AVERAGE HOUSEHOLD SIZE (1990 TO 2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Year	Total Population	Number of Households	Average Household Size
1990	10,816	3,376	3.12
2000	12,957	4,129	3.14
2010	13,478	4,568	2.68
2016	13,119	3,886	3.38

Source: U.S. Decennial Census 1990-2010, 2016 American Community Survey 5-Year Estimate.

## EMPLOYMENT CHARACTERISTICS AND TRENDS

The following data regards existing and probable future employment characteristics, including historic trends, employment characteristics, occupational patterns, and related data.

### 1. Historic Employment Trends

Table 17 provides local employment data from 2000 to 2016. This data indicates the labor force declined from 62.2% of the population in 2000 to 57.1% of the population in 2016. Unemployment decreased from 5.7% in 2010 to 4.4% in 2016.

**TABLE 17: EMPLOYMENT STATUS, POPULATION 16 AND OVER (2000 TO 2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Employment Status	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
In labor force	6,170	62.2%	6,207	58.3%	6,243	57.1%
Civilian labor force	6,170	100.0%	6,201	99.9%	6,204	99.4%
Employed	5,958	96.6%	5,847	94.3%	5,932	95.6%
Unemployed	212	3.4%	354	5.7%	272	4.4%
Armed Forces	0	0.0%	6	0.1%	39	0.6%
Not in labor force	3,740	37.7%	4,443	41.7%	4,686	42.9%
<b>Total Population 16 and Over</b>	<b>9,910</b>		<b>10,650</b>		<b>10,929</b>	

Source: U.S. Decennial Census 2000 & 2010, 2016 American Community Survey 5-Year Estimate.

## 2. Employment Characteristics of Employed Residents

The following two tables detail information on the employment characteristics of employed Clinton Township residents. Table 18 details occupation characteristics, while Table 19 details industry characteristics. In 2016, over 61.7% of employed Clinton residents work in management, professional or related occupations. The classification with the second greatest percentage is sales and office occupations at 17.7% of the Township’s employed work force.

**TABLE 18: EMPLOYED RESIDENTS AGE 16 AND OVER, BY OCCUPATION (2000 TO 2016)**  
**CLINTON TOWNSHIP, NEW JERSEY**

Occupation	2000		2010		2016	
	Number	Percent	Number	Percent	Number	Percent
Management, Professional and related occupations	3,542	59.4%	3,519	60.2%	3,661	61.7%
Service Occupation	411	6.9%	417	7.1%	520	8.8%
Sales and Office Occupations	1,339	22.5%	1,246	21.3%	1,049	17.7%
Natural resources, construction and maintenance occupations	296	5.0%	315	5.4%	282	4.8%
Production, transportation and material moving occupations	370	6.2%	350	6.0%	420	7.1%
<b>Total</b>	<b>5,958</b>	<b>100.0%</b>	<b>5,847</b>	<b>100.0%</b>	<b>5,932</b>	<b>100.0%</b>

Source: U.S. Census 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

As depicted on Table 19, in 2016, the greatest number of employed Clinton residents were employed in educational, health and social services (22.2%), followed by professional, scientific, management, administrative and waste management services (18.3%).

**TABLE 19: EMPLOYED RESIDENTS AGE 16 AND OVER, BY INDUSTRY (2000 TO 2016)  
CLINTON TOWNSHIP, NEW JERSEY**

Industry	2000		2000		2016	
	Number	Percent	Number	Percent	Number	Percent
Agriculture, forestry, fishing, hunting and mining	16	0.3%	15	0.3%	67	1.1%
Construction	321	5.4%	323	5.5%	245	4.1%
Manufacturing	1,102	18.5%	908	15.5%	704	11.9%
Wholesale trade	210	3.5%	227	3.9%	125	2.1%
Retail trade	495	8.3%	489	8.4%	620	10.5%
Transportation and warehousing, and utilities	210	3.5%	197	3.4%	258	4.3%
Information	421	7.1%	236	4.0%	240	4.0%
Finance, insurance, real estate and rental and leasing	508	8.5%	673	11.5%	609	10.3%
Professional, scientific, management, administrative and waste management services	942	15.8%	1,091	18.7%	1,086	18.3%
Educational, health and social services	1,121	18.8%	1,023	17.5%	1,315	22.2%
Arts, entertainment, recreation, accommodation and food services	248	4.2%	336	5.7%	302	5.1%
Other services	239	4.0%	151	2.6%	195	3.3%
Public administration	125	2.1%	178	3.0%	166	2.8%
<b>Total</b>	<b>5,958</b>	<b>100.0%</b>	<b>5,847</b>	<b>100.0%</b>	<b>5,932</b>	<b>100.0%</b>

Source: U.S. Census 2000, 2010 & 2016 American Community Survey 5-Year Estimates.

Table 20 reveals that between the years 2009 and 2016 building permits were issued authorizing the construction of 254,139 square feet of non-residential construction.

**TABLE 20: NON-RESIDENTIAL DEVELOPMENT AS MEASURED BY ISSUED BUILDING PERMITS (2009 TO 2016)  
CLINTON TOWNSHIP, NEW JERSEY**

Year	Commercial/Office	Industry*	Total
2009	11,200 sq. ft.	9,155 sq. ft.	20,355 sq. ft.
2010	8,800 sq. ft.	5,660 sq. ft.	14,460 sq. ft.
2011	15,018 sq. ft.	16,071 sq. ft.	31,089 sq. ft.
2012	0 sq. ft.	11,188 sq. ft.	11,188 sq. ft.
2013	18,370 sq. ft.	3,781 sq. ft.	22,151 sq. ft.
2014	196 sq. ft.	144,000 sq. ft.	144,196 sq. ft.
2015	8,900	0 sq. ft.	8,900 sq. ft.
2016	1,800 sq. ft.	0 sq. ft.	1,800 sq. ft.
<b>Total</b>	<b>64,284 sq. ft.</b>	<b>189,855 sq. ft.</b>	<b>254,139 sq. ft.</b>

Source: NJ Construction Reporter – Building Permits (2009 – 2016).

\* Inclusive of utility, warehouse, and office/warehouse combinations.

### 3. Other Regional or Community Factors Impacting Upon Future Municipal Employment

The Township has experienced moderate non-residential growth in the past decade, with office, and industrial uses accounting for most of this growth. With weak office and retail markets and constraints imposed by Highlands Council regulations, the Township does not anticipate substantial non-residential development over the next decade.

### 4. Probable Future Employment Characteristics

The expansion of the Exxon facility in Clinton Township is expected to bring at least several hundred jobs to the region over the next few years. The Township’s future employment characteristics are otherwise anticipated to generally reflect its present characteristics with modest growth given constraints to non-residential development.

SECTION II:  
FAIR SHARE OBLIGATION

## SUMMARY OF CLINTON TOWNSHIP'S FAIR SHARE OBLIGATION

As noted previously, the state of Third Round affordable housing obligations for municipalities throughout New Jersey continues to evolve, given that neither the Courts, COAH, nor the State legislature have yet to prepare a definitive set of housing-need numbers which have been universally accepted. Two sets of housing need numbers have been promulgated and widely discussed throughout the current process. They include those prepared by Econsult Solutions, Inc. on behalf of the municipal consortium, the Municipal Joint Defense Group, of which Clinton Township is a part of, as well as by Dr. David Kinsey, P.P., AICP, consultant to the Fair Share Housing Center.

Ultimately, a Settlement Agreement was achieved between the Township and Kevin Walsh representing the Fair Share Housing Center, dated February 5, 2018, based on Dr. David Kinsey, P.P., AICP's methodology in his May 2016 and April 12, 2017 reports as adjusted for the Township's conformance with the Highlands Council Regional Master Plan. The methodology is consistent with COAH's Second Round Rules (N.J.A.C. 5:93) as prescribed in the Supreme Court's March 2015 decision.

The Township and Fair Share Housing Center have agreed upon the following affordable housing obligation for the period 1987 through July 1, 2025, spanning the First, Second and Third Rounds of New Jersey's affordable housing process. The Rehabilitation Obligation is based on a structural conditions survey prepared by the Township's Construction Official in March 2018 in accordance with N.J.A.C. 5:93-5.2. Clinton Township's Fair Share Plan detailed herein provides the mechanisms by which the Township will satisfy its obligation in full.

**Table 21: Township Obligation Based on Settlement Agreement**

<u>Affordable Housing Requirement</u>	<u>Obligation</u>
Rehabilitation (Present Need)	10
Prior Round (1987-1999)	335
Prospective Need (1999-2025)	337

Given the fluidity of the existing process, should the Court, COAH or legislature prepare housing need calculations that would reduce the Township's prospective need obligation (1999-2025) as set forth in the Settlement Agreement with FSHC (337 units) by more than 10%, the Township may seek to amend the judgment to reduce its fair share obligation. Any such reduction would result in credit to be applied in future rounds in accordance with the prevailing regulations.

SECTION III:  
FAIR SHARE PLAN

## PLAN SUMMARY

Clinton Township's Third Round Housing Element and Fair Share Plan details the mechanisms in which the Township will address its affordable housing obligation by application of COAH's Second Round Rules (N.J.A.C. 5:93), originally utilized for the period 1993 to 1999. These rules had been re-adopted by COAH in 2011 and extended their use until October 2016 as new Third Round Rules were never implemented. Additionally, the Supreme Court in its March 2015 decision endorsed the use of this methodology in providing guidance for municipalities seeking to address their Third Round obligations. Based on this methodology, COAH calculated the Township's Prior Round Obligation for the period 1987 to 1999 to consist of 335 units. The Township's Prospective (Third Round) Obligation for the period 1999 to 2025 is a function of Dr. David Kinsey's calculations adjusted to account for Clinton's conformance with the Highlands Regional Master Plan, taking into consideration environmental constraints and regulatory limitations.

The Township's Fair Share Plan addresses its affordable housing obligation through the imposition of a variety of plan mechanisms including all prior affordable housing development approvals and credits. These consist of municipally sponsored 100% affordable and inclusionary developments, a group home, Regional Contribution Agreement with the City of New Brunswick, other affordable rental developments, credits-without-controls and bonus credits as detailed in the Plan Components section. All proposed developments shall comply with the New Jersey Uniform Housing Affordability Controls N.J.A.C. 5:80-26.1 et seq. with respected to required bedroom distributions and affordability limits.

Most recently, the Planning Board granted final site plan approval for a 100% affordable 66-unit multifamily development at the Beaver Brook Homestead site in Annandale. In addition, it is anticipated the Planning Board will receive site plans in the Spring of 2018 for the Fox/Seals site based on the adopted redevelopment plan for the property. The Township also intends to issue a request for qualifications in selecting a developer for the proposed 100% affordable development at the Marookian property in April 2018. In accordance with the Settlement Agreement with Fair Share Housing Center, the Township must also amend its zoning ordinance as necessary to facilitate the development of several of the projects proposed in its Fair Share Plan within the agreed upon implementation schedule. The Fair Share Plan provides for the creation of 372 affordable housing units above those which have already been completed.

Sites included in the Fair Share Plan comply with NJAC 5:93-5.3, as these sites are approvable, available, developable and suitable, defined as follows:

Approvable Site: *A site that may be developed for low and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate-income housing.*

Available Site: *A site with clear title, free of encumbrances which preclude development for low and moderate-income housing.*

Developable Site: *A site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable areawide water quality management plan (including the wastewater management plan) or is included in an amendment to the areawide water quality management plan submitted to and under review by DEP.*

Suitable Site: *A site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.*

Furthermore, the selected sites are in conformance with the planning principles and requirements enumerated in the State Development and Redevelopment Plan. Sites have been selected based on comprehensive planning principles which encourage clustered development in rural areas near existing development in the Township, have access to utilities, lack environmental constraints, have access to transportation, embody quality design and generally have an affordable housing set-aside of at least 20%. In submitting this Plan to the Court for substantive certification, upon approval, the Township will be granted immunity from exclusionary zoning (builder's remedy) lawsuits until 2025 which will relieve development pressure in other areas of the community. The accompanying Affordable Housing Sites Location and Aerial Maps illustrate the contexts of the various Plan components.

This plan provides for flexibility in recognizing that other options may become available to assist the Township in addressing its affordable housing obligation. The Township's Housing Element and Fair Share Plan may therefore be amended at any time to include any such new developments as determined to be appropriate.

Tables 22 and 23 indicate the manner in which the Township will satisfy its Prior Round and Prospective Obligations.

**Table 22: Prior Round Plan Mechanisms**

<u>Mechanism</u>	<u>Number of Units</u>	<u>Bonus Credit Multiplier</u>	<u>Bonus Credits</u>	<u>Total Credits</u>
<u>Prior Cycle Credits (Pre-1986)</u>				
Credits Without Controls	13	-	-	13
RCA with New Brunswick	108	-	-	108
<u>Inclusionary &amp; Group Home Rentals</u>				
Village Green at Annandale	4	-	-	4
The Mews (Senior Housing)	35	x 1.33 <sup>(1)</sup>	3	38
CRC Longview Group Home	4	x 2 <sup>(2)</sup>	4	8
142-144 West Main Street	3	x 2 <sup>(2)</sup>	2	5
<u>100% Affordable - Rentals</u>				
Beaver Brook Homestead	66	x 2 <sup>(2)</sup>	66	132
<u>100% Affordable – Municipally Sponsored Rentals</u>				
Former Municipal Building Site	1	-	-	1
Marookian Site	26	-	-	26
<b>Total</b>	<b>260</b>	<b>-</b>	<b>75</b>	<b>335</b>

(1): Senior restricted bonus credits

(2): Rental bonus credits

**Table 23: Prospective (Third Round) Obligation Plan Mechanisms**

<u>Mechanism</u>	<u>Number of Units</u>	<u>Bonus Credit Multiplier</u>	<u>Bonus Credits</u>	<u>Total Credits</u>
<u>Inclusionary Development</u>				
Headley Farm Estate	104	-	-	104
Alton Place	28	-	-	28
<u>100% Affordable - Rentals</u>				
LeCompte	89	-	-	89
<u>100% Affordable – Municipally Sponsored Rentals</u>				
Marookian Site	58	X2 <sup>(1)</sup>	58	116
<b>Total</b>	<b>279</b>	<b>-</b>	<b>58</b>	<b>337</b>

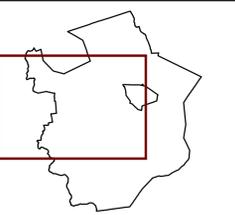
(1): Rental bonus credits

In accordance with the Second Round Rules (N.J.A.C. 5:93), bonus credits may satisfy up to 25% of a particular obligation (i.e. Prior Round or Prospective). The allocation of bonus credits outlined in Tables 22 and 23 are based on the Township's Settlement Agreement with Fair Share Housing Center. In any future rounds of affordable housing, the Township should evaluate whether any bonus credits not captured in this Prospective Round may be applied thereafter depending upon the obligation and any regulatory changes.



Project Title:  
**2018 Housing Element  
 & Fair Share Plan**

TOWNSHIP OF CLINTON  
 HUNTERDON COUNTY, NEW JERSEY



**Legend**

- Township Boundary
- Municipal Boundaries
- Parcels
- Affordable Sites

Rev	Description	Date	Dwn	Ckd

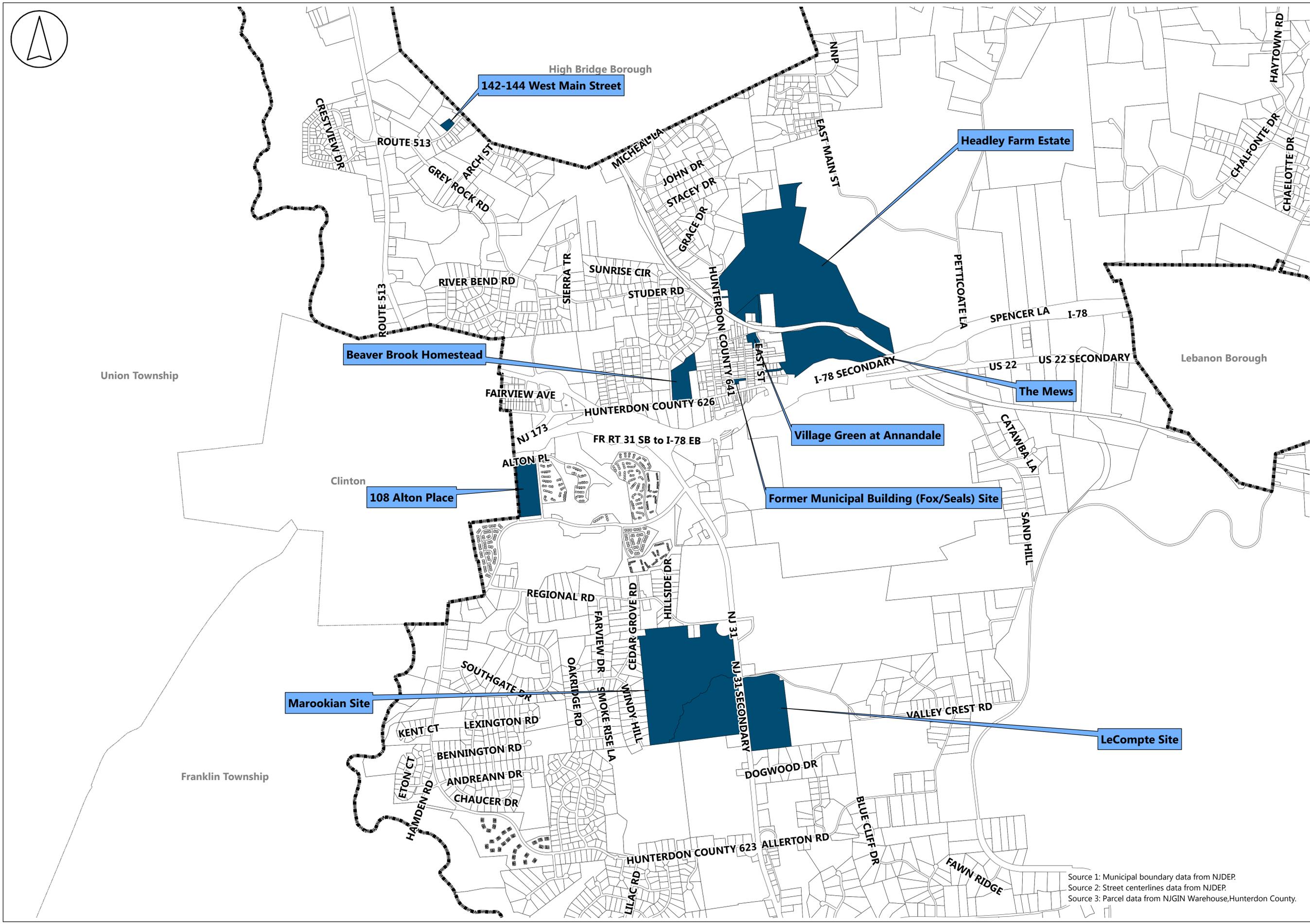
Dwg. Title  
**Affordable Housing Sites  
 Location Map**



JOSEPH H. BURGIS AICP  
 PROFESSIONAL PLANNER  
 NEW JERSEY LIC. NO. 2450

Project No.	3155.02
Sheet No.	1 of 1
Date	04/26/18
Drawn	TB
Scale	1" = 1,000'
Dwg. No.	AH
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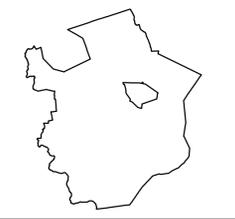
Source 1: Municipal boundary data from NJDEP.  
 Source 2: Street centerlines data from NJDEP.  
 Source 3: Parcel data from NJGIN Warehouse, Hunterdon County.





Project Title:  
**2018 Housing Element  
 & Fair Share Plan**

TOWNSHIP OF CLINTON  
 HUNTERDON COUNTY, NEW JERSEY



**Legend**

- Township Boundary
- Municipal Boundaries
- Parcels
- Affordable Sites

Rev	Description	Date	Dwn	Ckd

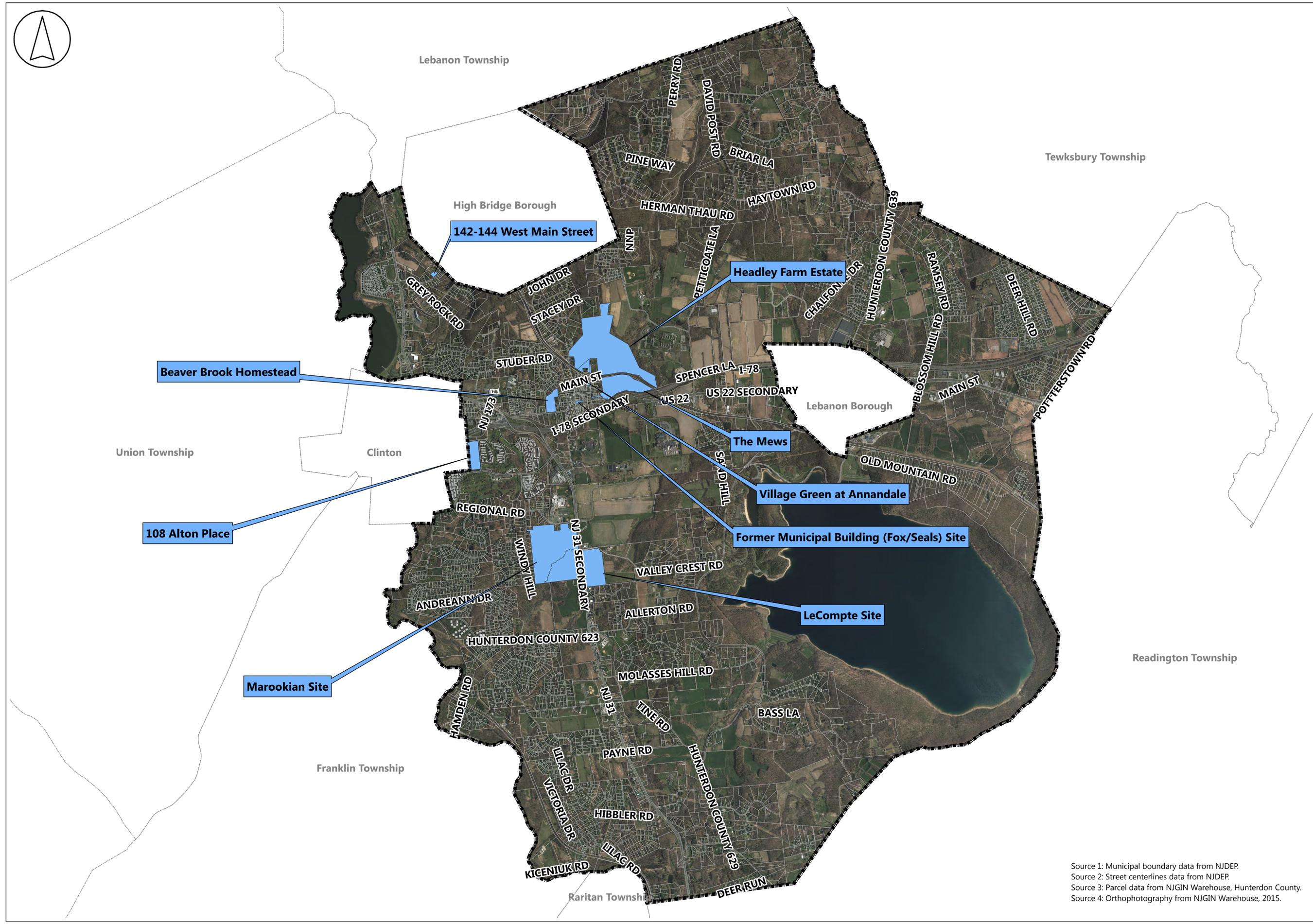
Dwg. Title  
**Affordable Housing Sites  
 Aerial Map**



JOSEPH H. BURGIS AICP  
 PROFESSIONAL PLANNER  
 NEW JERSEY LIC. NO. 2450

Project No.	3155.02
Sheet No.	1 of 1
Date	04/26/18
Drawn	TB
Scale	1" = 2,000'

Dwg. No.  
 AH-A  
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Source 1: Municipal boundary data from NJDEP.  
 Source 2: Street centerlines data from NJDEP.  
 Source 3: Parcel data from NJGIN Warehouse, Hunterdon County.  
 Source 4: Orthophotography from NJGIN Warehouse, 2015.

## PLAN COMPONENTS

Clinton Township proposes to satisfy its Prior Round and Prospective affordable housing obligations totaling 672 units through the variety of plan mechanisms detailed herein, including 100% affordable and inclusionary developments, prior cycle credits, a regional contribution with the City of New Brunswick and proposed group home. In addition, the Township intends to provide the required funding to support a rehabilitation program in satisfying its rehabilitation obligation of 10 units. The details of the Township's plan mechanisms are discussed below.

### 1. Rehabilitation Component

Clinton Township has been assigned a rehabilitation obligation of 10 units based on the Township's March 2018 Structural Conditions Survey prepared in accordance with N.J.A.C. 5:93-5.2. Rehabilitation programs are intended to address substandard housing conditions of dwellings occupied by low- and moderate-income households. Substandard housing units are those exhibiting health and safety code violations that require the repair or replacement of major system, including weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems) and or load bearing structural systems. Ultimately, the goal of a rehabilitation program is to bring such deficiencies into compliance with the applicable code standards. Upon completion of a dwelling unit's rehabilitation, a 10-year affordability control shall be placed on the property as a lien or deed restriction.

COAH, in its substantive certification of the Township's Second Round Housing Plan, granted credit for 44 rehabilitation units through the Township's rehabilitation program (see appendix). In satisfying the Township's Third Round Rehabilitation Obligation of 10 units, the Township will provide no less than \$10,000 per rehabilitated unit, with spending for administrative purposes limited to 20% of hard costs. In addition, the Township will provide and reserve one third of the funds necessary to implement the rehabilitation program in accordance with its Settlement Agreement with FSHC.

The Township will continue to impose a development fee of 1.5% of the equalized assessed value on all non-exempt, non-residential developments. Clinton Township will either appropriate funds in its operating budget or may utilize its bonding authority to generated additional funds that may be necessary if the development fee ordinance fails to generate enough resources to fully fund the rehabilitation program. Clinton Township anticipates partnering with an experienced non-profit organization in administering its rehabilitation program.

## 2. Prior Cycle Credits – Credits without Control

In accordance with N.J.A.C. 5:93-3.2, Clinton Township initiated the Credits without Controls process in May 1999. The Township collected 200 surveys of which, 80 were submitted to COAH for review. Through its review, COAH found 28 of those units to represent income-eligible households, which all were from the Beaver Brook (Block 79.02) and Oak Knoll (Block 82.13) developments. COAH calculated the affordability factors of these developments and granted the Township eligibility for 13 credits without controls units. COAH's approval of these credits is included in the appendix of this document.

## 3. Regional Contribution Agreement (RCA)

The Township entered into a regional contribution agreement (RCA) with the City of New Brunswick to transfer funds for the development of 108 affordable housing units for the same number of credits. On August 26, 2002, the Township made its final payment toward this agreement having paid a total of \$2,265,000 to the City of New Brunswick in accordance with the RCA. The Roberts Bill, P.L. 2008, c. 46, eliminated the use of regional contribution agreements in satisfying affordable housing obligations precluding the Township from entering into any additional RCA's.

## 4. CRC Longview Group Home, Block 10 Lots 1 & 9.01

The 4 proposed group home bedrooms at Longview were a condition of approval in the Planning Board's Resolution No. 2009-17 approving CRC's preliminary subdivision application for the creation of 15 lots. The condition stipulates that CRC is required to purchase 4 qualified group home bedrooms. Due to changes in the region's housing market, the subdivision has not yet been built, which the purchase of the group home is contingent upon.

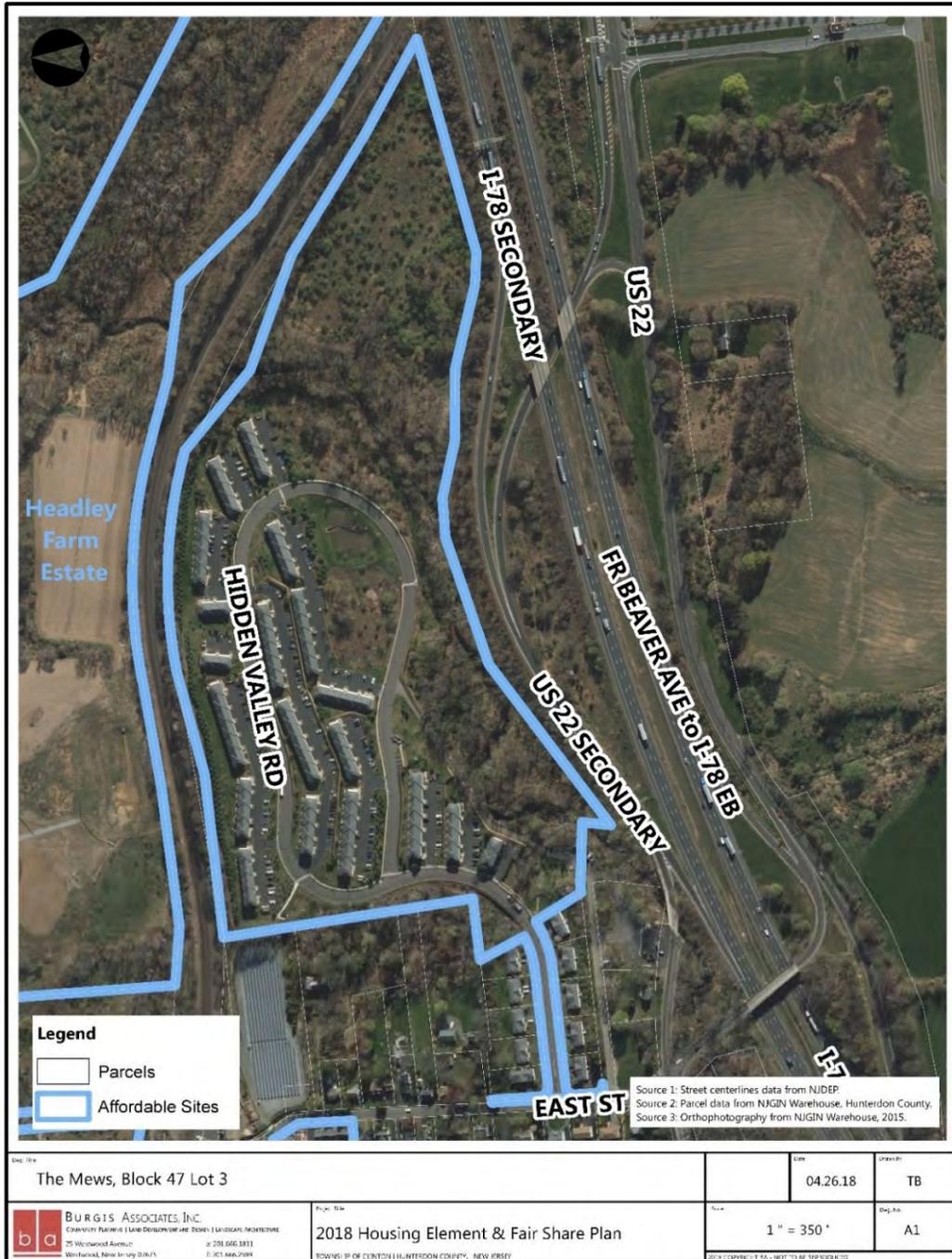
5. Village Green at Annandale, Block 49 Lot 25

Village Green at Annandale is a mixed-use development that had been approved with the inclusion of three units of affordable housing. In February 2015, amendments to the plan were approved increasing the number of affordable units to four. The site is now developed and occupied.



6. The Mews (Senior Housing), Block 47 Lots 3, 4 and 8

The Mews is an existing inclusionary development consisting of 35 senior-restricted low- and moderate-income rental housing units. The 43-acres property received approval for the development of 221 units in 2001 which are now developed and occupied. The Township may apply up to 83 units of qualifying senior-restricted housing units and bonuses, or a maximum of 25%, toward its Prior Round obligation of 335 units.



7. 142-144 West Main Street, Block 66 Lot 3

This West Main Street gut rehabilitation project was included in the Township’s Second Round Plan accounting for 3-units as previously certified by COAH. In 1995, a certificate of occupancy was issued to the Hunterdon County Housing Corporation (HCHC) for the rehabilitation of 3 affordable units on the 3-acre property. The property consists of one one-bedroom units priced for moderate-income households and two two-bedroom units priced for low-income units. The units are now administered by the Housing Affordability Service and have a 30-year deed restriction.

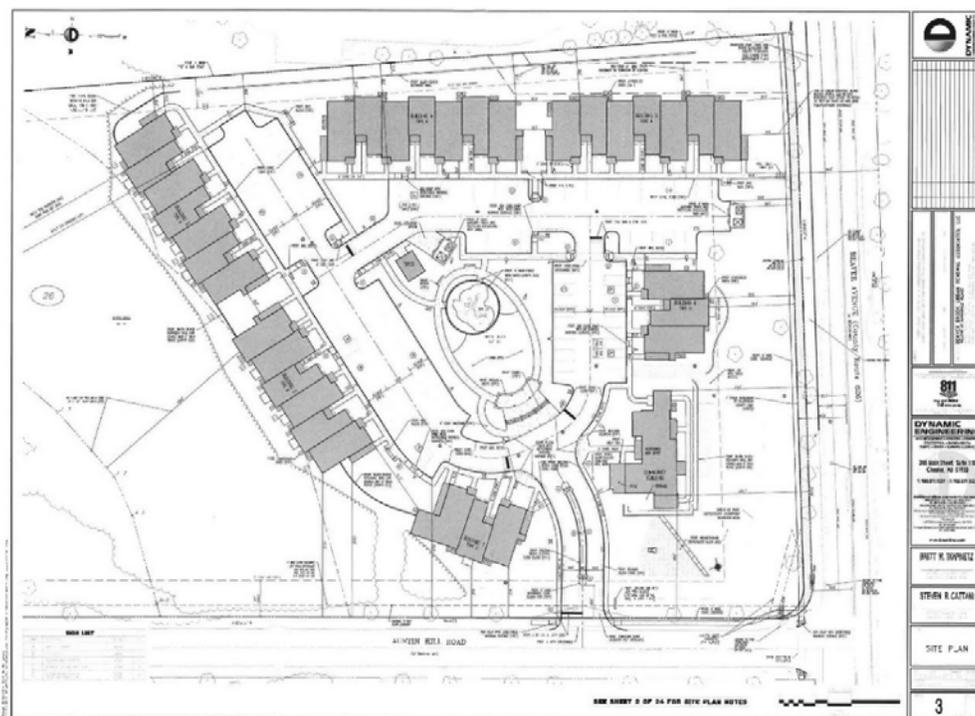


8. Beaver Brook Homestead, Block 60.03 Lot 26

The property commonly known as the Beaver Brook Homestead is a 10.65-acre parcel located in Annandale Village. The Clinton Township Mayor and Council designated the site an “area in need of redevelopment” by Resolution No. 131-15, dated December 9, 2015. A redevelopment plan was subsequently prepared for the site, adopted by Ordinance No. 1080-16, dated January 27, 2016, establishing a new AH-4 Affordable Housing District. The plan called for the development of a 100% affordable multifamily development consisting of 66-units allocated as one-, two- and three-bedroom units in accordance with COAH requirements. In addition, the plan featured a central community green space, preservation of the northerly area of the site with environmentally sensitive areas and restoration of the historic main house for use as a community center.

In August 2017, the developer, Ingerman, received an award for New Jersey Housing Mortgage and Finance Agency’s competitive 9% financing. The Planning Board granted final site plan approval on March 5, 2018 and anticipates construction to begin later in the year. The units consist of a hybrid of flats and townhouses designed with architectural features consistent with the historic main house. Water and sewer capacity have been secured to accommodate the development.

The site is located within a developed area of the community adjacent to the Annandale Historic District within walking distance to the Annandale Train Station. While the northerly portion of the site is impacted by environmental constraints, the southerly portion of the site where the development is proposed is generally unconstrained. There is regional access in close proximity to the site provided by highway Routes 78, 31 and 22.





**Legend**

- Parcels
- Affordable Sites

Source 1: Street centerlines data from NJDEP  
 Source 2: Parcel data from NJGIN Warehouse, Hunterdon County.  
 Source 3: Orthophotography from NJGIN Warehouse, 2015.

Map Title <b>Beaver Brook Homestead, Block 60.03 Lot 26</b>		Date <b>04.26.18</b>	Drawn By <b>TB</b>
<b>BURGIS ASSOCIATES, INC.</b> <small>COMMUNITY PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE</small> <small>25 Westwood Avenue      p: 201.665.3811</small> <small>Westwood, New Jersey 07675      f: 201.666.7999</small>	Project Title <b>2018 Housing Element &amp; Fair Share Plan</b>		Scale <b>1" = 200'</b>
	Township of Clinton   Hunterdon County, New Jersey		Draw No. <b>A1</b>

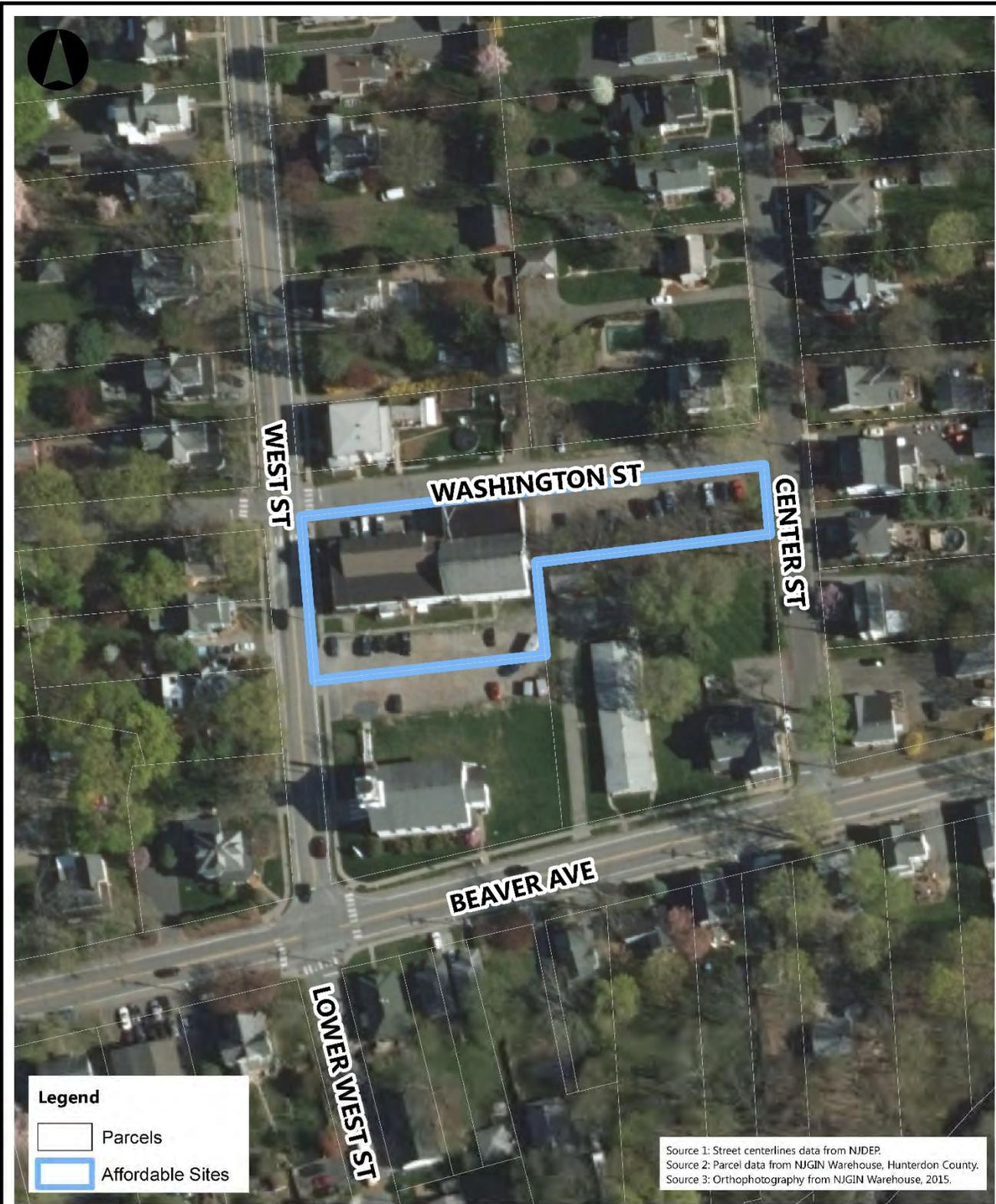
## 9. Former Municipal Building Site (Fox/Seals), Block 53 Lot 3

The Township-owned “Old Municipal Building” or “Fox/seals” site is located in the heart of the Annandale historic district within walking distance to the Annandale Train Station. The approximately 1-acre flag-shaped parcel is developed with a large structure and associated paved areas deemed to have some historic significance given the building’s original use as a general store, and later the Township’s municipal offices, fire department, post office and other miscellaneous uses.

Having remained vacant for approximately 15 years prior to the adoption of this Plan, the Clinton Township Mayor and Council designated the site a non-condemnation “area in need of redevelopment” pursuant to the New Jersey Local Redevelopment and Housing Law in Resolution No. 15-51, adopted April 22, 2015. This decision stemmed from the increasing deterioration of the existing building and related safety and aesthetic issues, as well as the inability to implement an economically viable plan over the preceding decade.

The Township Mayor and Council subsequently adopted a redevelopment plan for the property on August 12, 2015 intended to facilitate the rehabilitation the historically significant portions of the existing structure for adaptive reuse as multifamily housing with an affordable housing component. In addition, the southerly portion of the lot will be subdivided for community parking. The redevelopment plan was amended in August 2016 to include commercial use on the first floor and apartments on the second floor of the historic structure as well as a new multifamily building fronting Center Street. The Plan proposes 10 total residential units, including one affordable unit. The historic structure will be rehabilitated to its original mass and character which the new multifamily building will reflect with similar architectural features to ensure a consistent site design and with the period of significance of the surrounding Annandale Historic District.

A developer for the site has been selected and entered into a redevelopment agreement with the Township on October 26, 2017. The Township anticipates receiving site plans in the Spring of 2018 following which, the approval of a developer’s agreement can be executed. Water and sewer capacity have been secured to accommodate the proposed redevelopment.



Bug Title: Former Municipal Building (Fox/Seals) Site, Block 53 Lot 3		Date: 04.26.18	Drawn By: TB
BURGIS ASSOCIATES, INC. COMMUNITY PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE 25 Westwood Avenue Westwood, New Jersey 07675 o: 201.666.1811 f: 201.666.2599	Project Title: 2018 Housing Element & Fair Share Plan TOWNSHIP OF CLINTON   F-HUNTERDON COUNTY, NEW JERSEY		Scale: 1" = 100' Draw. No.: A1
	<small>2018 COPYRIGHT BA - NOT TO BE REPRODUCED</small>		

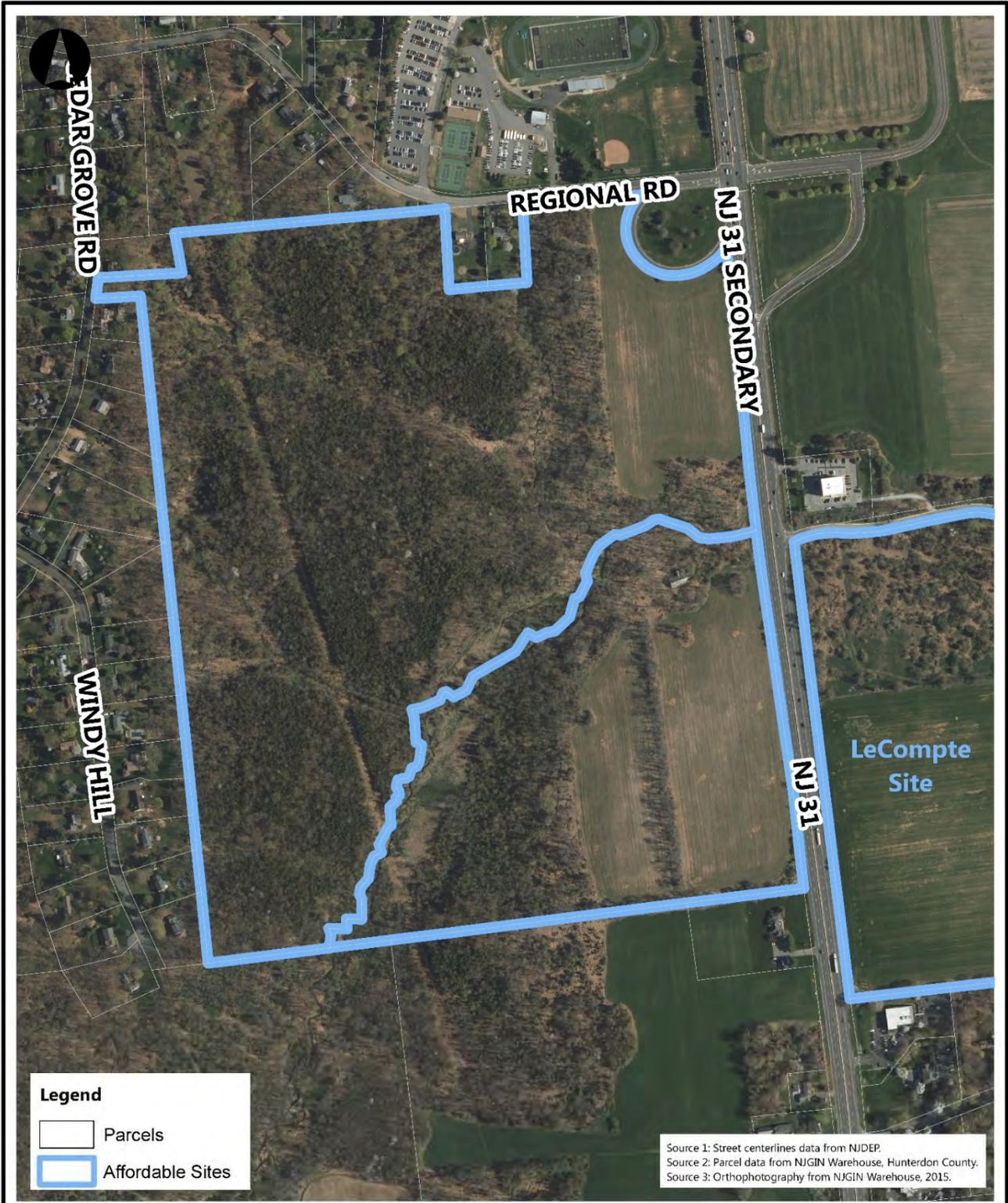


#### 10. Marookian Site, Block 82 Lots 4 & 4.03

The Township-owned property commonly known as the Marookian site is located at the southwest corner of Route 31 and Regional Road. Through an environmental constraints analysis of the 139-acre site, a 19-acre portion (Area B on the Aerial of Existing Conditions Map) has been identified as suitable for development which is generally devoid of such constraints and associated buffers. This area is located within Lot 4.03 at the southeast corner of the site with frontage on Route 31 South. The majority of the site is not developable due to environmental constraints and that it was purchased with open space funding. Clinton Township maintains the rights to develop 6 acres of the property for affordable housing as was originally intended and include as a component in the Township's previous Fair Share Plans.

As illustrated on the accompanying concept plan for the developable 6-acre portion of the site, a 100% affordable 84-unit multifamily development is proposed. This translates to a density of approximately 14 units per acre within those 6 acres. The plan concept envisions a flag lot configuration with access from Route 31 South to an already cleared area buffered by an existing row of mature trees which will also serve in preserving contiguous agricultural land. Sewer and water capacity have been secured by the Township to accommodate the 84-unit development. The remaining 133 acres of the Marookian tract will remain preserved as open space with trails and related facilities.

Clinton Township anticipates issuing a request for qualifications (RFQ) for the site in April 2018 in an effort to select a developer and apply for the New Jersey Home Mortgage and Finance Agency's 9% financing program's 2018 awards. The Township prioritizes the Marookian site over any other 100% affordable developments in this Plan for submission to NJHMFA's 9% financing program. In addition, the proposed density of the Marookian site requires a Highlands Council map adjustment which the Highlands Council has indicated is a possibility given the site's location and that it is a 100% affordable project. The site's current zoning designation within the Township's ROM-1 Research, Office and Manufacturing 1 Zone must also be amended to permit the proposed multifamily development. The Township anticipates initiating this zone change in May 2018.



Proj Title <b>Marookian Site, Block 82 Lots 4 &amp; 4.03</b>		Date <b>04.26.18</b>	Drawn By <b>TB</b>
<b>BURGIS ASSOCIATES, INC.</b> <small>CONSULTING PLANNERS   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE</small> 25 Westwood Avenue Westwood, New Jersey 07675 P: 201.666.1811 F: 201.666.2539	Project Title <b>2018 Housing Element &amp; Fair Share Plan</b>		Scale <b>1" = 500'</b>
	TOWNSHIP OF CLINTON   HUNTERDON COUNTY, NEW JERSEY		Map No. <b>A1</b>

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Source 1: Parcel data from NJ-GIS Warehouse - Hudson County  
 Source 2: Sheet data from NIDDP  
 Source 3: Wetland, lake, stream and habitat data from NIDDP and NJ-GIS Warehouse - Highlands Inventory  
 Source 4: Slope data from NIDDP  
 Source 5: Slope data from NIDDP  
 Source 6: Slope data from NIDDP  
 Source 7: Slope data from NIDDP  
 Note: This map was developed using NIDDP GIS digital data, but the secondary product has not been verified by NIDDP and is not state-authorized.

**Conceptual Design**

**BURGIS ASSOCIATES, INC.**  
 20 Westwood Avenue  
 Paramus, New York 10765

**MAROOKAN SITE STUDY AREA**  
 291905

1 in = 150 feet

EC

TS

**Legend**

- Marookan Site
- Concept Areas
- Slopes Greater Than 20%
- Slopes Greater Than 15%
- Slopes Greater Than 10%
- Highlands Exceptional Waters
- Highlands Open Water Protection Area
- Highlands Critical Habitat Area
- Hydric Soils
- Wetlands

**MAROOKAN SITE**  
 CONCEPT 3B - AFFORDABLE HOUSING FLATS  
 BAA# 291905  
 DATE: 3/24/16

**CONCEPTUAL DESIGN DATA**  
 Lot Area: 6 acres (261,295 sq. ft.)  
 Housing Type: Multi-family Flats

2-Story Buildings (7 Total Buildings)		Total Units	% of Total
1-bedroom units	14	17%	
2-bedroom units	42	50%	
3-bedroom units	28	33%	
<b>Total Unit Count</b>	<b>84</b>		
<b>Density</b>	<b>14 dwelling units per acre</b>		

Parking (RSIS Requirements for Garden Apartments)		Required	Provided
Total 1-bedroom units (1.5 space/unit)	21	25.2	
Total 2-bedroom units (2.0 space/unit)	84	168	
Total 3-bedroom units (2.1 space/unit)	58.8	169	
Residential Parking Ratio per unit	1.68		

Buffers		20 feet	485 feet to closest building
Buffers (North and West)	20 feet		
Buffers (South)	20 feet		
Buffers (East)	20 feet		
Building Setback from Street	485 feet to closest building		
Total building and impervious coverage	--		

Source 1: Parcel data from NJ-GIS Warehouse - Hudson County  
 Source 2: Sheet data from NIDDP  
 Source 3: Wetland, lake, stream and habitat data from NIDDP and NJ-GIS Warehouse - Highlands Inventory  
 Source 4: Slope data from NIDDP  
 Note: This map was developed using NIDDP GIS digital data, but the secondary product has not been verified by NIDDP and is not state-authorized.

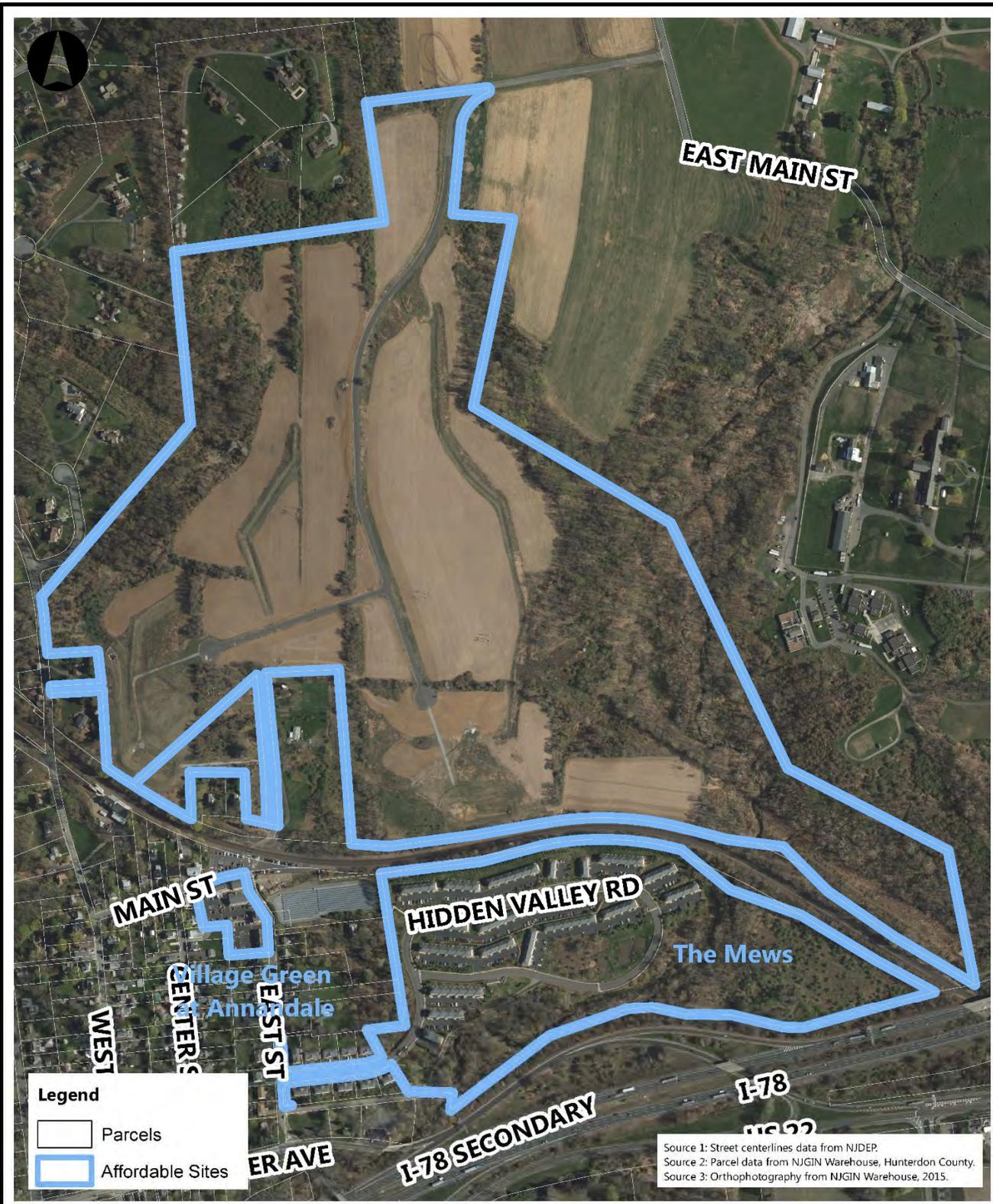
## 11. Headley Farm Estate, Block 46 Lots 33 & 33.01

The Headley Farm Estate is a 155-acre tract located immediately north of Annandale Village and the Annandale Train Station. In 2009, the Planning Board granted approval for a 21-lot subdivision after which some of the required infrastructure was installed on the site. The developer of the site now proposes a total of 400 residential units including a mix of townhouses and multifamily buildings with related site improvements. In addition, the residential component includes an affordable housing set-aside of 26% yielding 104 affordable family units, representing one of the largest affordable set-asides proposed or approved in the current Court process.

The development is contemplated around the existing road network and within the cleared areas of the site. While the periphery of the site has environmental constraints, the proposed development is generally away from those features within the developable 86.96 acres. Access to the site will be provided via East Main Street and Petticoat Lane with regional access via Routes 22, 78 and 31 in close proximity. The New Jersey Highlands Council has indicated the site can be included in a designated Highlands Center to allow for the proposed density of 4.6 units per acres based on the developable 86.96 acres and required site improvements. The site is currently within the Township's RC Rural Conservation Zone which also requires an ordinance amendment to permit the 400-unit development.

The Court approved the Township's request for a durational adjustment in including the Headley site in its Fair Share Plan based on Clinton's affordable housing obligation and lack of available water and sewer capacity. Given the large affordable housing set-aside resulting in 104 affordable units within a single inclusionary development, the Township prioritizes this site above other inclusionary sites for the allocation of sewer and water capacity when it becomes available. The developer may alternatively choose to install a package sewer plant and private water system or new public well to meet the needs of the development, which the Township agrees to support. In either scenario, the developer is responsible for the purchase and/or production of required sewer and water capacities. The Township agrees to amend the sewer service area to include the Headley Farm Estate site. One of the advantages of this site is its adjacency to the utilities in Annandale Village allowing for relatively easy connectivity if so necessary.

As of the preparation of this Plan, the concept plan for the site is being refined. Following the Township's acceptance of the final concept plan, the developer may begin the preliminary site plan/subdivision application process before the Township Planning Board.



Dwg. Title Headley Farm Estate, Block 46 Lots 33 & 33.01		Date 04.26.18	Drawn By TB
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<p><b>BURGIS ASSOCIATES, INC.</b>          COMMUNITY PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE          25 Westwood Avenue Westwood, New Jersey 07675          P: 201.666.1811 F: 201.666.2599</p>	<p>Project Title <b>2018 Housing Element &amp; Fair Share Plan</b></p> <p>TOWNSHIP OF CLINTON   FURNERDON COUNTY   NEW JERSEY</p>	Scale 1" = 600'	Dwg. No. A1
		2018 COPYRIGHT BURGIS ASSOCIATES, INC. NOT TO BE REPRODUCED	

12. Alton Place, Block 79.07 Lot 1

108 Alton Place is a rectangular 16.17-acre site located in the westerly area of the Township in close proximity to Routes 31, 22 and 78. Access to the site may be provided via Alton Place and/or St. Ledger Way. A riparian buffer impacts the northerly portion of the site while the remaining 13.84-acres of the site are generally unconstrained.

The development proposal contemplates a 140-unit inclusionary development with a 20% affordable housing set-aside yielding 28 affordable units. This translates to a density of approximately 10 units per acre within the developable 13.84 acres of the site, including a mix of townhouse and multifamily units consistent with the surrounding development pattern generally comprised of townhouses developed at similar densities. The Township must rezone the property to permit the proposed density in accordance with the Settlement Agreement.

The Court approved the Township’s request for a durational adjustment in including the Alton Place site in its Fair Share Plan given the lack of available water and sewer capacity and the site’s location within existing water and sewer service areas. Upon the Township’s acceptance of a final concept plan for the site, the developer may submit an application to the Planning Board for preliminary site plan approval.





**Legend**

-  Township Boundary
-  Parcels
-  Affordable Sites

Source 1: Street centerlines data from NJDEP.  
 Source 2: Parcel data from NJGIN Warehouse, Hunterdon County.  
 Source 3: Orthophotography from NJGIN Warehouse, 2015.

Dwg. Title <b>108 Alton Place, Block 79.07 Lot 1</b>		Date <b>04.26.18</b>	Drawn By <b>TB</b>
 <b>BURGIS ASSOCIATES, INC.</b> <small>CONCRETE PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE</small> 25 Westwood Avenue Westwood, New Jersey 07675 p. 201.666.1811 f. 201.666.2599	Project Title <b>2018 Housing Element &amp; Fair Share Plan</b> <small>TOWNSHIP OF CLINTON   F-JINTERDON COUNTY, NEW JERSEY</small>	Scale <b>1" = 250'</b>	Dwg. No. <b>A1</b>

### 13. LeCompte Site, Block 29 Lot 4

The LeCompte site is a 40-acre tract of undeveloped farmland with frontages on Route 31 North and Valley Crest Road. The site is situated directly across Route 31 from the Township's Marookian site. The northerly portion of the site is impacted by environmental constraints associated with Cramers Creek while the remainder of the site is cleared farmland.

Community Investment Strategies (CIS), an experienced affordable housing developer, is currently in negotiations to purchase the property and is the anticipated developer of the site. The plan concept proposes to subdivide 10 acres from the existing site with frontage on Route 31 to accommodate the development of a 100% affordable 89-unit townhouse development resulting in a density of 8.9 units per acre. The exact subdivision boundary and plan configuration are in the process of being refined. It is the intent of the Township to maintain a substantial buffer between the developed area of the site and Route 31 to preserve the rural character of the corridor and continuity of farmland. Clinton Township has entered into a Memorandum of Understanding with CIS articulating the vision for the development of the site.

The Township will rezone the 10-acre project area to facilitate the proposed density while the remaining 30 acres of the tract will maintain its current zoning designation within the Township's ROM-1 Research, Office and Manufacturing 1 Zone, and may eventually be purchased for open space. The proposed development also requires a Highlands Council center designation which the Township will pursue in 2018. The Settlement Agreement requires pedestrian access across Route 31 to the Marookian site open space for which there are several alternatives being evaluated, which ultimately must be approved by NJDOT.

The Court has granted the Township's request for a durational adjustment for the inclusion of this site in the Township's Fair Share Plan given the current lack of available water and sewer capacity. The Court also considered the site's proximity to the Marookian site which allows for cost-efficient and practical installation of such infrastructure. The developer of the site is ultimately required to secure all required water and sewer capacity with assistance from the Township when those utilities become available. It is the intent of CIS to submit an application for New Jersey Home Mortgage and Finance Agency's 9% financing award, though it is recognized the Marookian site remains the Township's priority in submitting such an application with respect to 100% affordable projects. A map adjustment from the Highlands Council is required to permit the proposed development and infrastructure connectivity.

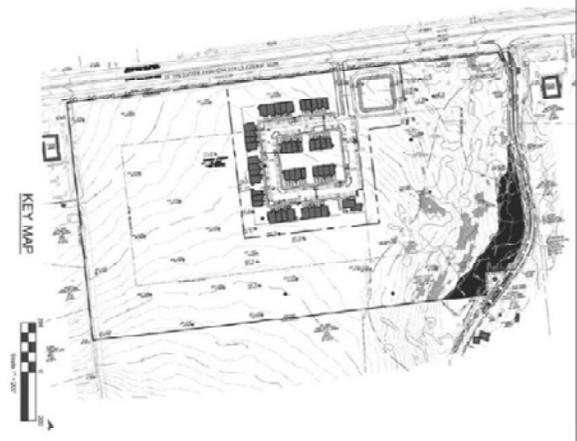
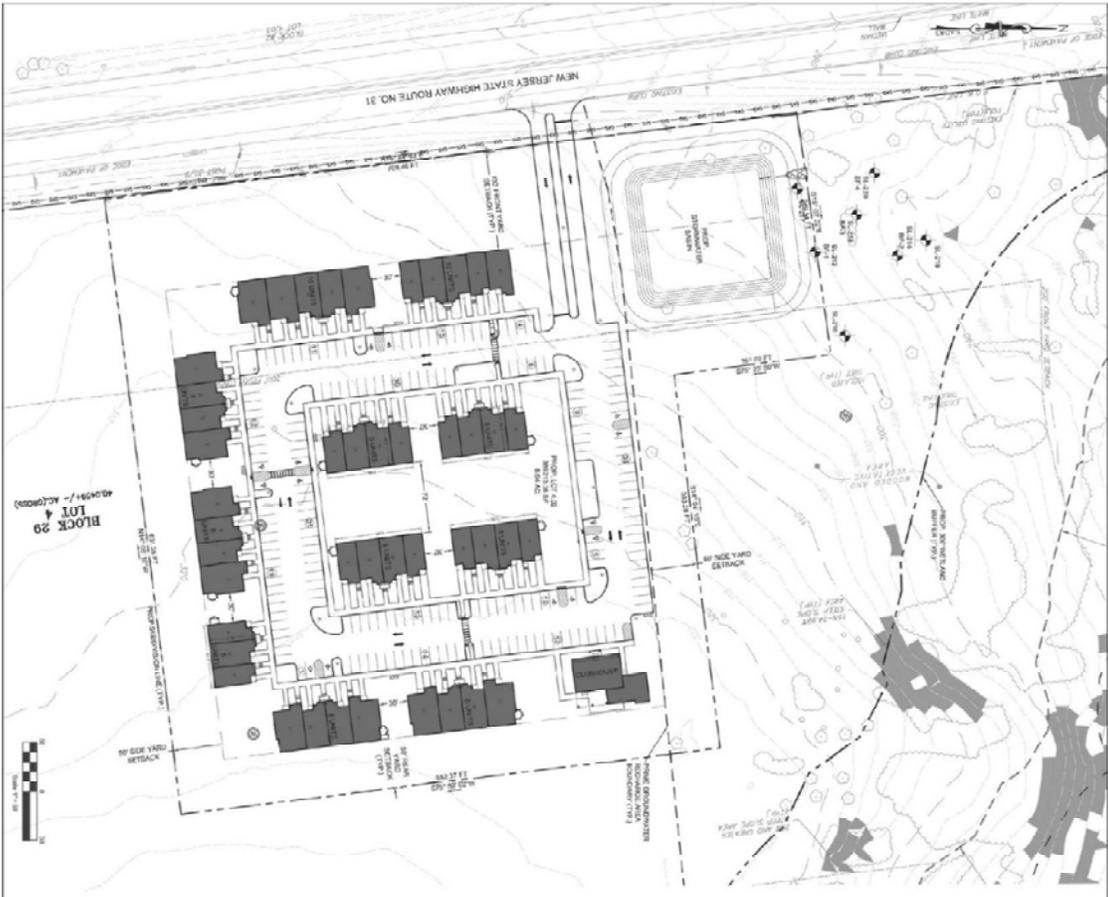


**Legend**

- Parcels
- Affordable Sites

Source 1: Street centerlines data from NJDEP  
 Source 2: Parcel data from NJGIN Warehouse, Hunterdon County  
 Source 3: Orthophotography from NJGIN Warehouse, 2015.

Proj. Title <b>LeCompte Site, Block 29 Lot 4</b>		Date <b>04.26.18</b>	Drawn By <b>TB</b>
<b>BURGIS ASSOCIATES, INC.</b> <small>COMMUNITY PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE</small> <small>25 Westwood Avenue Westwood, New Jersey 07675</small>		Project Title <b>2018 Housing Element &amp; Fair Share Plan</b> <small>TOWNSHIP OF CLINTON   HUNTERDON COUNTY, NEW JERSEY</small>	
<b>BURGIS ASSOCIATES, INC.</b> <small>COMMUNITY PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE</small> <small>25 Westwood Avenue Westwood, New Jersey 07675</small>		Scale <b>1" = 300'</b>	Map No. <b>A1</b>
2018 COPYRIGHT BA NOT TO BE REPRODUCED			



65 VALLEY CREST ROAD  
 BLOCK 29 LOT 4  
 CLINTON TOWNSHIP  
 HUNTERDON COUNTY  
 NEW JERSEY

PROJECT  
**CONCEPT PLAN**

DATE: 3/10/2018



**NOTES:**  
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
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 8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

FINISHED SCHEDULE			
ITEM	NO.	DATE	STATUS
FOUNDATION	1	12/15/17	COMPLETE
FOUNDATION	2	12/15/17	COMPLETE
FOUNDATION	3	12/15/17	COMPLETE
FOUNDATION	4	12/15/17	COMPLETE
FOUNDATION	5	12/15/17	COMPLETE
FOUNDATION	6	12/15/17	COMPLETE
FOUNDATION	7	12/15/17	COMPLETE
FOUNDATION	8	12/15/17	COMPLETE
FOUNDATION	9	12/15/17	COMPLETE
FOUNDATION	10	12/15/17	COMPLETE

#### 14. Bonus Credits

As outlined in the Settlement Agreement with FSHC, the Court approved the Township's proposed allocation of bonus credits which includes a total of 75 rental and senior bonus credits applied to the Township's Prior Round Obligation and 58 rental bonus credits to its Prospective (Third Round) Obligation. COAH's Second Round Rules (N.J.A.C. 5:93) limit bonus credits to 25% of a municipality's prospective obligation. It is acknowledged that Clinton Township's allocation of bonus credits in this Plan is less than the maximum permitted 25% of its obligations based on the Settlement Agreement. Therefore, the Township should evaluate the applicability of any uncaptured bonus credits related to the various proposed affordable housing developments in the Third Round which may be applied to any future affordable housing obligation(s) based on the prevailing regulations at that time.

## APPENDICES

## A-1 Settlement Agreement





Peter J. O'Connor, Esq.  
 Kevin D. Walsh, Esq.  
 Adam M. Gordon, Esq.  
 Laura Smith-Denker, Esq.  
 David T. Rammler, Esq.  
 Joshua D. Bauers, Esq.

February 5, 2018

Jonathan Drill, Esq.  
 Stickel, Koenig & Sullivan  
 571 Pompton Avenue  
 Cedar Grove, New Jersey 07009

**Re: In the Matter of the Application of the Township of Clinton, County of Hunterdon, Docket No. HNT-L-315-15**

Dear Mr. Drill:

This letter memorializes the terms of an amended agreement reached between the Township of Clinton (the Township or "Clinton"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, through this settlement, a defendant in this proceeding. This amended agreement replaces in its entirety the agreement reached between the Township and FSHC dated December 12, 2017 (the "initial agreement"). The primary difference between the agreements is that the "Windy Acres" project that was included as a durational adjustment site in the initial agreement has been eliminated and replaced with the "LeCompte" project as a durational adjustment site in this amended agreement. The remaining differences between the agreements flow from the replacement of the Windy Acres project with the LeCompte project and address sewer and water capacity issues.

### **Background**

Clinton filed the above-captioned matter on July 2, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

### **Settlement terms**

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding

a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.

3. FSHC and Clinton hereby agree that Clinton's affordable housing obligations are as follows:

Rehabilitation Obligation	10
Prior Round Obligation (pursuant to <u>N.J.A.C. 5:93</u> )	335
Third Round (1999-2025) Prospective Need (per Kinsey Report <sup>1</sup> , as adjusted through this Agreement to account for the municipality's decision to conform to the Highlands Regional Master Plan)	337

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
5. The Township conducted a structural conditions survey of the community's housing stock on November 3, 2017 through which 10 units were identified as "substandard housing" in accordance with N.J.A.C. 5:93-5.2. The Township's rehabilitation obligation is therefore reduced to no more than 10 units, subject to the Special Master's review at least 60 days prior to the compliance hearing on this matter. The Township shall demonstrate at the compliance hearing how its rehabilitation obligation will be satisfied in accordance with applicable law.
6. As noted above, the Township has a Prior Round prospective need of 335 units, which is met through the following compliance mechanisms:

Site/Program	Units	Bonuses	
<b>Prior Cycle Credits</b>			
Existing Group Home, Block 4.03, Lot 40	5		Located at 4 Wayside Lane, this facility is operated by Venice Avenue Community Residence, Inc. It is a five bedroom group home for individuals with developmental disabilities who have no income. The non-profit organization receives funding from the State to operate the facility. During the compliance phase of the litigation, the Township agrees to provide the following for each of these credits: 1) A copy of the deed restriction on the project; 2) The Supportive and Special Needs Housing Survey Form used by the Council on Affordable Housing; 3) A copy of the facility license, if applicable
Credits Without Controls	13		Clinton Township initiated the Credits without Controls process in May 1999, in accordance with <u>N.J.A.C. 5:93-3.2</u> . 200 hundred surveys were submitted, 80 of which were returned to COAH. Ultimately, COAH found 28 units were found to

<sup>1</sup> David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

			represent income-eligible households. All surveys received were from the Beaver Brook (Block 79.02) and Oak Knoll (Block 82.13) developments. COAH calculated the affordability factors of these developments and granted the Township eligibility for 13 credits without controls units. See attached Exh. A.
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<b>RCA</b>			
RCA with City of New Brunswick	108		The Township entered into an agreement with the City of New Brunswick to transfer funds for 108 affordable housing units. This agreement was approved by COAH. The Township's final payment toward this transfer was made on August 26, 2002. In total, the Township paid \$2,265,000 towards the RCA with the city. During the compliance phase of this litigation, the Township will demonstrate that the City of New Brunswick created or rehabilitated 108 creditworthy units in accordance with applicable law and the agreement between the Township and the City.
<b>Existing Rentals</b>			
Village Green at Annandale, Block 49, Lot 25	4		Village Green at Annandale is a mixed use development consisting of 4 affordable housing units. The development received amended plan approval in February 2015 and is now developed and occupied.
The Mews (Senior Housing), Block 47, Lot 3	35	3	The Mews is an existing inclusionary development project consists of 35 low- and moderate-income rental housing units. The 43 acre property was developed as a 221 unit residential development approved in 2001. During the compliance phase of the litigation, the municipality will provide the deed restriction(s) for this development.
<b>Planned Projects</b>			
CRC Longview - Group Homes, Block 10, Lots 1, 9.01	4	4	CRC obtained preliminary subdivision approval from the Planning Board memorialized in Resolution No. 2009-17 to create a 15-lot major subdivision, and the resolution contains a condition which requires that the applicant purchase four (4) qualified group home bedrooms. The developer agreed to provide the group home bedrooms. The subdivision is thus far unbuilt by virtue of the downturn in the economy but the subdivision, including the proposed four (4) qualified group home bedrooms creates a realistic opportunity because it is effectively a 6-percent set-aside (one home with four bedrooms out of 16 total homes) . During the compliance phase of the litigation, the Township agrees to provide evidence of the approvals to date.
Fox/Seals, Block 53, Lot 3, family rental	1		The Fox/Seals (Old Municipal Building) site is located in the heart of historic Annandale Village within walking distance to the Annandale Train Station. It is developed with a large structure deemed to have some historic significance with associated paved areas. A redevelopment plan for the site was adopted in August 2016 which proposes to restore a portion of the historic structure for residential and commercial use with the development of a second structure for multifamily use for a site total of 12 units. Given the expense of the historic restoration and past difficulty of realizing a viable development plan for the site, the project will create only one (1) unit of affordable housing. Water and sewer capacity have been secured to accommodate the redevelopment plan. A realistic opportunity is provided as the Township has selected a developer and entered into a redevelopment agreement for the site on October 26, 2017. The Township anticipates

			executing a developer's agreement for the redevelopment project by March 31, 2018. The Township agrees to enter into an agreement to transfer the property to a developer within one year of the date of this amended agreement. The Township anticipates the development of the site to begin in 2018.
<b>100% Affordable Planned Projects</b>			
Beaver Brook Homestead, 100% affordable family rental housing, Block 60.03, Lot 26	66	66	Clinton Township adopted a redevelopment plan for the Beaver Brook Homestead site in January 2016 for a 100% affordable housing project, after which the Planning Board approved a preliminary site plan for the property as memorialized in Resolution No. 2016-08. In August 2017, the developer, Ingerman, was awarded the competitive NJHFMA 9% funding. Water and sewer capacity have been secured to accommodate the 66-unit development. An application for final site plan approval is pending before the Planning Board and it is anticipated that it will be heard in February, 2018. The receipt of funding for this development and pending final site plan application demonstrates that it provides a realistic opportunity for the development of affordable housing.
Marookian, Block 82, Lots 4, 4.03, family rental	26		<p>The Marookian site, which will include 84 total affordable family rental units, is Township-owned property located at the southwest corner of the Route 31 and Regional Road intersection. The majority of the 139-acre site is not developable due to both environmental constraints and because it was purchased with open space funding. The Township maintains the rights to develop 6 acres of the property. Through site analysis, a 19-acre area has been identified at the southeast corner of the site that abuts Route 31 as being appropriate for development. Within this area 6 acres may be selected for the development of the contemplated 100% affordable housing project at a density of approximately 13 units per acre. The Township currently envisions a flag lot configuration that sets the developable portion of the site in a cleared area behind an existing row of mature trees. Sewer capacity has been secured for the proposed development. The Town of Clinton has designated the required amount of water to accommodate the project. The court entered an order on February 2, 2018 approving the Marookian project as part of the Township's compliance plan and the Township will apply for a water reservation from the Town of Clinton for the project within 30 days of the date of the within amended agreement.</p> <p>The Township intends to initiate an RFP process in selecting a developer for the site. During the compliance phase of this matter, the Township will provide a schedule for the development of this site in accordance with the terms in this agreement. Also, during the compliance phase of this matter, the municipality will provide all information necessary to demonstrate a realistic opportunity in accordance with the terms of this agreement.</p>
<b>Total</b>	262	73	262+73=335

7. The Township has implemented or will implement the following mechanisms to address its Third Round prospective need of 337 units:

Site – Block/Lot	Units	Bonuses	
Marookian, Block 82, Lots 4, 4.03, family rental	58	58	See Prior Round chart above. Bonuses are provided for this site because it has immediate access to water and sewer.
LeCompte, Block 29, Lot 4, family rental – Durational Adjustment Project	89		The LeCompte project would be on a 10-acre portion (the “site”) of an approximately 40-acre tract of farmland which fronts on Valley Crest Road and Route 31. The LeCompte lot is across Route 31 from the Township’s Marookian project. The Township is seeking a durational adjustment for the inclusion of this site in its fair share plan as there currently is not enough water and sewer capacity available to accommodate the development of the site. The site is anticipated to receive water and sewer access based on its location when those utilities become available. The site’s location across Route 31 from the Marookian site makes the extension of utilities easier than if this project was proposed in some other area of the Township. CIS, a developer of 100% affordable housing projects, has expressed an interest in purchasing the 10-acre site from LeCompte. The Township will rezone a 10-acre portion of the site for affordable housing and will include the site in a proposed Highlands Center.
Headley Farm Estate – Block 46, Lot 33, 33.01, family rental – Durational Adjustment Project	104		The Headley Farm Estate is located immediately north of Annandale Village and the Annandale Train Station. The site was previously granted approval for a 21 lot subdivision for which the road infrastructure was developed. The developer of the site now proposes a mix of townhouses and multifamily development given changes in area residential market conditions. The portion of the site contemplated for development is cleared and is without environmental constraints. The New Jersey Highlands Council has indicated the site could be included in a Highlands Center to allow for the proposed density and required site improvements. The site totals 155.02 acres, of which 86.96 are unconstrained. 400 total units will be developed at a density of 4.6 units per acre, resulting in 400 units, which at a 26% set aside would be 104 units, all of which will be rented and available to lower-income families. This density is below the presumptive densities required by COAH rules, but the developer has agreed this density provides a sufficient compensatory benefit and has agreed to accept a higher than normal set-aside obligation. Based on its location relative to existing sewer service areas, required infrastructure improvements, substantial set-aside of 26%, developer support, and proximity to public transportation, the Township will prioritize this

			<p>site over all other inclusionary development sites in the municipality when water and sewer access and capacity are available. However, the developer may choose to install, and the Township agrees to support applications for, a package sewer plant and private water system/new public well. The Township will use its best efforts to help the developer purchase the available sewer capacity. However, the developer is responsible for purchasing its sewer capacity. The Township is seeking a durational adjustment for the inclusion of this site in its fair share plan as there is not enough water and sewer capacity available to accommodate the development of the site. The site is anticipated to receive water and sewer access based on its location when those utilities become available. The Township will agree to propose Headley Farms to be in a Highlands Center and to amend the sewer service area to include it in a SSA and to take all reasonable and necessary steps to obtain those designations. During the compliance phase of this litigation, the Township will provide a letter from the developer supporting the terms of this Agreement and otherwise demonstrate this site, with the exception of the availability of public utilities, presents a realistic opportunity for the development of affordable housing in accordance with applicable law.</p>
Alton Place- Block 79.07, Lot 1, family rental – Durational Adjustment Project	28		<p>This 16.17 acre site of which 13.84-acres are developable will be rezoned at a density of 10-units per acre with a 20% set-aside. The Township is seeking a durational adjustment for the inclusion of this site in its fair share plan as there is not enough water and sewer capacity available to accommodate the development of the site. The site is anticipated to receive water and sewer access based on its location when those utilities become available.</p>
<b>Total</b>	279	58	279+58=337

8. The Township intends to provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on the following sites:

Development/Compliance Mechanism	Units
Headley Farm Estate – Block 46, Lot 33, 33.01, family rental	104
Alton Place- 79.07/1, family rental	28

9. The Township will provide a realistic opportunity for the development of additional affordable housing that will be developed or created through means other than inclusionary zoning in the following ways:

<b>Development/Compliance Mechanism</b>	<b>Units</b>
Beaver Brook Homestead, 100% affordable family rental housing, Block 60.03, Lot 26 (funding received in 2017)	66
Marookian, Block 82, Lots 4, 4.03, family rental	84
LeCompte, Block 29, Lot 4, family rental	89

In accordance with N.J.A.C. 5:93-5.5, the Township recognizes that it must provide evidence that the municipality has adequate and stable funding for any non-inclusionary affordable housing developments. The municipality is required to provide a pro forma of both total development costs and sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending. Subject to paragraph 10 below, 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.

In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary developments, a construction or implementation 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 Beaver Brook Homestead project has been fully funded and is expected to begin construction shortly. The schedule for construction of the Beaver Brook Homestead project shall nevertheless provide for construction to begin within two years of court approval of this settlement at the latest. The schedule shall provide for construction of the Marookian project and the LeCompte project consistent with the terms of paragraph 10 below. The Township shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. The Township shall address how it satisfies the requirements of this paragraph through a filing with the court at least 60 days prior to the compliance hearing in this matter.

10. The parties recognize that the Marookian and LeCompte developments may not be the subject of funding applications for the total number of units planned for each development in this settlement agreement; may not receive sufficient funding to develop at the number of units proposed in this settlement agreement; and may not receive funding enabling construction to begin within two years of court approval of this settlement. In view of these possibilities, the parties agree as follows:
- a. It is anticipated that the Marookian and LeCompte sites will apply for Low Income Housing Tax Credits. In the event that the funding applications for these sites is submitted for a number of units that is less than the number of units provided for in this Agreement, the municipality shall, within 3 months of the submission of the application or within 3 months of the decision on the application that provides for less than the number of units provided for in this Agreement, whichever comes first, make up the difference between the number of units in this Agreement and the number of units included in the application by funding the difference, increasing the density on an inclusionary site identified in this Agreement, rezoning a site

within the municipality that is most likely to receive water and sewer utilities for inclusionary development at a density equal to or exceeding 10 units per acre net density, or using some combination of these three approaches. The municipality recognizes that it has the obligation to demonstrate a realistic opportunity exists for the approach(es) employed to meet the difference.

- b. In the event for any reason that the Marookian site is not under construction within two years of court approval of this settlement at a fairness hearing, as required by applicable law, the municipality shall, within 30 months of court approval of this settlement, take all necessary steps to provide and demonstrate the provision of a realistic opportunity for the units identified for development on the Marookian site. The Township shall do this by funding the development using municipal funds; increasing the density on an inclusionary site identified in this Agreement; rezoning a site that is most likely to receive water and sewer utilities within the municipality for inclusionary development at a density equal to or exceeding 10 units per acre net density; or using some combination of these approaches. The municipality recognizes that it has the obligation to demonstrate a realistic opportunity exists for the approach(es) employed to meet the obligations that have been allocated in this Agreement to be satisfied on the Marookian site.
- c. The Township agrees to take all reasonable efforts to obtain water and sewer access for the LeCompte site as soon as possible. In the event for any reason that the LeCompte development is not under construction for any reason within 48 months of the of the court's approval of this Agreement at a fairness hearing, the municipality shall take all necessary steps to provide and demonstrate the provision of a realistic opportunity for the units identified for development on the site. The Township shall do this by funding the development using municipal funds; increasing the density on an inclusionary site identified in this Agreement; rezoning a site that is most likely to receive water and sewer utilities within the municipality for inclusionary development at a density equal to or exceeding 10 units per acre net density; or using some combination of these three approaches. The municipality recognizes that it has the obligation to demonstrate a realistic opportunity exists for the approach(es) employed to meet the obligations that have been allocated in this Agreement to be satisfied on the LeCompte site.
- d. In the event that the LeCompte project either does not have access to water or sewer utilities or is not under construction within four years of the court's approval of this Agreement at a fairness hearing, and in the event the municipality has not provided a realistic opportunity for a sufficient number of affordable units through other means, such as inclusionary zoning without a durational adjustment, without further order of court, the Township agrees that it will be required to comply with N.J.A.C. 5:93-4.3(c)3 and 4 with regard to the inclusion in a fair share plan when the DEP or its designated agent approves a proposal to provide water and/or sewer to a site other than those designated for the development of low and moderate income housing in a housing element and fair share plan because the municipality would be deemed to not have sufficient sites to address the municipal housing obligation within the substantive certification period.
- e. The Township and FSHC agree that Marookian and LeCompte developments present opportunities for shared amenities, including for persons with disabilities. The Township agrees that it will fund and/or obtain funding for a large

public playground that will accommodate disabled children, which playground will be sited either on the Marookian property or the adjacent Kaufelt property. The playground will exceed requirements imposed by the Americans with Disabilities Act and include use of unitary surfacing in all areas of the playground to allow the maximum possible access to the playground for people using wheeled mobility devices. A path will be provided from the Marookian and LeCompte sites to the site of the playground to allow pedestrian. The Township further agrees to require the developers of the Marookian and LeCompte sites to provide a minimum of 20% of all units as barrier free wheelchair accessible units. The Township further agrees to propose and apply to the NJDOT for a signaled cross-walk across Route 31 to provide a pedestrian connection between the two developments and to fund and construct the cross-walk within one year of approval of the cross-walk by the NJDOT.

11. The parties agree that the municipality may address its Third Round prospective need obligation in part through a durational adjustment.
  - a. As demonstrated by the following facts, the Township does not have sufficient capacity for water or sewer to support certain of its affordable housing projects and thus is entitled to a durational adjustment in accordance with N.J.A.C. 5:93-4.3:
    - i. The Township has secured 38,925 gallons of sewer capacity from the Town of Clinton Sewerage Authority ("CTSA") sufficient to accommodate the development of the Beaver Brook Homestead, Fox/Seals and Marookian projects in full. Private entities / individuals have rights to the remaining available capacity, but that capacity is not sufficient to accommodate all of the inclusionary and 100% affordable developments included in the settlement plan. As such, there is presently not enough sewer capacity to accommodate the LeCompte, Headley Farms, and 108 Alton Place developments as prescribed herein, requiring the support of a durational adjustment. The Township agrees to make all reasonable efforts to obtain sewer capacity from the Clinton Township Sewer Authority and/or the individuals who have rights to the remaining capacity. Robert and Kevin Benbrook along with Chuck Urban were the principals of Country Club Drive Associates (CCDA), the entity that has rights to the remaining sewer capacity but, on information and belief, it appears that there has been a reorganization of CCDA and the sewer capacity has been divided between CCDA and Robert and Kevin Benbrook. While there presently is no available sewer capacity for the LeCompte project, The Township, with the assistance of the special master, will make all reasonable efforts to obtain sewer capacity for the LeCompte project from the CTSA and/or the Benbrooks..
    - ii. The allocation of sewer capacity has been prioritized based on several factors, including anticipated time of project completion, number of affordable units generated, location relative to existing SSA's, and required infrastructure improvements, among other factors. The Beaver Brook Homestead and Fox/Seals sites are redevelopment projects within an existing SSA which are anticipated to begin sitework within the next year. The Marookian site, located along Route 31, is also within an existing SSA, the development of which requires the installation of a lift station and/or forced main to connect to the existing lift station approximately half-mile

north of the property at North Hunterdon High School. Headley Farm Estate abuts the SSA serving the Village of Annandale with a readily available lift station and main to facilitate connectivity. Alternatively, the Headley site may install an advanced septic treatment plant which has been determined to be acceptable by the Highlands Council once the site has been included in a designated Highlands Center. The development of the Headley site remains a priority over the 108 Alton Place site as it will generate the most affordable housing units with the available sewer capacity. 108 Alton Place is located within an existing SSA requiring the installation of a forced main to convey discharge to the nearby lift station with connectivity available on two sides of the site. While the LeCompte site is a 100% affordable site and is located across Route 31 from the Marookian site and in the same SSA as the Marookian site, it is unlikely that it will be approved for tax credit financing in the same round as the Marookian site, so the Marookian site has priority over the LeCompte site.

- iii. With regard to water capacity, the Beaver Brook Homestead development has a water reservation agreement with the Town of Clinton. Fox/Seals and Marookian have 'will serve' letters from the Town of Clinton which are anticipated to be renewed. All three of these sites have the requisite infrastructure readily available. The Township has obtained court approval of the Marookian project as part of its compliance plan (similar to what the Township obtained for the Beaver Brook Homestead site). As such, the Township will request prior to the Fairness Hearing a water reservation for the Marookian site from the Town of Clinton which it should be entitled to under the terms of the Town of Clinton ordinance governing water reservation agreements. Beyond this water capacity, there is presently not enough water to supply the development of the Headley Farm Estate, 108 Alton Place, and LeCompte sites. However, any remaining capacity will be requested from the Town of Clinton and allocated to the LeCompte project first and then to the Headley project to be supplemented with the installation of an onsite well providing a community or production water supply which may be incorporated into the existing Town of Clinton system which abuts the property. The Headley site is being given priority with regard to water capacity over the 108 Alton Place project as the Headley project will yield more affordable housing units than the 108 Alton Place and water infrastructure has already been installed on site. Water infrastructure is adjacent to both the Marookian, 108 Alton Place, and LeCompte sites making water readily available once capacity becomes available. The special master will assist the Township in attempting to obtain water for the affordable housing projects included in the settlement plan, with the LeCompte project having first priority, the Headley project having second priority, and the 108 Alton Place project having third priority.
- b. In view of its request for a durational adjustment, the municipality agrees to comply with N.J.A.C. 5:93-4.3 as follows:
    - i. The Township will seek court approval for, and FSHC will support, a durational adjustment of 221 units and address the requirements of N.J.A.C. 5:93-4.3 through the following:

1. In accordance with N.J.A.C. 5:93-4.3(c), and the requirement to address Third Round prospective need obligation of 337 units, 221 units of which shall be deferred until adequate water and/or sewer are made available. The Township shall reserve and set aside new water and/or sewer capacity, when it becomes available, for low and moderate income housing, on a priority basis. Municipal officials shall endorse all applications to the Department of Environmental Protection (DEP) or its agent to provide water and/or sewer capacity for the sites set forth above and otherwise in accordance with paragraph 10d of this Agreement if the waiver provided by this paragraph no longer applies.
2. The Township has designated and will rezone the following sites as necessary for low and moderate income housing that lack adequate water and/or sewer as addressed more fully above:

	Units
LeCompte, Block 29, Lot 4, family rental	89
Headley Farm Estate – Block 46, Lot 33, 33.01, family rental	104
Alton Place- Block 79.07, Lot 1, family rental	28
Total:	221

3. The basis for inclusion of the LeCompte and 108 Alton Place sites as plan mechanisms to satisfy a portion of the Township's Third Round obligation, which require the support of a durational adjustment, are as follows:
  - a) LeCompte: The LeCompte project will be on a 10-acre portion (the "site") of an approximately 40-acre tract of farmland which fronts on Valley Crest Road and Route 31. The LeCompte lot is across Route 31 from the Township's Marookian project. The Township is seeking a durational adjustment for the inclusion of this site in its fair share plan as there is currently not enough water and sewer capacity available to accommodate the development of the site. The site is anticipated to receive water and sewer access based on its location when those utilities become available. The site's location across Route 31 from the Marookian site makes the extension of utilities easier than if this project was proposed in some other area of the Township. CIS, a developer of 100% affordable housing projects, has expressed an interest in purchasing the 10-

acre site from LeCompte. The Township will rezone a 10-acre portion of the site for affordable housing and will include the site in a proposed Highlands Center.

b) 108 Alton Place: 108 Alton Place is located between two existing townhouse developments in the Township's Planned Unit Development Overlay District. The majority of the site is developable with areas of steep slopes and Highlands water protection buffers. The site is well positioned between Routes 78 and 22 to the north, Route 31 to the east and the Town of Clinton's commercial center to the west. It is anticipated that the proposed development of the site at the proposed density will result in minimal local traffic impacts. In addition, appropriate buffers and open space will be required of any future development of the site. The Township is seeking a durational adjustment for the inclusion of this site in the municipality's Fair Share Plan as there is not enough water and sewer capacity available at present to accommodate the development of the site.

4. All proposed plan mechanisms include sites within established neighborhoods of the Township with good regional access, some in close proximity to public transportation access mitigating traffic congestion and parking demand. The densities and development proposed at each site of ample size and shape take into consideration their unique property characteristics as well as surrounding development.
5. Sites identified herein are not impacted by environmental constraints to such a degree that would inhibit the proposed creation of affordable housing. Water and sewer capacity have been secured for some sites while there is not enough presently available to accommodate others. Hence, the Township is seeking a durational adjustment for sites which do not have adequate water and/or sewer supplies, though they have determined to be in appropriate locations to receive such when capacity becomes available.
6. The requirements included in N.J.A.C. 5:93-4.3(c)3 and 4 related to inclusion in a fair share plan when the DEP or its designated agent approves a proposal to provide water and/or sewer to a site other than those designated for the development of low and moderate income housing in the housing element are hereby waived in accordance with N.J.A.C. 5:93-4.3(c)4, which permits waiver of such requirements when a municipality has a plan that will provide water and/or sewer to sufficient sites to address the municipal housing obligation within the substantive certification period.

12. The Township agrees to request that the Court continue the appointment of the Special Master in this matter for the purpose of assisting the municipality and advising the court

regarding the municipality's efforts to obtain approvals from state and local agencies required by this Agreement. The parties agree to recommend to the Court that the master, whose services shall be paid for by the Township, be directed to issue reports semi-annually to the court, with copies to the parties. The Township further agrees to respond to reasonable inquiries from the special master and FSHC regarding its efforts to obtain approvals required by this Agreement.

13. The Township agrees to require 13% of all units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements as follows:

<b>Development/Compliance Mechanism</b>	<b>Very low income units</b>
Beaver Brook Homestead, 100% affordable family rental housing, Block 60.03, Lot 26	9
Fox/Seals, Block 53, Lot 3, family rental	0
Marookian, Block 82, Lots 4, 4.03, family rental	11
Headley Farm Estate – Block 46, Lot 33, 33.01, family rental	14
Alton Place- Block 79.07, Lot 1, family rental	4
LeCompte, Block 29, Lot 4, family rental	12
<b>Total:</b>	<b>50</b>

14. The Township shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 7 above:
- a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d), provided that the municipality agrees to not use bonuses to reduce the actual number of units for which a realistic opportunity must be provided, even if subject to a durational adjustment, below 279 units.
  - b. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
  - c. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.
  - d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
  - e. The Township agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.
15. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network,

NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

16. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Township as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:
  - a. Regional income limits shall be established for the region that the Township is located within (i.e. Region 3) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
  - b. The income limits attached hereto as Exhibit B are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2017, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
  - c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and

applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

17. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
18. As an essential term of this Agreement, within ninety (90) days of Court's approval of this Agreement after a Fairness Hearing, the Township shall adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement. As another essential term of this Agreement, within ninety (90) days of Court's approval of the Township's compliance plan after a Compliance Hearing, the Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein.
19. The parties agree that if a decision of a court of competent jurisdiction in Hunterdon County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Township may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; and otherwise fulfilling fully the fair share obligations as established herein. In the event alternative sites are required in accordance with the terms of this Agreement, in no circumstance may the municipality provide less than 279 units of affordable housing, not including bonuses. The reduction of the Township's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement, seeking leave to amend an order or judgment pursuant to R. 4:50-1, or seeking leave to provide less than 279 units of affordable housing, not including bonuses. If the Township prevails in reducing its prospective need for the Third Round, the Township may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.
20. The Township shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the execution of this Agreement, which shall be established by the date on which it is executed by a representative of the Township, and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, the Township agrees to provide annual

reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

21. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
22. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in this Agreement. The Township agrees to comply with those provisions as follows:
  - a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
  - b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
23. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
24. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Township of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its

planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.

25. The Township agrees to make a \$30,000 donation to FSHC to be used for the advancement of affordable housing. The payment shall be made within ten (10) days of the Court's approval of this Agreement after a Fairness Hearing.
26. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
27. This Agreement may be enforced by either party through a motion to enforce litigant's rights or a separate action filed in Superior Court, Hunterdon County. The prevailing party in such a motion or separate action shall be entitled to reasonable attorney's fees.
28. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
29. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
30. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
31. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
32. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
33. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

34. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
35. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
36. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
37. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
38. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

**TO FSHC:**

Kevin D. Walsh, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
Phone: (856) 665-5444  
Telecopier: (856) 663-8182  
E-mail: kevinwalsh@fairsharehousing.org

**TO THE TOWNSHIP:**

Jonathan Drill, Esq.  
Stickel, Koenig & Sullivan  
571 Pompton Avenue  
Cedar Grove, New Jersey 07009  
  
Telecopier: (973) 239-0369  
Email: jdrill@sksdllaw.com

**WITH A COPY TO THE  
MUNICIPAL CLERK:**

Carla Conner, Municipal Clerk  
1225 Route 31 South, Suite 411  
Lebanon, New Jersey 08833  
  
Telecopier: (908) 735-8156  
Email: cconner@clintontwpnj.com

Please sign below if these terms are acceptable.

Sincerely,



Kevin D. Walsh, Esq.  
Counsel for Interested Party  
Fair Share Housing Center

On behalf of the Township of Clinton, with the authorization  
of the governing body:



Mayor John Higgins

Dated: February 7, 2018

**EXHIBIT B: 2017 INCOME LIMITS**

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - August 2017

**2017 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE**

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on AHPNJ.org

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rents** Sales***	Regional Asset Limit****
<b>Region 1</b>	Median	\$60,271	\$64,576	\$68,882	\$77,492	\$86,102	\$89,546	\$92,990	\$99,878	\$106,766	\$113,655		
	Moderate	\$48,217	\$51,661	\$55,105	\$61,993	\$68,882	\$71,637	\$74,392	\$79,903	\$85,413	\$90,924	1.7%	\$166,493
	Low	\$30,136	\$32,288	\$34,441	\$38,746	\$43,051	\$46,495	\$49,939	\$53,383	\$56,827	\$62,184	1.99%	
	Very Low	\$18,081	\$19,373	\$20,664	\$23,248	\$26,864	\$27,897	\$32,030	\$34,096				
<b>Region 2</b>	Median	\$65,953	\$70,663	\$75,374	\$84,796	\$94,218	\$97,987	\$101,755	\$109,293	\$116,830	\$124,368		
	Moderate	\$52,762	\$56,531	\$60,299	\$67,837	\$75,374	\$78,389	\$81,404	\$87,434	\$93,464	\$99,494	1.7%	\$180,756
	Low	\$32,976	\$35,332	\$37,687	\$42,398	\$47,109	\$48,993	\$50,878	\$54,646	\$58,415	\$62,184	3.25%	
	Very Low	\$19,786	\$21,199	\$22,612	\$25,439	\$28,265	\$29,396	\$30,527	\$32,788	\$35,049	\$37,310		
<b>Region 3</b>	Median	\$73,780	\$79,050	\$84,320	\$94,860	\$105,400	\$109,616	\$113,832	\$122,264	\$130,696	\$139,128		
	Moderate	\$59,024	\$63,240	\$67,456	\$75,888	\$84,320	\$87,693	\$91,066	\$97,811	\$104,557	\$111,302	1.7%	\$200,698
	Low	\$36,890	\$39,525	\$42,160	\$47,430	\$52,700	\$54,808	\$56,916	\$61,132	\$65,348	\$69,564	0.38%	
	Very Low	\$22,134	\$23,715	\$25,296	\$28,458	\$31,620	\$32,885	\$34,150	\$36,679	\$39,209	\$41,738		
<b>Region 4</b>	Median	\$66,022	\$70,738	\$75,454	\$84,885	\$94,317	\$98,090	\$101,862	\$109,408	\$116,953	\$124,498		
	Moderate	\$52,817	\$56,590	\$60,363	\$67,908	\$75,454	\$78,472	\$81,490	\$87,526	\$93,562	\$99,599	1.7%	\$177,413
	Low	\$33,011	\$35,369	\$37,727	\$42,443	\$47,158	\$49,045	\$50,931	\$54,704	\$58,476	\$62,249	1.53%	
	Very Low	\$19,807	\$21,221	\$22,636	\$25,466	\$28,295	\$29,427	\$30,559	\$32,822	\$35,086	\$37,349		
<b>Region 5</b>	Median	\$58,240	\$62,400	\$66,560	\$74,880	\$83,200	\$86,528	\$89,856	\$96,512	\$103,168	\$109,824		
	Moderate	\$46,592	\$49,920	\$53,248	\$59,904	\$66,560	\$69,222	\$71,885	\$77,210	\$82,534	\$87,859	1.7%	\$154,194
	Low	\$29,120	\$31,200	\$33,280	\$37,440	\$41,600	\$43,264	\$44,928	\$48,256	\$51,584	\$54,912	2.09%	
	Very Low	\$17,472	\$18,720	\$19,968	\$22,464	\$24,960	\$25,958	\$26,957	\$28,954	\$30,950	\$32,947		
<b>Region 6</b>	Median	\$51,085	\$54,734	\$58,383	\$65,681	\$72,979	\$75,898	\$78,817	\$84,655	\$90,494	\$96,332		
	Moderate	\$40,868	\$43,787	\$46,706	\$52,545	\$58,383	\$60,718	\$63,054	\$67,724	\$72,395	\$77,066	1.7%	\$136,680
	Low	\$25,543	\$27,367	\$29,192	\$32,840	\$36,489	\$37,949	\$39,409	\$42,328	\$45,247	\$48,166	0.00%	
	Very Low	\$15,326	\$16,420	\$17,515	\$19,704	\$21,894	\$22,769	\$23,645	\$25,397	\$27,148	\$28,900		

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

\* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

\*\*\*This column is used for calculating the pricing for rent increases for units as per N.J.A.C. 5:97-9.3. The increase for 2015 was 2.3%, the increase for 2016 was 1.1% and the increase for 2017 is 1.7% (Consumer price Index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015 or 2016 may increase rent by up to the applicable combined percentage from their last rental increase for that unit. In no case can rent for any particular apartment be increased more than one time per year.

\*\*\*\* This column is used for calculating the pricing for resale increases for units as per N.J.A.C. 5:97-9.3. As per 5:97-9.3(b), The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

\*\*\*\*\* The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3.

Note: Since the Regional Income Limits for Region 6 in 2016 were higher than the 2017 calculations, the 2016 income limits will remain in force for 2017. See N.J.A.C. 5:97-9.2(c).

## A-2 Court Order



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 Attorney for Township of Clinton

IN RE: TOWNSHIP OF CLINTON	)	SUPERIOR COURT OF NEW JERSEY
COMPLIANCE WITH <u>MOUNT LAUREL</u>	)	LAW DIVISION-HUNTERDON COUNTY
THIRD ROUND AFFORDABLE	)	DOCKET NO. HNT-L-315-15
HOUSING OBLIGATION	)	
	)	Civil Action
	)	
	)	<u>Mount Laurel IV</u>
	)	
	)	AMENDED ORDER APPROVING
	)	SETTLEMENT AGREEMENT AND,
	)	PRELIMINARILY, FAIR SHARE
	)	COMPLIANCE PLAN AND
	)	ESTABLISHING NEXT STEPS

This matter having been opened to the Court in accordance with East/West Venture v. Bor. of Fort Lee, 289 N.J. Super. 311 (App. Div. 1996) and Morris County Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986), by the joint application of Stickel, Koenig, Sullivan & Drill, LLC (Jonathan E. Drill, Esq. and Kathryn J. Razin, Esq., appearing), attorney for Township of Clinton (the

"Township"), and Kevin Walsh, Esq., staff attorney with and on behalf of Fair Share Housing Center ("FSHC"), a public interest organization representing the housing rights of New Jersey's poor (FSHC is an intervening defendant in the within litigation), for the review of a proposed settlement (the "settlement") of the within Mount Laurel declaratory judgment action <sup>1</sup> at a so-called "fairness" hearing (the "Fairness Hearing"); and the terms of the settlement being set forth in a written agreement entered into by and between the Township and FSHC dated February 5, 2018, last signed on February 7, 2018 (the "Amended Settlement Agreement"), which Amended Settlement Agreement is expressly subject to court approval following the Fairness Hearing; and the Court conducting a Fairness Hearing on the Amended Settlement Agreement on March 19 and 20, 2018, having determined that the Township provided proper notice of the Fairness Hearing as reflected in the Certification of Service and Publication of Notice (which was entered into evidence as Exhibit P-5); and a number of individuals having submitted objections to the Court regarding the Amended Settlement Agreement but none of the individuals having appeared at the Fairness Hearing to testify, question witnesses or otherwise present evidence objecting to the Amended Settlement Agreement; and one entity, Clinton 94, LLC (Clinton 94, LLC is an intervening defendant in the within litigation), having submitted objections to the Court

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<sup>1</sup> The within Mount Laurel declaratory judgment action was brought pursuant to Mount Laurel IV, 221 N.J. 1 (2015).

regarding the Amended Settlement Agreement, and having further appeared during the Fairness Hearing through its counsel Jeffrey Kantowitz, Esq., to cross examine witnesses, present evidence through the testimony of its principal, David Meiskin, and make a closing argument to the Court, all for the purpose of objecting to the Amended Settlement Agreement; and the Court's special master, Michael P. Bolan, PP, AICP (the "master"), having submitted a report to the court dated March 12, 2018 (the "master's report") (which master's report was entered into evidence as Exhibit C-1); and the master having testified during the Fairness Hearing; and the Township's affordable housing planner, Joseph H. Burgis, PP, AICP, having also testified during the Fairness Hearing; and a number of exhibits having been entered into evidence during the Fairness Hearing (which exhibits are listed on the "Fairness Hearing Exhibit Table" attached hereto); and the master recommending in the master's report and during testimony that the Court approve the Amended Settlement Agreement as fair and reasonable to and adequately protecting the interests of the protected class, namely, low and moderate income persons/ households, subject to conditions; and the Court determining for the reasons set forth in the memorandum opinion attached hereto that the Amended Settlement Agreement (which was entered into evidence as Exhibits P-3 and P-4) is fair and reasonable to and adequately protects the interests of low and moderate income

persons/households so should be approved, subject to conditions; and the Court determining that an order should be entered memorializing the Court's findings and conclusions and providing for the next steps in the litigation;

IT IS ON THIS 3<sup>rd</sup> DAY OF APRIL, 2018, ORDERED AND ADJUDGED AS FOLLOWS:

1. Approval of Amended Settlement Agreement. The Amended Settlement Agreement is hereby approved as fair and reasonable to and adequately protecting the interests of low and moderate income persons/households, subject to the conditions set forth in ordering paragraph #2 below.

2. Conditions of Approval. The Township shall satisfy the following as conditions of the Court's approval of the Amended Settlement Agreement:

a. Within 90 days of the entry of this order, the Township Planning Board shall adopt and the Mayor and Council shall endorse a Housing Element and Fair Share Plan ("HE&FSP") with any revisions required by or resulting from the Amended Settlement Agreement and the within conditions. For proposed inclusionary development sites, the HE&FSP must include an analysis of the sites to demonstrate that they are approvable, available, developable and suitable in accordance with COAH's Second Round Rules. The Fair Share Plan shall include as drafts any Zoning Ordinance amendments and

agreements necessary to effectuate the terms of the Amended Settlement Agreement.

b. Within 90 days of the Court's approval of the Township's compliance plan after a Compliance Hearing, the Township shall introduce and adopt ordinance(s) providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of the Amended Settlement Agreement and the zoning contemplated in the Amended Settlement Agreement. The Affordable Housing Ordinance shall incorporate all of the provisions of the Amended Settlement Agreement, applicable provisions of UHAC and COAH's Second Round rules, and any other provisions that result from the adopted HE&FSP.

c. Within 90 days of the entry of this order, the Township shall demonstrate compliance with the requirements of N.J.A.C. 5:93-5.5 for non-inclusionary developments. These requirements include evidence that the Township has adequate and stable funding; a pro forma of total development costs and sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending; and, a construction or implementation schedule, or timetable, for each step of the development in the development process, with the schedule providing for construction to begin within two years of the entry of the within order. The schedule shall provide for construction of the Marookian project and the LeCompte project consistent with the terms

of Paragraph 10 of the Settlement Agreement. The Township shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. The Township shall address how it satisfies the requirements of this paragraph through a filing with the Court at least 60 days prior to the compliance hearing in this matter.

d. Within 90 days of the entry of this order, the Township shall endorse a Spending Plan in conformance with the terms of the Amended Settlement Agreement.

e. At least 60 days prior to the compliance hearing, the Township shall provide a structural conditions survey to identify substandard housing in accordance with N.J.A.C. 5:93-5.2. The Township shall demonstrate at the compliance hearing how its rehabilitation obligation will be satisfied.

f. Within 90 days of the entry of this order, the Township shall provide documentation for the existing group home at Block 4.03, Lot 40, including the deed restriction, Supportive and Special Needs Housing Survey, and a copy of the facility license, if applicable.

g. Within 90 days of the entry of this order, the Township shall provide the deed restrictions for the Mews project.

h. Within 90 days of the entry of this order, the Township shall provide evidence of the approvals for the CRC Longview group home and the Fox/Seals redevelopment area.

i. Within 90 days of the entry of this order, the Township shall provide a letter from the developer of the Headley Farm Estate inclusionary development agreeing to the density and set-aside for the proposed development and supporting the terms of the Amended Settlement Agreement.

j. Within 90 days of the entry of this order, the Township shall adopt a Resolution appointing a specific municipal employee as Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, and monitoring and reporting, if it has not already done so.

k. Within 90 days of the entry of this order, the Township shall adopt a Resolution appointing the Township's Administrative Agent to administer affordable units in accordance with the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.), if it has not already done so.

l. Within 90 days of the entry of this order, the Township shall adopt a Resolution adopting the Township's Affirmative Marketing Plan, as modified by the terms of the Settlement Agreement. The monitoring and reporting requirements identified in Paragraphs 20, 21 and 22 of the Amended Settlement Agreement shall be continuing conditions of the Court's approval.

3. Scheduling of Compliance Hearing. The Court will schedule a Compliance Hearing in this matter to review and approve the HE&FSP,

including the Spending Plan, as well as all implementing ordinances, after consulting with the parties and the master as to availability for appearances.

4. Extension and Continuation of Temporary Immunity. The temporary immunity previously granted to the municipality and its Planning Board from any and all exclusionary zoning lawsuits is hereby extended and continued through the date of the Compliance Hearing.

5. Service of Order. A copy of this order shall be served by counsel for the Township on all persons and/or entities on the municipal service list within five (5) days of the receipt of this order by the counsel for the Township.

*/s/ Thomas C. Miller, P.J. Civ.*  
HON. THOMAS C. MILLER, P.J. Civ.

**FAIRNESS HEARING EXHIBIT TABLE**

<b>Exhibit</b>	<b>Description</b>	<b>In Evidence</b>
P-1	Initial Settlement Agreement dated 12/12/17, last signed 12/13/17, submitted via eCourts 12/18/17	3/19/18
P-2	Proof of Service of Notice of Fairness Hearing on Initial Settlement Agreement dated 1/24/18, submitted via eCourts 1/24/18	3/19/18
P-3	Amended Settlement Agreement dated 2/5/18, last signed 2/7/18, submitted via eCourts 2/8/18 (original)	3/19/18
P-4	Exhibit A to both the Initial Settlement Agreement and the Amended Settlement Agreement: COAH Second Round Substantive Certification Resolutions with Reports	3/19/18
P-5	Proof of Service of Notice of Fairness Hearing on Amended Settlement Agreement dated 3/12/18, submitted via eCourts 3/12/18 (original)	3/19/18
P-6	Concept Plan for the CIS project at the LeCompte site dated March 12, 2018	3/20/18
P-7	Color rendered underlayment or base map of the Concept Plan dated March 12, 2018 showing the CIS site outside the environmental features on the property	3/20/18
P-8	Dwyer Geosciences, Inc. (Thomas E. Dwyer, PG) report on feasibility of on-site water supply dated February 7, 2018	3/20/18
P-9	Natural Systems Utilities (Adam G. Stern, PE) report on feasibility of on-site wastewater management system dated February 16, 2018.	3/20/18
O-1	Hand-marked NJ Highlands Council Interactive Map, Labeled "1" inclusive of hand-drawn LeCompte site area	3/20/18
O-2	Hand-marked NJ Highlands Council Interactive Map, Labeled "2" with notation, "Preserve Forest Critical Wildlife Habitat"	3/20/18
O-3	Hand-marked NJ Highlands Council Interactive Map, Labeled "3"	3/20/18
O-4	Hand-marked NJ Highlands Council Interactive Map, Labeled "4"	3/20/18
O-5	Hand-marked NJ Highlands Council Interactive Map, Labeled "5"	3/20/18
O-6	Hand-marked NJ Highlands Council Interactive Map, Labeled "6"	3/20/18
O-7	Hand-marked NJ Highlands Council Interactive Map, Labeled "7"	3/20/18
C-1	Report of Michael P. Bolan, AICP, PP, dated March 12, 2018	3/20/18
C-2	Report of Michael P. Bolan, AICP, PP, dated February 5, 2018	3/20/18

## I. PRELIMINARY

The Court considered the application of Clinton Township for a determination that the Settlement Agreement that the Township has entered into with the Fair Share Housing Council (FSHC) dated February 5, 2018<sup>1</sup> is an Agreement that displays the production of sufficient realistic housing opportunities to satisfy Clinton Township's Constitutional obligation to provide its fair share of low and moderate income housing. The matter was "tried" before the Court on March 19 and 20, 2018 as a "Contested Fairness Hearing."

## II. PARTIES AND COUNSEL

The Township of Clinton was represented by Jonathan Drill, Esq. and Kathryn J. Razin, Esq. of Stickel, Koenig, Sullivan & Drill, LLC.

The Intervenor Objector, Clinton 94, LLC, objects to the approval of the Clinton Township's Fair Share Plan by and through its counsel, Jeffrey Kantowitz, Esq. of the Firm of Abe Rappaport.

The Fair Share Housing Council was represented by Kevin D. Walsh, Esq.

Guliet D. Hirsh, Esq. of the Archer Law Firm appeared on behalf of Headley Farm Estate. Ms. Hirsh participated in the Hearing by providing a statement in support of the Township's proposed plan.

Patrick J. Mullaney, Esq. appeared on behalf of Kerwin-Savage Partnership, a party whose property was considered in the Township's Fair Share Plan, even though they were not an intervening party in this matter.

## III. STANDARD OF REVIEW

### 1. General Standards

In this Fairness Hearing, Clinton Township asserts that the Revised Settlement Agreement displays the production of sufficient realistic housing opportunities to satisfy its housing obligation. Mount Laurel cases, whether brought by builders or by municipalities, are in the nature of representative actions at which the rights and interests of low and moderate income households throughout the region are determined and the future opportunity of low and moderate income households to assert those rights are foreclosed. In order to assure that those laudable goals are achieved, the parties cannot settle such cases except with the approval of the courts and a

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<sup>1</sup> And signed by the Mayor of the Township of February 7, 2018.

determination, upon notice to low and moderate income households and those who might act to vindicate the interests of such households, that the settlement is fair and reasonable to low and moderate income households in the region. Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 359, 368 (Law Div. 1984), aff'd mem. on opinion below, 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 326-27 (App. Div. 1996).

In this case, Clinton Township has noticed the hearing scheduled for March 19, 2018 as a “fairness” hearing. This hearing is the opportunity for any party to offer evidence that the Revised Settlement Agreement is not fair and reasonable to low and moderate income households, and is therefore noncompliant. To determine that the settlement is fair and reasonable to low and moderate income households, this Court must find as a matter of fact that the Revised Settlement Agreement displays sufficient realistic opportunities for the provision of safe, decent affordable housing to satisfy the Township’s constitutional housing obligations. The creation of realistic opportunities for safe, decent affordable housing is the core of the Mount Laurel mandate:

Satisfaction of the Mount Laurel obligation shall be determined solely on an objective basis: if the municipality has in fact provided a realistic opportunity for the construction of its fair share of low and moderate income housing, it has met the Mount Laurel obligation to satisfy the constitutional requirement; if it has not, then it has failed to satisfy it. [Southern Burlington NAACP v. Mount Laurel Township, 92 N.J. 158, 221 (1983)(“Mount Laurel II”).]

A municipality must satisfy its entire housing obligation – satisfaction of only some portion of that obligation does not suffice:

The municipal obligation to provide a realistic opportunity for low and moderate income housing is not satisfied by a good faith attempt. The housing opportunity provided must, in fact, be the substantial equivalent of the fair share. [Id. at 216].

Finally, the opportunity created must be determined by the Court to be “realistic,” not merely theoretical or hypothetical. Id. at 260. Whether the opportunity provided by a municipality is “realistic” is generally measured by whether the municipality has established that the requisite number of low and moderate income housing units will actually be provided, or that they have been provided. Id. at 222.

To find that a settlement agreement is fair to low and moderate income households, a court must, among other things, find that, based upon these constitutional standards, it in fact creates sufficient realistic opportunities for the provision safe, decent housing affordable to low and

moderate income households to satisfy the negotiated housing obligation. Livingston Builders, Inc. v. Livingston, 309 N.J. Super. 370, 380 (App. Div. 1998).

In this respect, the role of a court in reviewing a proposed settlement agreement is analogous to that of the Council on Affordable Housing (“COAH”) under the Fair Housing Act. In re Adoption of N.J.A.C. 5:96, 221 N.J. 1, 29 (2015) (“Mount Laurel IV”). Under the applicable statutory standard, COAH could lawfully grant a municipal petition to certify its Housing Element and Fair Share Plan only if it made an affirmative finding that “the combination of the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations, and the affirmative measures in the housing element and implementation plan make the achievement of the municipality's fair share of low and moderate income housing realistically possible.” N.J.S.A. 52:27D-314(b). A failure by COAH to make such affirmative findings required the reviewing court to reverse the decision by COAH granting a municipal petition. In re Petition for Substantive Certification, Twp. of Southampton, 338 N.J. Super. 103 (App. Div. 2001); In re Denville, 247 N.J. Super. 186, 200 (App. Div. 1991); In re Township of Warren, 132 N.J. 1 (1993) (no finding that the site designated for construction of public housing is “suitable”); Elon Associates, L.L.C. v. Howell, 370 N.J. Super. 475, 480 (App. Div. 2004) (site zoned for inclusionary development lacks sewer service).

As set forth in the decision of the Appellate Division in Livingston Builders, Inc. v. Twp. of Livingston, supra, a court reviewing a settlement agreement for the purpose of determining whether it is fair to low and moderate income households is guided by COAH’s criteria in determining whether the agreement creates sufficient realistic housing opportunities to satisfied the negotiated housing obligation:

By adoption of the Fair Housing Act, N.J.S.A. 52:27D–301 to –329, the Legislature, with the Supreme Court's approval, has designated the Council on Affordable Housing, acting pursuant to the Act, to establish the criteria for defining what a municipality must do to comply with its constitutional obligation to “provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families.” N.J.S.A. 52:27D–302a; see Hills Dev. Co. v. Township of Bernards, 103 N.J. 1, 25, 31–32, 510 A.2d 621 (1986). **COAH has established those criteria, see N.J.A.C. 5.93–1.1 to –15.1, and the courts should ordinarily defer to them.** Hills Dev. Co., supra, 103 N.J. at 63, 510 A.2d 621; East/West Venture, supra, 286 N.J. Super. at 334 n. 6, 669 A.2d 260. If the relevant evidence presented at a fairness hearing held on proper notice to all interested parties shows that a proposed settlement

satisfies those criteria, the settlement is entitled to the court's preliminary approval.  
[Id.]

2. **The Supreme Court authorized Mount Laurel Judges to exercise considerable flexibility in determining whether a proposed settlement meets a Municipality's Mount Laurel obligations**

“Flexibility” remains the polestar of the authority that the Supreme Court provided to trial judges in adjudicating Mt. Laurel declaratory judgment actions stemming from Mt. Laurel IV. In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous., 221 N.J. 1, 33 (2015) (“Mt. Laurel IV”). The trial court’s role is to flexibly exercise discretion to ensure, to its satisfaction, that each municipality has provided a realistic opportunity for the construction of its fair share of low and moderate income housing and has met its obligation to satisfy its constitutional Mount Laurel affordable housing requirements. (“We emphasize that the courts should employ flexibility in assessing a town's compliance. . . .”) In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous., 221 N.J. 1, 33 (2015) (“Mt. Laurel IV”).

The courts that will hear such declaratory judgment applications or constitutional compliance challenges will judge them on the merits of the records developed in individual actions before the courts.

[. . .]

[M]any aspects to the two earlier versions of Third Round Rules were found valid by the appellate courts. In upholding those rules the appellate courts highlighted COAH's discretion in the rule-making process. **Judges may confidently utilize similar discretion when assessing a town's plan, if persuaded that the techniques proposed by a town will promote for that municipality and region the constitutional goal of creating the realistic opportunity for producing its fair share of the present and prospective need for low- and moderate-income housing.**

[. . .]

We emphasize that the courts should employ flexibility in assessing a town's compliance and should exercise caution to avoid sanctioning any expressly disapproved practices from COAH's invalidated Third Round Rules. Beyond those general admonitions, the courts should endeavor to secure, whenever possible, prompt voluntary compliance from municipalities in view of the lengthy delay in achieving satisfaction of towns' Third Round obligations.

[Mt. Laurel IV, 221 N.J.at 29-30 (emphasis added)]

As a result of Mt. Laurel IV, the Court has considerable flexibility in assessing a municipality's Mt. Laurel compliance and also in determining whether to grant waivers regarding proofs or credits that would have been considered and granted by COAH. The Court should be especially flexible when FSHC endorses certain compliance techniques, and in light of the Supreme Court's repeated exhortations to resolve these cases by way of settlement.

**3. Considerable deference should be given to a settlement endorsed by a public interest group such as the Fair Share Housing Center and objections by Developers seeking a benefit only themselves should be viewed skeptically**

The Courts should also give considerable deference to the Settlement Agreement in this matter because it is between the Township and FSHC and is designed to afford a realistic opportunity for the provision of affordable housing. At the same time, the Court notes that an objection posed by a developer like Clinton 94, although ostensibly as representatives of low and moderate income households, is for the purposes of attempting to persuade and/or leverage the municipality to rezone for their proposed development.

Morris Co. Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div. 1984) involved circumstances similar to the present matter. Significantly, as stated by Judge Skillman, in the case of developers engaged in Mt. Laurel claims, standing was to be granted "not to pursue their own interests, but rather as representatives of lower income persons" affected by exclusionary zoning. Id. at 366. Here, as memorialized in the Settlement adopted by Fair Share Housing Center on behalf of low and moderate income individuals seeking housing in Bridgewater, those interests have received "actual and efficient protection" as required in this proceeding. Id. at 365 (citation omitted). That fact should weigh heavily in the Court's decision.

Specifically, Judge Skillman stated: "[t]he risks of improvidently approving a settlement and issuing a judgment of compliance are most acute in Mount Laurel litigation brought by developers." Id. at 367 (emphasis added). Judge Skillman added that, rather than descend into a "morass of facts, statistics, projections, theories and opinions," Id. at 371-72, the settlement of a Mt. Laurel controversy should turn solely on a determination that the settlement protects the interests of the persons on whose behalf the action was brought. Id. at 369-371. Where, as in this case, a public interest group such as the Fair Share Housing Center has competently represented the interests of low income persons, the dangers of improvident settlement are substantially reduced. Id. at 368. Even then, the Court is mindful that even a public organization may incorrectly

evaluate the strengths and weaknesses of its claim or be overly anxious to settle a case for internal organizational reasons. Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 359, 367-368 (Law Div. 1984), *aff'd mem. on opinion below*, 209 N.J. Super. 108 (App. Div. 1986). In fact, in this case, FSHC has itself advocated that the terms and conditions of this agreement does not even require any deference or preference by the Court. In any event, for these reasons, the Court will scrutinize the elements of the settlement.

#### **4. Regarding Particular Applicable Regulations**

For any proposed inclusionary project, as part of the standards for the review of plans to zone for inclusionary development (N.J.A.C. 5:93-5.6), the COAH regulations require a determination as to whether a site is approvable, available, developable and suitable pursuant to N.J.A.C. 5:93-1.3, Definitions. The site criteria and general requirements for new low and moderate income projects also are detailed in N.J.A.C. 5:93-5.3. These terms are defined as follows:

" 'Approvable site' means a site that may be developed for low and moderate income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing."

" 'Available site' means a site with clear title, free of encumbrances which preclude development for low and moderate income housing."

" 'Developable site' means a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable areawide water quality management plan (including the wastewater management plan) or is included in an amendment to the areawide water quality management plan submitted to and under review the Department of Environmental Protection (DEP)."

" 'Suitable site' means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4."

In order to evaluate the Township's designation of properties as inclusionary sites, an analysis according to the above criteria, and the additional standards outlined in N.J.A.C. 5:93-5.3, 5.4 and 5.6, should be provided by the Township in the Township's Housing Element and Fair Share Plan (HPE/FSP). This analysis is a condition to be addressed prior to the final compliance hearing.

N.J.A.C. 5:93-5.5 also requires that the Township provide a construction or implementation schedule, or timetable, or each step in the development process, including the preparation of a site plan, granting of municipal approvals, application for State and Federal permits, selection of a contractor and construction. The schedule shall provide that construction shall commence within two years of Court approval of the settlement. The municipality shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity.

In this case, the parties presented evidence concerning the COAH criteria as set forth in N.J.A.C. 5:93-1, et seq. but it also noted that the Settlement Agreement indicates that the Township will address these obligations during the compliance phase.

#### **IV. SUBSTANCE OF THE SETTLEMENT AGREEMENT THAT IS IN ISSUE IN THIS CASE**

The substance of the Settlement Agreement addresses the Township's Present Need (Rehabilitation) obligation; Prior Round obligation (1987-1999); estimated Third Round Prospective Need Obligation (1999-2025), which includes Present Need for the period 1999-2015 and Prospective Need for 2015-2015 in accordance with the N.J. Supreme Court decision of January 18, 2017 on the "gap" period; and, proposals to address the obligations.

##### **1. Present Need (Rehabilitation Share)**

The Settlement Agreement indicates that the Township's rehabilitation obligation is 10 units, based on a structural conditions survey of the community's housing stock in accordance with N.J.A.C. 5:93-5.2. The structural conditions survey should be provided during the compliance phase. The Agreement further provides that the Township shall demonstrate at the compliance hearing how its rehabilitation obligation will be satisfied.

##### **2. Prior Round Obligation (1987-1999)**

The Settlement Agreement indicates that Clinton's Prior Round Obligation is 335 affordable units pursuant to N.J.A.C. 5:93, and provides that the Township meets the Prior Round Obligation through the following mechanisms:

- 5 units for an existing group home, the documentation (facility license and deed restriction) for which will be provided during the compliance phase
- 13 units for credits without controls, approved by the Council on Affordable Housing (COAH) as part of the Township's Second Round certification
- 108 units for a Regional Contribution Agreement with the City of New Brunswick

- 4 existing rental units at Village Green
- 35 existing rental units at The Mews, with 3 rental bonus credits
- 4 units and 4 rental bonus credits for an approved group home (CRC Longview)
- 1 family rental unit at the Fox/Seals redevelopment site
- 66 family rental units with 66 rental bonus credits for the Beaver Brook Homestead, an approved project with New Jersey Housing and Mortgage Finance Agency (NJHMFA) 9% funding
- 26 family rental units from the 84 unit project at the Marookian site, a municipally sponsored 100% affordable project

The above mechanisms provide for a total of 262 affordable units and 73 rental bonus credits.

3. Third Round Prospective Need Obligation (1999-2025) and Durational Adjustment

The Settlement Agreement indicate that the Township's Third Round Prospective Need Obligation, inclusive of the Gap Period Present Need, is 337 affordable units, as calculated by David N. Kinsey, PhD, PP, FAICP, in a report titled "New Jersey Low and Moderate Income Housing Obligations for 1999-2015 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology", dated May 2016 (Kinsey Report), and "per Kinsey Report, as adjusted through this Agreement to account for the municipality's decision to conform to the Highlands Regional Master Plan". The Agreement indicates that the Township will satisfy this obligation in the following manner:

- 58 family rental units with 58 rental bonus credits from the Marookian site (139 acres)
- 89 family units from the LeCompte site, a 100% affordable project subject to a durational adjustment for water and sewer capacity (8.9 units per acre across street from Marookian)
- 104 family rental units from the Headley Farm Estate, an inclusionary project with a 26% set-aside subject to a durational adjustment for water and sewer capacity (155 acre)
- 28 family rental units from the Alton Place project, an inclusionary project with a 20% set-aside subject to a durational adjustment for water and sewer capacity

Headley Farm Estate and Alton Place are inclusionary projects.

The Beaver Brook Homestead, Marookian and LeCompte developments are municipally sponsored projects. Both the Beaver Brook Homestead and Marookian projects have been previously approved by the Court<sup>2</sup> as part of the Township's compliance plan. In accordance with

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<sup>2</sup> The matter was opened to the Court by Motion of the Township with notice to all interested parties. The Court has previously issued orders approving those components of the Township's Fair Share Plan.

N.J.A.C. 5:93-5.5, the Township recognizes that it must provide evidence that the municipality has adequate and stable funding for any non-inclusionary affordable housing developments. The municipality is required to provide a pro forma of total development costs and sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending. In the case where an application for outside funding is still pending, the municipality has agreed to provide a stable alternative source, such as municipal bonding, in the event that the funding request is not approved. The funding requirement is typically satisfied through the adoption of a resolution of intent to bond by the municipality.

The Agreement also acknowledges that the Marookian and LeCompte developments may not receive funding for the total number of units proposed in the Agreement and may not receive funding enabling construction to begin within two years of Court approval of the Agreement. The agreement anticipates that the Marookian and LeCompte sites will apply for Low Income Housing Tax Credits. In the event the funding applications are submitted for a number of units less than the number of units provided in the Agreement, the Township has agreed that it will make up the difference by funding the difference, increasing the density on an inclusionary site identified in the Agreement, rezoning a site that is most likely to receive water and sewer utilities at a density of 10 units per acre or more, or using some combination of the three approaches. In addition, if the Marookian site is not under construction within two years of the Court approval of the Agreement, the Township has indicated in the agreement that it will make up the difference using some combination of the three approaches noted previously.

Relative to the LeCompte site, the Township agreed to take all reasonable efforts to obtain water and sewer access as soon as possible.<sup>3</sup> In the event the LeCompte development is not under construction within 48 months of the Court's approval of the Agreement, the Township has agreed to be obligated to take all necessary steps to provide and demonstrate the provision of a realistic opportunity for the units identified at the LeCompte site, including funding the development using municipal funds, increasing the density of an inclusionary site identified in the Agreement, rezoning a site for inclusionary development that is most likely to receive water and sewer utilities at a density of 10 or more units per acre, or using a combination of the three approaches. If the LeCompte site either does not have access to water or sewer utilities or is not under construction

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<sup>3</sup> Since the agreement was signed "sewer capacity" has been obtained by the Township by virtue of a separately signed agreement.

within 4 years of the Court's approval of the Agreement, and the Township has not provided a sufficient number of affordable units through other means, the Township has also agreed to comply with N.J.A.C. 5:93-4.3(c)3 and 4 concerning inclusion in a Fair Share Plan a site where the DEP has approved a proposal to provide water and/or sewer.

The parties have agreed that the Marookian and LeCompte developments present opportunities for shared amenities, including for persons with disabilities. The Township also agreed to fund or obtain funding for a large public playground that will accommodate disabled children, sited on either the Marookian property or the adjacent Kaufelt property. The playground will exceed requirements imposed by the Americans with Disabilities Act and include unitary surfacing, with a path from the Marookian and LeCompte sites to allow pedestrian access. The Township also agreed to require developers of the Marookian and LeCompte sites to provide a minimum of 20% of all units as barrier free wheelchair accessible units. The Township further agreed to propose and apply to the NJDOT for a signaled crosswalk across Route 31 to provide a pedestrian connection between the two developments and to fund and construct the crosswalk within one year of the crosswalk's approval by the NJDOT.

The Agreement supports a durational adjustment authorized by N.J.A.C. 5:93-4.3 due to insufficient water and sewer capacity. The Agreement indicates that the Township has secured 38,925 gallons of sewage capacity from the Town of Clinton Sewerage Authority (CTSA), sufficient to accommodate the Beaver Brook Homestead, Fox/Seals and Marookian developments, and these sites are the Township's first priority. The Agreement notes that private entities/individuals have rights to the remaining available capacity, but that there presently is not enough sewer capacity to accommodate the LeCompte, Headley Farms and 108 Alton Place developments. The Township has agreed to make all reasonable efforts to obtain sewer capacity for the LeCompte project, and prioritizes the Headley site over the Alton Place site as it will generate the most affordable housing units. With regard to water capacity, the Township will request a water reservation for the Marookian site prior to the fairness hearing. The Agreement further notes that there is presently not enough water to supply the development of the Headley Farm, Alton Place and LeCompte sites, although water infrastructure is adjacent to the sites, and that any remaining capacity will be allocated to the LeCompte project first and then the Headley project.

The Township has also agreed to comply with the Prior Round durational adjustment rule at N.J.A.C. 5:93-4.3 relative to the 221 affordable units for which the durational adjustment is

sought. The Township has agreed that it shall reserve and set aside new water and/or sewer capacity, when it becomes available, for low and moderate income housing on a priority basis. The Township has agreed that it will rezone the Headley Farms Estate, Alton Place and LeCompte as needed to satisfy the terms of the Agreement.

#### V. OBJECTIONS TO THE INITIAL SETTLEMENT AGREEMENT

Objections to the initial Settlement Agreement<sup>4</sup> have been received from the following persons/entities:

- Jolene Weiss
- Elizabeth Lugo
- Nicholas A. Corcodilis
- Patrick J. Mullaney, Esq., on behalf of the Kerwin Savage Partnership
- Laurie Gneiding and Michael Brady
- Christopher Stadulis
- Jeffrey Kantowitz, Esq., on behalf of Clinton 94 LLC

Jolene Weiss expressed concerns about the traffic from the Headley Farm Estate project, as it might affect East Main Street, Petticoat Lane and Route 22, and a devaluation of property. She requested an opportunity to voice her concerns at the fairness hearing. Elizabeth Lugo questioned whether the Open Public Meeting Act was complied with; traffic impacts; pedestrian traffic from the Headley Farm property; the prior approval and extensions for CRC (Headley Farm); and, Township population decreases and alternative solutions to provide affordable housing. Nicholas A. Corcodilis submitted a Letter Brief and Certification which raises issues concerning the Open Public Meetings Act and his Open Public Records Act request; and, conflicts of interest for Jonathan E. Drill, Esq., of Stickel, Koenig, Sullivan & Drill; Trishka Waterbury Cecil of Mason, Griffin & Pierson; and, Michael A. Bolan, PP, AICP.

Patrick J. Mullaney, Esq., representing the Kerwin Savage Partnership, submitted a summary of testimony that raises issues concerning Township fees; sewage capacity in the Town of Clinton treatment plant; and, the design, density and set-aside for the affordable housing project proposed for its site. Laurie Gneiding and Michael Bradley submitted a Letter Brief and

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<sup>4</sup> This Agreement was subsequently amended in the Agreement that is now the subject of this Hearing. As a result, the terms and conditions of the prior Agreement are not relevant to the Court's determination of this matter.

Certification that questions the developability of the Headley Farms project based on environmental issues. Christopher Stadulis raised issues concerning the need for affordable housing in Clinton Township, rent control, and water and sewer access. Jeffrey Kantowitz, Esq., representing Clinton 94, an intervener, submitted an objection and Letter Brief; a summary of testimony for David Meiskin, a member of Clinton 94; deeds; and, a letter to the Clinton Township Sewer Authority. Mr. Kantowitz raised issues concerning the realistic likelihood that the affordable housing sites identified in the Settlement Agreement can be developed.

All of these matters have been received and considered by the Court.

## **VI. OBJECTIONS TO THE AMENDED SETTLEMENT AGREEMENT**

Objections to the amended Settlement Agreement<sup>5</sup> have been received from the following persons/entities:

- Diane Eriksson
- Jeffrey Kantowitz, Esq., on behalf of Clinton 94 LLC

Diane Eriksson questioned the need for additional housing in the Township and the location of the Marookian and LeCompte projects; points out advantages of the Windy Acres site; outlines problems with Valley Crest Farm; and, notes the Township's success in preserving open space and farmland and protecting water supply. Jeffrey Kantowitz, Esq., representing Clinton 94, an intervener, submitted an objection concerning the LeCompte site; and, a supplemental report and summary of testimony for David Meiskin, a member of Clinton 94, including maps from the Highlands Council comparing the LeCompte and Clinton 94 sites.

## **VII. SUMMARY OF WRITTEN OBJECTIONS FROM DIANE ERIKSSON DATED MARCH 1, 2018**

Ms. Eriksson was not an intervenor in the matter and to the Court's knowledge did not appear or particulate in the Fairness Hearing.

Ms. Eriksson raises various objections or concerns, which include:

- 1) There is no need for "so many" units or apartments in Clinton Township
- 2) That the properties that are identified in the plan would cause traffic congestion or issues.

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<sup>5</sup> Which is the Agreement that is at issue in this Fairness Hearing.

- 3) That the residents will be in a “remote and barren” area as those sites are not located in the vicinity of amenities that are necessary to accommodate this type of housing.
- 4) There is no “mass transit” located in the vicinity.
- 5) Clinton Township “lacks the facilities” to accommodate additional school children.
- 6) The LeCompte site has various issues, including several violations of local ordinances and state laws.
- 7) The Court should allow the Rolling Hills Nursing Home beds to be considered to “reduce the Township’s numbers.”
- 8) The Township’s ability to service the proposed projects for drinking water and sewer is questionable.
- 9) The Township’s commitment to preserving open space through farmland preservation, outright purchase of open space and other preservation methods should be considered. Also, the objector indicates that the creation of affordable housing in this manner undermines that effort.

#### **VIII. SUMMARY OF WRITTE OBJECTIONS OF CLINTON 94**

Clinton 94, through its counsel, Jeffrey Kantowitz, Esq., was the only party that actually appeared at the Fairness Hearing in order to object to the settlement. Prior to the Hearing, Clinton 94 submitted written objections which were received and reviewed by the Court.<sup>6</sup> During the hearing, Clinton 94’s counsel cross-examined witnesses and presented its own witness, its principal, David S. Meiskin.

Clinton 94 contends that the LeCompte Site, which the Amended Settlement Agreement has substituted in place of the Windy Acres Site, has significant environmental constraints, despite the statement in the Settlement Agreement to the contrary. Clinton 94 offered to provide factual and expert testimony from David S. Meiskin who proffered that he would opine that it is subject to severe environmental limitations.

In contrast, in its written submission Clinton 94 pointed to its own site which it has proposed for inclusion into the Affordable Housing Plan and notes that it has no such constraints.

Clinton 94’s position is based upon several propositions. First, it notes that the burden of proof is on the Township to demonstrate a likelihood that each of the mechanisms that it has

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<sup>6</sup> The Court acknowledges that many of the arguments and contentions that were provided in the written submission of Clinton 94 were not raised in their testimonial presentation. Although the Court has provided this summary for completeness of the record, the Court will consider only that “evidence” that was offered by Clinton 94 at the trial.

selected in its Plan will produce Affordable Housing and that its Plan “as a whole, will likely come to fruition.” In that regard, Clinton 94 submits that regardless of the examination that FSHC has performed in evaluating the mechanisms enumerated and described in the Settlement Agreement, this Court must satisfy, itself, based on proofs and evidence presented by the settling parties, especially the Township of Clinton, that: (1) each of the mechanisms presented provides a realistic opportunity for the development of the affordable housing units ascribed to it in the Settlement Agreement; and (2) the entire compliance plan, taken altogether, satisfies the Township of Clinton’s fair share housing obligation. See Allan Deane v. Bedminster, 205 N.J. Super. 87, 113 (Law Div. 1985).

As Judge Serpentelli explained in Allan Deane, supra:

Our [Supreme] Court has clearly expressed the obligation. A municipality must provide a realistic opportunity for the construction of its fair share. **“Realistic” is defined by the Court in terms of “likelihood”**. ([92 N.J.] at 221-222)... What proofs will support the conclusion that the municipal action has achieved the required likelihood? To answer this ultimate question the court will perform the following inquiry:

1. Verify that the ordinances are free from all excessive restrictions and exactions or other cost generating devices that are not necessary to protect health and safety.

Our Court has established this as a minimum step towards compliance. ([92 N.J.] at 258-259)

2. Examine the sites selected or other mechanisms used by the town to achieve compliance.

In this examination, the court will assess whether those sites or mechanisms provide a realistic opportunity (i.e. likelihood) for the actual construction of lower income units within the compliance period. This assessment may include evaluation of site suitability, use of affirmative measures to encourage lower cost housing, alternative compliance mechanisms, project feasibility, and any intangible factors which may have a very real influence upon the development of lower income housing. [205 N.J. Super. at 113; emphasis added].

Discussing in further detail the examination of sites selected and mechanisms chosen, Judge Serpentelli observed:

...the evaluation process involves an examination of the sites selected or other mechanisms used by the township to achieve compliance. The assessment may include, among other things, site suitability, affirmative measures, alternative compliance mechanisms, project feasibility and other less tangible factors.

A review of site suitability relates to the physical appropriateness of the parcel. Such factors as environmental suitability, availability of infrastructure, proximity to goods and services, regional accessibility and compatibility with neighboring land uses may impact upon whether the court finds a parcel suitable for *Mount Laurel* development.

A review of affirmative measures relates to the matters discussed in *Mount Laurel II* at 260-274, including subsidies, inclusionary zoning devices, incentive zoning, mandatory set-asides and the resale controls necessary to ensure that the lower income unit will remain affordable over the long term.

A review of alternative compliance mechanisms relates to any approaches that a municipality may propose as means of avoiding the construction of four market units for each lower income unit which results from use of a 20% mandatory set-aside. Examples might include commercial incentive zoning which produces lower income housing or projects fully funded by the municipality. The court will be called upon to gauge whether the alternative mechanisms will be likely to lead to *Mount Laurel* housing.

A review of project feasibility relates to whether the rezoning and other affirmative measures will provide a builder with a sufficient profit to make the project a likelihood. ([92 N.J.] at 279, *n.* 37) If the project is not economically feasible, a builder will not undertake construction and *Mount Laurel* housing will not materialize. In reviewing project feasibility, the court will address any density bonus granted to the builder in light of the required set-aside to determine if it provides sufficient funds to internally subsidize the lower income units. If the bonus is too low or the set-aside too high, lower income housing will not result. In that regard the court should also address fee waivers, tax abatements and other municipal actions designed to provide the developer with the assurance of a reasonable profit. [205 N.J. Super. at 115-16; emphasis added]

Moreover, Judge Serpentelli was keenly aware that the availability of infrastructure was a crucial factor in evaluating the merits of a site. **“Of course, if the proofs demonstrate that one site has very little likelihood of having the appropriate infrastructure provided to it and that another site is comparatively assured of having such facilities, those proofs cannot be overlooked.”** 205 N.J. Super. at 130; emphasis added].

Finally, Judge Serpentelli explained that the Court must evaluate both intangible factors and the compliance plan as a whole, in order to determine whether it presents a likelihood actually constructing the affordable housing described.

While a municipality should be given as broad a rein as possible in designing its response, the court will not assume that merely because each site selected is itself realistic the combination of those sites into a compliance package automatically

produces an acceptable ordinance. Thus, for example, the court will have to address itself to possible social segregation within each project and within the town as a whole. (*cf.* 268, *n.* 32) Not only must each site be realistic, the total package must represent reasonable planning. [205 N.J. Super. at 116-17; emphasis added].

In its pretrial written submission, Clinton 94 provided the Certification of David S. Meiskin concerning his views concerning the various sites selected by the Township.<sup>7</sup> He noted with regards to each that:

CRC Longview – Group Homes: The site received preliminary approval about nine (9) years ago. Clinton bears the burden of proof to show that this remains a realistic site, likely to be developed and produce even one unit with the four allocated bedrooms.

Beaver Brook Homestead: notwithstanding Clinton’s “sanguine” description of activities, he opines that the subject property is encumbered by various easements including a 50 foot wide stream easement and easements pertaining to historic preservation of an existing structure.

Given the Settlement’s statement that a development application is pending in January before the township Planning Board, he suggested that the Court should request further information regarding that proceeding before reaching any conclusion about whether this is a realistic site.<sup>8</sup>

Further, in the face of a will serve letter sought by Clinton 94 LLC for land it seeks to develop for an inclusionary project, Mr. Meiskin offers that the Township must demonstrate that there is sewer capacity for this project.

As for any prior determination made by this court respecting any property that was approved by the Court and whether it presents a realistic opportunity, Clinton 94 submits that the Court should retain the right and prerogative to re-visit its determination. See Lombardi v. Masso, 207 N.J. 517, 25 A.3d 1080 (2011)(trial court has discretion to revisit and vacate prior interlocutory summary judgment order).

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<sup>7</sup> Again, the Court has summarized the written submission of Clinton 94 for the purpose of completeness of the record. Much of the information provided in its submission was not offered or confirmed in the testimony which was offered at the trial in this matter. The Court is only permitted to consider matters that were offered at trial through sworn testimony that was subject to cross-examination or in the exhibits that were marked into evidence during the trial.

<sup>8</sup> The project was approved by the Planning Board during the trial at the Board’s meeting of March 19, 2018.

Marookian: Clinton 94 LLC incorporates by reference its arguments expressed in its opposition to the Township's motion for an order approving Marookian as an affordable housing project.

The Township's reply brief (filed on January 29, 2018) in connection with its motion seeking approval of the Marookian project, argues that somehow Clinton 94 LLC's arguments in opposition to the motion exceed the limits of its intervention. Clinton 94 asserts that the Township's position is "misguided."

Further, in any event, Mr. Meiskin offered that the Township bears the burden of proving that the 6 acres it maintained for development outside of the restriction against development because of open space funding are, in fact, the very same six acres that are proposed to be developed, i.e., the acreage at the southeast corner of the property near access to Route 31.

In addition, the objector complains that the absence of even an RFP and a developer committed to the project leaves unanswered whether such a development is even financial feasible given its absolute reliance on the competitive 9% tax credits from the State.

Headley Farm Estate: The Township proposes a 400 unit inclusionary development with an 104 unit affordable housing component. All traffic is proposed to be routed onto the narrow and winding East Main Street, Mr. Meiskin observed that the right of way appears insufficient for widening and that there appears to be no secondary access.

Further, there is no evidence via a letter of intention from the land owner, CRC Communities, that it agrees and intends to move forward with such a use and a dense development, and to commit to the early, significant investment necessary to advance such a project. Sewer and water would have to be brought from about a mile and a half away, including having to pass under Interstate Route 78 to reach the site. Thus, there is no demonstration or evidence that this project is feasible.

Clinton 94 submits that as with Windy Acres<sup>9</sup>, so, too, with this project, the FAQ states that "the CRC project cannot go forward unless and until adequate water AND sewerage capacities have been acquired by CRC."

In the objector's view, this site, too, fails the "realistic likelihood" test.

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<sup>9</sup> Which was a project included in the first iteration of the settlement agreement but not in the agreement that was the subject of this Fairness Hearing.

Alton Place: Similar to the Headley Farm Estate project, and as reflected in the FAQ, the Township proposes an inclusionary development of about 138 units with a 20% set aside for 28 affordable housing units. He notes that here, too, the Township seeks a durational adjustment.

Yet, the FAQ notes that one entity holds an option to purchase from the current owner, and it notes: “It is entirely speculative as to what entity would develop the property if and when it proceeds as adequate water AND sewerage capacities have not yet been acquired by Kerwin and Savage [the option holders].”

Thus, Clinton 94’s submissions theorize that given the costs and uncertainties associated with the development and the admitted absence of water and sewer, there is no evidence via a letter of intention from the owner or option holder that either intends to develop the property in the manner, use, and density proposed by the township given the significant development challenges.

For those reasons, the objector therefore submits that this site, too, fails the “realistic likelihood” test.

As for its own cite, Clinton 94 indicates that it has expressed its interests during mediation sessions with the Township. It indicates that it remains committed to assisting the Township to address the Township’s affordable housing obligations through an inclusionary project. To that end, and as Mr. Meiskin will testify, it has sent a request for service letter to the Clinton Township Sewer Authority advising that

“Clinton 94 LLC has entered into an agreement for the transfer of sewer capacity with CCD [Country Club Drive Associates] for the acquisition of 39,075 gallons per day sewer capacity and to convey to deer Meadows a right of first refusal for 9,637 gallons per day sewer capacity.”

Clinton 94 LLC has requested that the matter be placed on the Sewer Authority’s agenda at its next meeting so it may obtain the Authority’s consent for transfer of the allocation and the right of first refusal.

## **IX. SUMMARY OF THE TESTIMONY AND EVIDENCE OFFERED TO THE COURT**

### **1) Testimony of Joseph Burgis, AICP, PP**

The Township presented the testimony of its expert Professional Planner, Joseph Burgis, AICP, PP. Mr. Burgis was duly qualified as an expert witness in the area of professional planning and more particularly in the area of planning issues involving “Mt. Laurel issues.”

Mr. Burgis provided a thorough and detailed summary of the Township's Fair Share Plan, which was referred to and encompassed within the Settlement Agreement entered into between the Township and the FSHC.

Through Mr. Burgis, the following exhibits were referred to, authenticated, and eventually accepted into evidence by the Court:

- P-1 Initial Settlement Agreement dated December 12, 2017
- P-2 Proof of Service dated January 24, 2018 for the Fairness Hearing that was scheduled for the initial Settlement Agreement<sup>10</sup>
- P-3 Amended Settlement Agreement dated February 5, 2018
- P-4 COAH Substantive Certification for the Township of Clinton dated January 3, 2001
- P-5 Proof of Service for this Fairness Hearing dated March 12, 2018.

Mr. Burgis reviewed each of the component projects which constitute the Township's proposal to be included in its Fairness Plan in order to meet its constitutional obligation. (See Projects listed in Point IV of this opinion) He indicated that he evaluated each of the projects based upon the criteria included within N.J.A.C. 5:93-5.3.

He indicated that he expected each of the projects would be evaluated before the anticipated "compliance hearing" to be scheduled by this Court (assuming that the Court found the agreement to be fair) for (1) availability and source of funds for the project; (2) availability of amenities necessary to service the development; (3) the proposed sponsor for the development; (4) the time table for the project; and (5) that there is a responsible agency put in place to monitor the project.

Mr. Burgis indicated and found that the plan was fair and reasonable to the protected class of low and moderate income households as those terms have been used under existing case law and rules and regulations.

Through cross-examination, counsel for Clinton 94 pointed out that 221 of the 337 units (65%) that are to be produced to satisfy the durational adjustment so that they will not be produced in the near term. Mr. Burgis acknowledged the point, but indicated that the agreement provided for assurances for the projects to eventually proceed, and if they didn't proceed, the Township had the ability to reverse course and proceed in a different direction in order to accomplish its goals.

Opposition counsel also probed the issue of whether "Tax Credit Approval" and the financing that thus becomes available for the proposed projects (LeCompte and Markoosian) will

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<sup>10</sup> That Hearing was subsequently adjourned.

pose a significant impediment to the feasibility of either or both projects. Mr. Burgis testified that he believed that the “settlement agreement adequately accommodates” for the potential vagaries of that situation. The durational adjustment component of the settlement allows for the projects to seek funding over the next two rounds of tax credit funding, but allows the FSHC and, if necessary, the Court to monitor the component parts of the Fair Share Plan to make sure that the Plan remains viable and achievable.

With regards to sewer and water availability, when pressed on cross-examination, Mr. Burgis indicated that the Township has pledged its support to support the acquisition of sewer and water availability. Mr. Burgis offered his opinion that the plan adequately addresses the issue and that he believes that all of the projects can realistically obtain the necessary water and sewer availability to make them viable and realistic.

Mr. Burgis’ presentation was cogent and credible. The Court accepted his opinions (which are in substantial accord with the Court’s Special Master) that the Settlement Agreement was fair and reasonable to the Protected Class of Low and Moderate Income Households.

## **2) Testimony of David Meiskin**

David Meiskin, the Principal of Clinton 94, offered testimony as a fact and expert witness. After extensive voir dire, Mr. Meiskin, an experienced developer<sup>11</sup>, was accepted by the Court as an expert in the field of “Development and Analyzing Projects for their Developability.”<sup>12</sup>

Voir dire questions exposed Mr. Meiskin’s inadequacies to testify as an expert in the fields of planning, engineering, and environmental engineering. Although the Court recognizes some overlap between the areas of Mr. Meiskin’s recognized expertise and the areas that the Court declined to accept him as an expert, the Court instructed the parties that the determination of whether Mr. Meiskin would be permitted to offer expert opinions regarding certain questions, issues or matters would be handled on a question-by-question basis.

Mr. Meiskin testified that he received the “material” documents that were before the Court in this hearing as well as other information, including “Highlands Mapping” and the NJDEP website.

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<sup>11</sup> Mr. Meiskin indicated extensive experience as a residential developer of affordable housing.

<sup>12</sup> Which is one of the criteria that N.J.A.C. 4:93-1, et seq. requires the Court to evaluate when considering the inclusion of development projects in the Fair Share Plan.

While Mr. Meiskin did not offer adverse opinions or criticisms regarding several of the projects<sup>13</sup> that were in the Fair Share Plan, he did indicate the following:

(1) Marookian Project

Mr. Meiskin indicated that he had serious concerns that the Marookian Project was economically feasible due to the (a) available sewer line was remote and required a costly pump station to provide access to the project; (b) deed restrictions affected the use of the supposedly developable portions of the property; and (c) environmental constraints limited the developability of the portion of the site that was tabbed for development.

(2) CRC Headley Farms<sup>14</sup>

Mr. Meiskin indicated that the project is not economically feasible since (a) the existing sewer line is about 1.5 miles from the site; (2) the Highland restrictions (as shown on the Highlands Mapping) casts doubt on whether the project is suitable for on-site waste water management facilities; and (c) significant road improvements are required.

(3) The LeCompte Site

Mr. Meiskin indicated that the Highlands Mapping indicated that the existence of various environmental issues. In that regard, Mr. Meiskin offered seven exhibits which he prepared. The exhibits were marked O-1 through O-7 and were eventually admitted into evidence by the Court.<sup>15</sup>

Plaintiff's counsel and FSHC effectively cross-examined Mr. Meiskin on issues involving the accuracy of the data that he relied upon to prepare the exhibits. Additionally, the Court was not swayed by the thoroughness of Mr. Meiskin's analysis. In fact, the Court simply does not put much credence into his testimony.

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<sup>13</sup> Alton Place, CRC Longview.

<sup>14</sup> The Court also subsequently accepted P-8 and P-9 into evidence. P-8 was a Feasibility Study for water supply to the Headley Estate property prepared by Dwyer Geosciences, Inc. dated February 7, 2018. P-9 is a Feasibility Study for the permitting, designing, constructing and operating an on-site wastewater management structure on the Headley Estate site. Both reports were considered.

<sup>15</sup> Plaintiff's counsel effectively cross-examined Mr. Meiskin concerning the accuracy of his exhibits which all contained "hand drawn" depictions of the proposed LeCompte Development (not drawn to scale) which were superimposed on the Highlands Mapping. Given that the Court admitted the documents into evidence despite their questionable value, the Court also accepted the Plaintiff's rebuttal documents, P-6 through P-9, which provided other information about the proposed development, which the Court has previously referenced in this opinion.

### **3) Testimony of Special Master, Michael Bolan, AICP, PP**

The Court also received the sworn testimony of Michael Bolan, AICP, PP, the Court-appointed Special Master in this case. Given Mr. Bolan's extensive experience in municipal planning, development and affordable housing issues, he was accepted as an expert witness by the Court (with the consent of all parties).

Mr. Bolan summarized his report to the Court which was marked as C-1 into evidence. Mr. Bolan's report and testimony provides a thorough review of the agreement, the applicable law, the particular circumstances in Clinton Township, his opinions and recommendations concerning the approval of the agreement by the Court, and certain recommended conditions to be considered by the Court.

The Court has and will address the specific provisions of Mr. Bolan's testimony in the Court's opinion.

### **4) Statement of Guliet D. Hirsh, Esq.**

Guliet D. Hirsh, Esq. addressed the Court on behalf of her client, Headley Farm Estate. Although Ms. Hirsh's statement was not in the form of sworn testimony, she indicated "on the record" that her clients support the plan and their apparent willingness to strive to develop their property in accordance with the parameters of the Fair Share Plan to be prepared by the Township. The statement was offered, also, in part, to dispel criticisms of the plan, as it related to her client's property, that were contained in the written submissions of Clinton 94.

## **X. COURT'S FINDING**

### **A) General Statement**

The Court has reviewed and considered the Settlement Agreement reached between Clinton and FSHC dated February 5, 2018 in an effort to determine whether or not there was any element of the settlement that would not be fair to the interests of existing and future low and moderate income households in Clinton's housing region. The Court has evaluated the Settlement Agreements in terms of the criteria set forth in East/West Venture v. Borough of Fort Lee, 286 N.J. Super 311, 329 (App. Div. 1996), which outlines the issues involved in approving a settlement of *Mount Laurel* litigation. While this case differs in that the Township is the plaintiff and FSHC is an interested party and, through the settlement, a defendant in the proceedings, the East/West Venture case provides a good framework for evaluating any settlement arising out of *Mount Laurel* litigation.

As a result of the Court's analysis, the Court concurs with the opinion of its Special Master, Michael Bolan, that the settlement provides for a substantial amount of affordable housing and satisfies the criteria set forth by the Appellate Court in East/West Venture.

**B) Summary of Key Terms of the Settlement Agreement**

The Settlement Agreement provides that the Township has met the Prior Round Obligation of 335 affordable units. It also provides that the Township shall demonstrate at the compliance hearing how its rehabilitation obligation will be satisfied, including submission of a structural conditions survey to identify substandard housing. The Settlement Agreement further indicates that the Township and FSHC agree that the Third Round Prospective Need is 337 affordable units, per the Kinsey Report as adjusted through the Agreement, and that the Township has implemented or will implement mechanisms to provide 337 affordable units/credits towards its Third Round Prospective Need.

The Township has agreed to request that the Court continue the appointment of the Special Master in this matter for the purpose of assisting the municipality and advising the Court regarding the municipality's efforts to obtain approvals from State and local agencies required by this Agreement. The parties agreed to recommend to the Court that the master be directed to issue reports semi-annually to the Court, and the Township further agreed to respond to reasonable inquiries from the Special Master and FSHC regarding its efforts to obtain approvals required by the Agreement.

The Township agreed to require that 13% of all affordable units approved, vested or constructed after July 17, 2008 be very low income units, and that half of these units shall be available to families. The Settlement Agreement identified 50 units in five projects that will address this requirement.

The parties agreed that Third Round bonuses will be applied in accordance with N.J.A.C. 5:93 (i.e. one bonus credit per family rental unit up to the 25 percent maximum). The Township further agreed to not use bonuses to reduce the actual number of units for which a realistic opportunity must be provided, even though subject to a durational adjustment, below 279 units. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households. At least 25 percent of the Third Round Prospective Need shall be met through rental units, including at least 50 percent in rental units available to families, and at least 50 percent

of the units addressing the Third Round Prospective Need in total shall be available to families. The Township agreed to comply with an age-restricted cap of 25 percent and to not request a waiver of this requirement.

The Township agreed to add to the list of community and regional organizations in its affirmative marketing plan receiving notice of all available affordable housing units the FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center. The Township also agreed to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this requirement.

The Township agreed to comply with the requirements of the Uniform Housing Affordability Controls including, but not limited to, the marketing, bedroom distribution and affordability controls (UHAC, N.J.A.C. 5:80-26.1 et seq.) for the affordable housing units referenced in the Agreement, with the exception to UHAC that 13 percent of affordable rental units in all projects shall be required to be at 30 percent of median income. The Township agreed to update annually the income limits for the establishment of sales prices and rents of affordable housing units according to the formula in Paragraph 15 of the Agreement, which is the formula approved by Judge Wolfson in his December 16, 2016 decision. All new construction units shall be adaptable in conformance with P.L. 2005, c. 350 and all other applicable law.

As an essential term of the settlement, within 90 to 120 days of the Court's approval of the Settlement Agreement, the Township shall adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of the Agreement. Additionally, within 90 to 120 days of the Court's approval of the Township's compliance plan after a Compliance Hearing, the Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of the Agreement and the zoning contemplated in the Agreement.

The parties to the Settlement Agreement agreed that if there is a decision from a court of competent jurisdiction in Hunterdon County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the N.J. Legislature, which would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than 10 percent that the total Third Round Prospective Need obligation established in the Agreement, and if that calculation is memorialized in an unappealable final

judgment, that the Township may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding the reduction, the Township shall be obligated to adopt a HEFSP that conforms to the terms of the Agreement and to implement all compliance mechanisms included in the Agreement. In the event alternatives are required in accordance with the terms of the Agreement it provided that in no circumstance may the municipality provide less than 279 units of affordable housing, not including bonuses.

The Agreement required the Township has to prepare a Spending Plan within the 90 day period referenced above. The Township reserved the right to seek approval from the Court that the expenditure of funds under the Spending Plan constitute a "commitment" for expenditure pursuant to N.J.S.A 52:27D-329.2 and 329.3. The funds deemed "committed" shall have the four-year time period for expenditure designated by statute, and the period begins to run with the entry of a final judgment approving the settlement.

On the first anniversary of the execution of the Agreement and every anniversary thereafter through the end of the period of protection from litigation referenced in the Agreement, the Township shall provide annual reporting of trust fund activity to the NJ Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the municipal website, using forms previously developed for this purpose by COAH or Local Government Services. The reporting shall include an accounting of all trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended. Also on the first anniversary of the Agreement and every anniversary thereafter, the Township shall provide annual reporting of the status of all affordable housing activity through posting on the Township website, with a copy to the FSHC, using forms previously developed for this purpose by COAH or any other forms as approved by the Court.

The Township agreed to comply with two monitoring provisions of the Fair Housing Act regarding action to be taken by the Township during the ten-year period of protection provided in this agreement. For the midpoint realistic opportunity review due on July 1, 2020, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present

a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the Court regarding these issues. For the review of very low income housing requirements, within 30 days of the third anniversary of this agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirement, including family low income requirements, with the opportunity for any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income housing obligation under the terms of the Agreement.

The Township also agreed to make a \$30,000 donation to FSHC to be used for the advancement of affordable housing.

### **C) Evaluation of the Settlement Agreement**

The Appellate Court established, in the East/West Venture case, the standard that must be used in evaluating the fairness of a settlement in a *Mount Laurel* lawsuit. That standard is whether or not “the settlement adequately protects the interests of the lower-income persons on whose behalf the affordable units proposed by the settlement are to be built”. The determination of whether or not the standard is met is based upon a five-part analysis, as follows:

#### **1. Consideration of the number of affordable units being constructed.**

The terms of the settlement agreements provide that the Township's New Construction affordable housing obligation is 337 units and the Township is eligible for 337 total units of credit. There is considerable uncertainty concerning the methodology that might ultimately be used to establish affordable housing obligations. For example, the report prepared by Econsult Solutions, Inc. (Econsult) for the municipal consortium, dated April 12, 2017, calculates the 1999-2025 obligation for the Township as 80 affordable units. This Court's Regional Special Master, Richard Reading, has projected obligations in other vicinages that fall below the FSHC allocations and generally support a reduction in the FSHC number. In addition, on March 8, 2018, the Honorable Mary C. Jacobson, the Mercer County Assignment Judge issued an opinion concerning the fair share methodology to implement the Mt. Laurel affordable housing doctrine for the Third Round. Given the above, and that this Court's approval of a settlement is not an adjudication of the fair share obligation, the number of affordable housing units addressed in the settlement is reasonable.

## **2. The methodology by which the number of affordable units provided is Derived**

The methodology utilized in the Kinsey Report to calculate third round new construction obligations was designed to follow the Prior Round methodology used by COAH in 1994 to determine cumulative 1987-1999 fair share obligations as closely as possible, as directed by the Supreme Court in Mt. Laurel IV. As noted above, there is no statewide agreed to methodology, and the FSHC methodology has been utilized in over 170 settlements throughout the State. Of those, approximately 45 of the settlements involve municipalities in Vicinage XIII.

## **3. Other contributions by the Plaintiff.**

This prong of the East/West Venture test originally applied to a plaintiff/developer. In this case the plaintiff/Township has agreed to the following, which are described in more detail above in the section discussing Key Terms of the Settlement Agreement:

- agreement to adopt a compliant Housing Element and Fair Share Plan and all implementing ordinances;
- agreement that 13% of affordable units shall be for very low income households;
- agreement that at least 25% of the Third Round Prospective Need shall be rental units;
- agreement that at least 50% of rental units shall be available to families;
- agreement that at least 50% of all affordable units addressing the Third Round Prospective Need shall be available to families;
- agreement to an age-restricted cap of 25% of affordable units;
- agreement that an least 50% of units shall be available to very low income and low income households;
- agreement to continue the appointment of a Special Master to oversee compliance
- agreement to expand the affirmative marketing plan;
- agreement to comply with the requirements of UHAC;
- agreement to approve and implement a spending plan: and,
- agreement to make a \$30,000 donation to FSHC to be used for the advancement of affordable housing.

**4. Other components of the Agreement that contribute to the satisfaction of the constitutional obligation.**

The Township agreed to take the steps necessary to amend and implement its Housing Element and Fair Share Plan in accordance with the terms of the Settlement Agreement and the zoning contemplated in the Agreement, including zoning for inclusionary development. In the context of the durational adjustment, the Township agreed to pursue rigorously the provision of water and sewer utilities for inclusionary and municipally sponsored projects. The Township further agreed to address the standards for municipally sponsored projects contained in N.J.A.C. 5:93-5.5, and to follow a specified timeline should any of these projects not come to fruition. The Township committed to execute a developer's agreement to implement a project identified in a redevelopment plan and redeveloper's agreement.

**5. Consideration of Clinton 94's Objection**

*a) Clinton 94's position summarized*

Clinton 94's position raises several issues, including the flexibility of the projects that have been proposed as part of the Township's Fair Plan. Clinton 94 argued that (1) the plan calls for an inordinately high number (and percentage) of units that will be the subject of a deviational adjustment; (2) that the plan is perhaps overly ambitious; (3) that the number of "conditions" that were recommended by the Special Master portends that the plan may not be achievable; (4) the frequency of monitoring that was suggested by Special Master Bolan (every 180 days) should be performed more often, say every 90 days; (5) that there would be no harm done by including other properties in the plan (such as the property offered for inclusion in the plan by Clinton 94), even if its inclusion would provide a surplus number of units to be provided over and above the number of units that would be required under the Settlement Agreement.

*b) Court's Analysis of the Issue Raised by Clinton 94*

As part of the Court's ruling, the Court has reviewed, analyzed and considered the objections made by Clinton 94. First, with regards to Clinton 94's argument that the Court consider and include projects that have additional low and moderate income units (such as its property) that are above the agreed upon settlement numbers, the Court finds that such a requirement is unnecessary and unwarranted under the circumstances. Once it has been determined that a reasonable number of affordable units have been included the Township's Plan, it is within the Township's reasonable discretion as to whether it would or should include additional units or

additional properties at this time. Said another way, the Court will not include a requirement that the Township “overzone” to meet its fair share obligation.

The Court was not swayed by Clinton 94’s contentions that the various component parts of the Township’s proposed plan were unrealistic and unachievable. Mr. Meiskin’s testimony on the subject (1) lacked the necessary expertise to opine on key facts and issues that supports his propositions; (2) Mr. Meiskin’s testimony was oft times spotty, not buttressed by credible documentation and lacked coherence; and (3) Mr. Meiskin’s testimony appeared to the Court to be a thinly veiled effort to support his own proposal and thus his testimony was tainted with bias.

The Court finds that the Clinton Township Plan provides an imaginative, proactive, comprehensive and realistic plan to accommodate for the needs of low and moderate income households. A significant portion of the Township is located within the Highlands Area. During recent years, the Township has experienced very limited growth. There is a demonstrable limitation of sewer availability. Those conditions have caused Clinton Township to be unable to even satisfy its prior round’s needs.

When the Court considers the totality of these factors, it is clear that the settlement that has been proposed is reasonable. There is no real credible evidence that was provided to the Court to indicate that the Projects that have been included within the Township’s Plan are not feasible or achievable.

The Court understands that, as with any proposed fair share plan, issues or conditions arise that may cause the projects for these proposed developments to change. The Settlement Agreement certainly anticipates those events in several ways that protect the interests of the parties and the Protected Class.

The Municipality has committed to take aggressive steps to aid the prospective developers of the approved projects to secure the water and sewer capacity and acres that will be required to service the projects. It has also committed to provide funding for a couple of the projects should the tax credit financing not be available.

Also, the Court’s Master will continue to be involved to monitor the settlement and keep the projects “on track” or, if modifications are necessary, to advise the Court so that intervention may be activated if substantial compliance is not achieved. These additional “insurance policies” provide the Court with comfort that the Settlement Agreement is fair and reasonable to the affected

“class” of low and moderate income households and that there is a substantial likelihood that the plan is an achievable one.

**6. Other factors that may be relevant to the fairness of the settlement.**

As discussed in more detail in the previous section of Key Terms of the Settlement Agreement, the Agreement provides for a continuing monitoring program throughout its ten-year duration, including annual and triennial reporting requirements. The monitoring and reporting requirements will ensure that the interests of lower income households will be advanced through the Court's approval. The Township agreed to the appointment of a Special Master for the purpose of assisting the municipality and advising the Court regarding the municipality's efforts to obtain approvals from State and local agencies required by this Agreement. The process of obtaining the Court's approval of the Settlement Agreement, the scrutiny that document has received as a result of the intervention by FSHC, and the conditions contained in this report requiring the Township to adopt a HEFSP and certain ordinance amendments will allow the Township to move forward in the satisfaction of its constitutional obligation. Lastly, the Court's approval of the settlement is subject to a final compliance hearing which will be anticipated to be scheduled in approximately 120 to 150 days from the date of this opinion.

**CONCLUSION**

In conclusion, the Court is being asked to determine whether the interests of low and moderate income households will be served by the approval of the Settlement Agreement with FSHC. In the Court's opinion, the interests of low and moderate income households will be advanced by the Court's approval of the Settlement Agreement. The Court therefore approves the Settlement Agreement subject to the conditions and milestones contained within the report of Special Master Bolan as follows:

1. Within approximately 90 days of the Court's approval of the Agreement after a fairness hearing, the Township Planning Board shall adopt and the Mayor and Council shall endorse a HEFSP with any revisions required by or resulting from the Settlement Agreement and these Conditions. For proposed inclusionary development sites, the HEFSP specifically must include an analysis of the sites to demonstrate that they are approvable, available, developable and suitable in accordance with COAH Rules. The Fair Share Plan shall include any Zoning Ordinance amendments and agreements necessary to effectuate the terms of the Settlement Agreement.

2. Within approximately 90 days of the Court's approval of the Township's compliance plan after a Compliance Hearing, the Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of the Settlement Agreement and the zoning contemplated in the Settlement Agreement. The Affordable Housing Ordinance shall incorporate all of the provisions of the Settlement Agreement, applicable provisions of UHAC and COAH rules, and any other provisions that result from the adopted HEFSP.

3. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall demonstrate compliance with the requirements of N.J.A.C. 5:93-5.5 for non-inclusionary developments. These requirements include evidence that the Township has adequate and stable funding; a pro forma of total development costs and sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending; and, a construction or implementation schedule, or timetable, for each step of the development in the development process, with the schedule providing for construction to begin within two years of the Court's Order approving the Settlement Agreements.

The schedule shall provide for construction of the Marookian project and the LeCompte project consistent with the terms of Paragraph 10 in the Agreement. The Township shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. The Township shall address how it satisfies the requirements of this paragraph through a filing with the Court at least 60 days prior to the compliance hearing in this matter.

4. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall endorse a Spending Plan in conformance with the terms of the Agreement.

5. At least 60 days prior to the compliance hearing, the Township shall provide a structural conditions survey to identify substandard housing in accordance with N.J.A.C. 5:93-5.2. The Township shall demonstrate at the compliance hearing how its rehabilitation obligation will be satisfied.

6. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall provide documentation for the existing group home at Block 4.03, Lot 40, including the deed restriction, Supportive and Special Needs Housing Survey, and a copy of the facility license, if applicable.

7. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall provide the deed restrictions for the Mews project.

8. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall provide evidence of the approvals for the CRC Longview group home and the Fox/Seals redevelopment area.
9. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall provide a letter from the developer of the Headley Farm Estate agreeing to the density and set-aside for the proposed development and supporting the terms of the Agreement.
10. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall adopt a Resolution appointing a specific municipal employee as Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, and monitoring and reporting, if it has not already done so.
11. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall adopt a Resolution appointing the Township's Administrative Agent to administer affordable units in accordance with the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.), if it has not already done so.
12. Within approximately 90 days of the Court's Order approving the Settlement Agreement, the Township shall adopt a Resolution adopting the Township's Affirmative Marketing Plan, as modified by the terms of the Settlement Agreement.
13. The monitoring and reporting requirements identified in Paragraphs 20, 21 and 22 of the Settlement Agreement shall be continuing conditions of the Court's approval.

## A-3 Consideration of Appropriate Land and Development Proposals



## Consideration of Lands Appropriate and Development Proposals Having Expressed Commitment to Provide for Low- and Moderate-Income Housing

The following sites and development proposals were reviewed by the Township and ultimately were not selected for the municipality's Fair Share Plan for the reasons stated herein:

1. Beaver Brook Golf Club

Block 79.01, Lots 4 & 10.02;

Block 79.02 Lots 9 & 10.01; and,

Block 79.07 Lot 2

The Township was approached by a representative of American Golf, owner and operator of the Beaver Brook Golf Club, who proposed to develop 40 acres of the site's total 140 acres with inclusionary townhouse development. The contemplated development area was proposed at the northwest corner of Block 79.02 Lot 9. While the Township was negotiating with Fair Share Housing Center in an effort to achieve a settlement agreement, a formal development proposal or even proposed density were never submitted to the Township to be considered in its Fair Share Plan.

In addition, the development of the proposed 40 acres would have eliminated 7 of the golf course's 18 holes. The proposed townhouse development would have been directly adjacent to a number of existing single-family homes where the course currently serves as a transition and buffer between single family development and townhouse development. Concentration of townhouse development in this particular area was perceived as an encroachment on the established surrounding neighborhood. Ultimately, the 108 Alton Place site which is in the Township's Plan is of a similar product and location and was selected as a better alternative given its location, lot configuration and proposed concept. The Alton Place site is generally undeveloped and unconstrained, except for a riparian buffer along its northerly boundary and is only bound by two other townhouse developments to the east and west.

The Beaver Brook Golf Club site was deemed not suitable given its adjacency to an existing single family neighborhood. There was also concern that the elimination and conversion of the 7 holes of the 18 hole golf course would upset the reasonable expectations of nearby homeowners.

It was not developable given its lack of access to available water and sewer capacity and it was not suitable given its adjacency to a single-family neighborhood.

2. Route 31 and Halstead Street

Block 7 Lots 4-7 & 12

A representative of PMG Realty, LLC approached the Township to develop the above-referenced properties with residential units. A specific plan was never offered as mixed-use, multifamily and townhouse development were all discussed and a concept plan or proposed density were never submitted.

The parcels in question were not controlled by the prospective developer being owned by various entities. In addition, there are significant environmental constraints impacting the easterly portion of the site. The site was not available given the division in site ownership the development proposal for which was speculative at best. The site was not developable as it did not have access to water and sewer capacity. Residential development in general was not consistent with the nonresidential character of the Route 31 corridor at this location and therefore was not suitable.

3. Ronquist Tract (Clinton 94, LLC)

Block 82 Lot 54

The Township was approached by Clinton 94, LLC with a concept (see attached) to develop Lot 54 with townhouse and multifamily development consisting of 401 units on the 93.5-acre tract. The 51-unit townhouse development would be developed at the northwest corner of the site requiring access through an existing single-family neighborhood and the multifamily development would be located at the southeast corner of the site also impacting an existing single-family neighborhood. While the proposal yielded a gross density of 4.29 units per acre, the townhouse component was approximately 10 units per acre and the multifamily portion was approximately 16 units per acre. The multifamily density proposed is higher than that of any site selected in the Township's Fair Share Plan. The Plan included a 21% set-aside yielding 84 low- and moderate-income units.

The site is also severely environmentally constrained with Cramers Creek bisecting the property. This resulted in a crammed urban configuration that was inconsistent with the surrounding area and in general, the character of the Township. Other than the

environmentally constrained portions of the site, the plan provided little open space in the developed areas of the site which was a requirement of all site's in the Plan. In addition, the proposal included 4-story buildings, where the Township has only permitted a maximum of 3 ½ stories in certain circumstances.

The site was not approvable in that the proposed zoning was severely inconsistent with the surrounding area, relating both to scale and density, in addition to the encroachment into environmentally sensitive areas. The site was not developable as it did not have access to water and sewer capacity. The site was not suitable in that it was adjacent to open space and single-family development and would have caused significant impacts to Cramers Creek and the site's environmentally sensitive areas.



- LEGEND**
- PROPOSED SHADE TREE
  - PROPOSED SHRUBS
  - PROPOSED CONIFER
  - BIO-RETENTION PLANT MIX

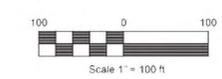
- NOTES**
1. ALL PLANT MATERIALS SHALL BE OF NURSERY STOCK AND SHALL BE OF SYMMETRICAL GROWTH, FREE OF INSECTS, PESTS AND DISEASE. THE OWNER OR HIS REPRESENTATIVE RESERVES THE RIGHT TO INSPECT AND APPROVE ALL PLANT MATERIALS AND REJECT ANY PLANTS FOUND TO BE UNACCEPTABLE.
  2. PLANT MATERIAL SHOWN IS OF A CONCEPTUAL NATURE. SPECIFIC PLANTING SCHEDULE, SPECIES, AND SIZES TO BE PROVIDED AT FUTURE PROJECT PHASE.
  3. PER ORDINANCE SECTION 165-138 A.3 - THE OPEN SPACE SHALL BE RESERVED IN PERPETUITY EITHER BY DEDICATION FOR PUBLIC USE OR FOR USE BY THE RESIDENTS OF THE DEVELOPMENT BY PRIVATE COVENANT OR DEED RESTRICTION FOR ONE OF THE FOLLOWING PURPOSES:  
 (A) UNDEVELOPED OPEN SPACE.  
 (B) PUBLIC OR PRIVATE RECREATIONAL FACILITIES.  
 (C) CONSERVATION OF ENVIRONMENTALLY SENSITIVE FEATURES, INCLUDING, BUT NOT LIMITED TO, STEEP SLOPES, WETLANDS, FLOODPLAINS, AND WOODED AREAS.
- ON-SITE WETLANDS SATISFYING (C) ABOVE ARE BEING PRESERVED AS OPEN SPACE. AREA PRESERVED = 47.47 ACRES (50.7% OF OVERALL SITE AREA)

**Bulk Standards**

DENSITY CALCULATION	
GROSS LOT AREA	93.49 ACRES
TOTAL UNITS	APARTMENT UNITS + TOWNHOUSE UNITS (350 + 51) = 401
DENSITY	(401/93.49) = 4.29 UNITS/ACRE
SET ASIDE %	21%
NUMBER OF AFFORDABLE RENTALS	84 UNITS

APARTMENTS	FEET
MINIMUM FRONT YARD TO RESIDENTIAL PROPERTY LINE	50
MINIMUM REAR YARD TO RESIDENTIAL PROPERTY LINE	50
MINIMUM REAR YARD TO ADJACENT FARMED PROPERTY	35
MINIMUM SIDE YARD TO PROPERTY LINE	35
MAXIMUM NUMBER OF RESIDENTIAL STORIES	4
MAXIMUM HEIGHT TO PEAK OF ROOF	60
MINIMUM DISTANCE BACK TO BACK BUILDINGS	50
MINIMUM DISTANCE FRONT TO FRONT BUILDINGS	60
MINIMUM DISTANCE FRONT TO BACK BUILDINGS	60

TOWNHOUSES	FEET
MINIMUM FRONT YARD TO RESIDENTIAL PROPERTY LINE	50
MINIMUM REAR YARD TO RESIDENTIAL PROPERTY LINE	50
MINIMUM SIDE YARD TO PROPERTY LINE	35
WALKOUT BASEMENTS SHALL NOT BE CONSIDERED A STORY	
MAXIMUM HEIGHT TO PEAK OF ROOF	45
MINIMUM DISTANCE BACK TO BACK BUILDINGS	50
MAXIMUM NUMBER OF STORIES	3



270 Market Rate Apartments  
 51 Market Rate Townhouses  
 80 Affordable Apartments  
  
 401 Total Units

NO.		BY		DATE					
PROJECT: RONQUIST TRACT 23 WINDY HILL ROAD BLOCK 82 LOT 54 CLINTON TOWNSHIP HUNTERDON COUNTY NEW JERSEY									
<b>Revised Site Plan</b>									
JOB NO.:					DRAWING NO.:				
SCALE: 1"=100'					1				
DESIGNED:					1				
CHECKED:									
FILENAME:									
DATE: 02.23.2018									

A-4 Proposed Marookian Site Ordinance No.1114-18



## ORDINANCE NO. 1114-18

### AN ORDINANCE AMENDING THE TOWNSHIP CODE CHAPTER 165, LAND USE REGULATIONS, PART 7, ZONING REGULATIONS, FOR THE CREATION OF ZONING DISTRICT AH-5 AFFORDABLE HOUSING DISTRICT TO FACILITATE THE DEVELOPMENT OF A 100% AFFORDABLE HOUSING DEVELOPMENT AT THE PROPERTY COMMONLY KNOWN AS “THE MAROOKIAN SITE,” BLOCK 82 LOTS 4 & 4.03

#### PURPOSE

The purpose of this ordinance is to amend **Part 7, Zoning Regulations**, of **Chapter 165, Land Use Regulations** of the “Code of the Township of Clinton” to create a new zoning district to be known as the AH-5 Affordable Housing District to facilitate the development of a 100% affordable project in accordance with the Township’s court-approved affordable housing compliance plan.

**WHEREAS**, in accordance with the New Jersey Supreme Court’s “Mount Laurel I” decision (South Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975)), the Township has a constitutional obligation to provide for its “fair share” of affordable housing; and

**WHEREAS**, the Township entered into a settlement agreement with Fair Share Housing Center, Inc. (“Fair Share Housing Center” or “FSHC”) on December 13, 2018 and an amended settlement agreement with FSHC on February 5, 2018 (collectively, the “settlement agreement”), setting forth the Township’s third round affordable housing obligation covering the period 1999 to 2025, including the various plan mechanisms to satisfy its obligation in full; and

**WHEREAS**, a five- to six-acre portion of the 139-acre “Marookian Site,” identified as Block 82, Lots 4 and 4.03 on the Township tax maps and located on southbound side of New Jersey State Highway 31, immediately south of Route 31’s intersection with Regional Road, is intended to accommodate the development of a 100% affordable project in satisfying a portion of the Township’s obligation in accordance with the municipality’s 2018 Housing Element and Fair Share Plan and previous versions of its third round Housing Plan; and

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township of Clinton, in Hunterdon County, New Jersey as follows:

**Section 1.** Part 7, “Zoning Regulations” in Chapter 165, “Land Use Regulations” of the Code of the Township of Clinton (“Township Code”) is hereby amended by adding thereto new article XXIIA, entitled “AH-4 Affordable Housing District, and new article XXIIB, entitled “AH-5 Affordable Housing District,” which shall read as follows:

#### ARTICLE XXIIA AH-4 Affordable Housing District

*Reserved.*

ARTICLE XXIIB  
**AH-5 Affordable Housing District**

**§ 165-148.1. Purpose.**

The purpose of this article is to establish regulations and standards controlling the development of land in specified areas of the Township with provisions for the development of low- and moderate-income housing units in accordance with the provisions set forth below and in accordance with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 *et seq.* and the regulations of the Council on Affordable Housing (“COAH”) for the second round, set forth at *N.J.A.C.* 5:93.

**§ 165-148.2. Permitted Principal Uses.**

A. Townhouses as permitted and regulated in the Schedule of Zoning Requirements, all of which shall be limited to occupancy by low- and moderate-income households in accordance with the New Jersey Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.*

B. Multifamily housing as permitted and regulated in the Schedule of Zoning Requirements, all of which shall be limited to occupancy by low- and moderate-income households in accordance with the New Jersey Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.*

**§ 165-148.3. Permitted Accessory Uses.**

A. Private garages and surface parking areas.

B. Buildings for storage and maintenance equipment.

C. Off-street parking as hereinafter regulated.

D. Signs in accordance with the requirements of §165-109.

E. Private recreation buildings and facilities, including ancillary indoor and outdoor private recreational amenities, primarily intended for use by residents of the development.

F. Community center/room serving the residents of the development.

G. Gazebos, pergolas and similar outdoor landscape structures.

H. Uses which are customarily incidental to the principal permitted uses in the zone including, but not limited to, leasing, management and maintenance offices.

#### **§ 165-148.4. Required Conditions.**

The following zone standards shall apply to development in the AH-5 Affordable Housing District. Deviations from the requirements of this section shall require a conditional use variance pursuant to N.J.S.A. 40:55D-70d(3).

A. Minimum density: 84 dwelling units.

B. Maximum density: 90 dwelling units.

C. Minimum tract area: 5 acres.

D. Minimum Lot Depth: 200 feet.

E. Minimum Lot Width: 400 feet.

F. Minimum building setback from the Route 31 right-of way: 450 feet. To the extent feasible, it is the intent of this requirement to preserve the north-south oriented existing row of vegetation dividing the two main cleared areas at the southeast corner of Lot 4.03 to maintain the buffer for residents of the development and the rural character of the Route 31 corridor. Unenclosed decks, patios, porches and similar design elements may protrude a maximum of ten feet from a building wall into this required setback.

G. Minimum building setbacks from north, south and west tract boundaries: 50 feet. Unenclosed decks, patios, porches and similar design elements may protrude a maximum of 10 feet from a building wall into these required setbacks.

H. Minimum building setback from internal roads: 15 feet.

I. Minimum distance between building walls: 25 feet.

J. Minimum distance between building walls and parking areas: 10 feet.

K. Maximum building coverage: 25% of the gross tract area.

L. Maximum impervious coverage: 75% of the gross tract area.

M. Maximum building height: No building shall exceed a height of 3 stories or 40 feet.

N. Accessory buildings: All accessory building shall comply with § 165-97 Accessory Buildings and Structures, except that gazebos and other garden furniture may be located no closer than 10 feet to tract boundary lines.

**§ 165-148.5. Unit Distribution.**

The AH-5 District is intended to accommodate the development of a 100% affordable project consisting of between 84 and 90 total units. The distribution of units shall include a minimum of 13% very-low income units included in a minimum of 50% low-income units, and maximum of 50% moderate-income units. The development's bedroom mix shall consist of a minimum of 20% 3-bedroom units, minimum of 30% 2-bedroom units, and maximum of 20% 1-bedroom units. Affordable housing requirements shall be implemented in accordance with the New Jersey Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.*

Deviations from the requirements of this section shall require a conditional use variance pursuant to N.J.S.A. 40:55D-70d(3).

**§ 165-148.6. Parking, Loading and Circulation.**

A. Off-street parking and loading: Parking and loading requirements of the AH-5 Zone shall comply with New Jersey Residential Site Improvement Standards ("RSIS"), N.J.A.C. 5:21, for townhouse and/or multifamily low- and moderate-income housing, as determined to be applicable. Where it is determined that, based upon anticipated occupancy a reduced parking ratio may be appropriate, the Township could consider a reduction in the number of required parking spaces. In no event shall there be less than 1.7 parking spaces per dwelling unit. All parking areas shall be adequately landscaped, screened and lighted.

B. Site access: Access to the tract shall be provided exclusively from Route 31 South limited to a single two-way driveway located nearest to the southeast corner of the tract, recognizing applicable setback and buffer requirements.

C. Minimum roadway setback: No internal driveway or roadway shall be located closer than 15 feet to tract boundaries, except where such roadways intersect with an existing street.

The requirements of this section are bulk requirements, and deviations from these requirements shall require a variance pursuant to N.J.S.A. 40:55D-70c.

**§ 165-148.7 Building Design Requirements.**

The residential development intended for between 84 and 90 units shall be distributed in multiple buildings with consideration to form, mass, architectural features and design elements consistent with the Township's agricultural history, to be incorporated as follows:

A. All buildings should relate harmoniously with other onsite features and buildings.

B. Building materials and colors shall be consistent with the Township's agricultural heritage.

C. Architectural features shall be used to create interest and variety and shall include staggered unit setbacks, changing rooflines and roof designs, and alterations in building height. No flat roof structures are permitted.

D. Large horizontal buildings shall be broken into segments having vertical orientation with alternating front and rear façade setbacks to generate the appearance of smaller individual buildings/units. No more than 30 feet of front or rear building wall is permitted without providing a break in the façade of an acceptable method of articulation.

E. Buildings with expansive blank wall are discouraged.

F. Buildings should be encouraged to incorporate elements that provide a visually attractive environment through the use of varied decorative and architectural features at entrances, cornices, windows and rooflines.

G. Development with consideration of "human scale" should be encouraged through the use of strategically placed windows, doors, porches and columns.

H. To the extent practicable, buildings shall be oriented to maximize daylighting and provide opportunities to maximize the potential of photovoltaic (solar array) equipment.

I. Building construction shall utilize green building or sustainable building methods to the extent practicable and as the development budget allows. While this is consistent with the Townships' longstanding tradition of environmental stewardship, it is recognized such strategies may also be utilized to reduce the operating and maintenance costs of low- and moderate-income households.

J. Building design shall also reference the Township's 2001 Community Design Guidelines.

The standards and requirements set forth in this section are site plan requirements, and deviations from these standards and requirements shall require an exception pursuant to N.J.S.A. 40:55D-51.

### **§ 165-148.8 Landscaping, Buffers and Screening.**

Any development plan for the tract shall include a formal landscape plan signed and sealed by a landscape architect licensed in the State of New Jersey. Landscape requirements for the AH-5 Zone are as follows:

A. Landscaping shall be provided to promote a desirable visual environment, accentuate building design, define entranceways, screen parking, building wall and equipment,

mitigate adverse visual impacts, provide windbreaks for winter winds and shade for summer cooling.

B. Plants and other landscape materials shall be selected in terms of both aesthetic and functional considerations consistent with the rural character of the district and its surroundings.

C. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color.

D. The selection of plants should be selected based on resistance to disease, insect, deer and other pest damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, and other pertinent factors.

E. Site entrances and unique site areas should be accentuated with special landscaping treatments.

F. The landscape plan shall include a variety of trees, shrubs, groundcover, grasses, annual and/or perennial beds and/or any other plant material, as determined to be appropriate in generating seasonal interest.

G. Existing mature trees shall be preserved to the extent possible, particularly within the existing vegetated buffer between the tract area and Route 31 South.

H. Screening shall provide a year-round visual buffer in order to minimize adverse impacts from the site on adjacent properties and public rights-of-way, particularly along the tract's easterly boundary closest to Route 31 South. Existing vegetation may provide sufficient screening where demonstrated by the developer, and/or supplemented where necessary.

I. The main entrance road to the tract should include street trees on each side of the roadway, and such trees shall be of a different variety from those planted in the parking area.

J. Rows of parking longer than 20 spaces shall have landscape islands at least 6 feet in width to break up the pavement.

K. Landscaping within site triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an 8-foot branching height above grade.

L. Tree spacing along roadways and parking areas should be a maximum of 40 feet, unless other vertical elements such as decorative lighting fixtures are installed between the trees, then a maximum spacing of 60 feet should be permitted.

M. Trees along the parking areas and main entrance driveway should be planted in a formal arrangement, while informal planting may be provided along the tract boundaries, open spaces and other landscaped areas.

N. Trees shall be installed with a minimum caliper of 2.5 to 3 inches.

O. Areas not improved with buildings, structures, and other man-made improvements should be landscaped with a combination of plant material, street furniture or other design amenities as determined to be appropriate.

P. Accessory structures and outdoor equipment including trash enclosures and air conditioning units shall be appropriately screened with permanent fencing and/or landscape plants.

The standards and requirements set forth in this section are site plan requirements, and deviations from these standards and requirements shall require an exception pursuant to N.J.S.A. 40:55D-51.

**§ 165-148.9. Recreational amenities.**

Active and passive recreational amenities are required, including a playground and central green open space as well as other outdoor recreation opportunities. The requirement to provide active and passive recreational amenities is a condition of the uses permitted in the AH-5 District, and deviations from this requirement shall require a conditional use variance pursuant to N.J.S.A. 40:55D-70d(3).

**Section 2.** Section 165-85, “Establishment of Districts” of the Township code is hereby amended and supplemented to read as follows (additions are underlined thus; deletions are in brackets [thus]):

**§ 165-85.** Establishment of Districts

For the purpose of this Chapter, the Township of Clinton is hereby subdivided into [15] 20 zone districts known as:

RC	Rural Conservation District
RR-4	Rural Residential 4 District
RR-4S	Rural Residential District 4S
SR	Suburban Residential District
VR	Village Residential District
AH-1	Affordable Housing District
AH-2	Affordable Housing District
AH-3	Affordable Housing District
<u>AH-4</u>	<u>Affordable Housing District</u>
<u>AH-5</u>	<u>Affordable Housing District</u>
C-1	Commercial District
C-2	Commercial District
OB-1	Office Building District

OB-2	Office Building District
ROC	Research, Office and Commercial District
ROM-1	Research, Office and Manufacturing District
ROM-2	Research, Office and Manufacturing District
ROM-3	Research, Office and Manufacturing District
	<u>Planned Unit Development Overlay</u>
	<u>Planned Development Overlay</u>

**Section 3.** The map entitled “Zoning Map, Clinton Township, Hunterdon County, NJ,” last dated September 14, 2016, is hereby revised to add thereto a new AH-5 Affordable Housing District, which shall comprise the parcels designated as Block 82, Lots 4 and 4.03 on the Clinton Township tax maps, to amend the boundaries of the RR-4S District by removing therefrom the parcel designated as Block 82, Lot 4 on the Clinton Township tax maps, and to amend the boundaries of the ROM-1 District by removing therefrom the parcel designated as Block 82, Lot 4.03 on the Clinton Township tax maps.

**Section 4.** The Schedule of Zoning Requirements referenced in section 165-86 of the Township Code and provided as Attachment 3 of the Chapter 165 of said Code is hereby amended by adding thereto the applicable requirements for the AH-5 Affordable Housing District created by this ordinance.

**Section 5.** Section 165-86 of the Township Code, ““Zoning Map and Schedule of Zoning Requirements,” is hereby amended as follows (additions are underlined thus; deletions are in brackets [thus]):

**§ 165-86. Zoning Map and Schedule of Zoning Requirements.**

The map entitled, “Zoning Map, Clinton Township, Hunterdon County, N.J.,” dated ~~September 14, 2016~~ April 27, 2018, and the Schedule of Zoning Requirements, revised through ~~January 3, 2017~~ April 27, 2018 (Chapter 165, Attachment 3), which accompany and are referenced in this Part 7 are hereby declared to be part hereof.

**Section 6. Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

**Section 7. Severability.** If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding shall not affect the validity of the remaining paragraphs or sections hereof.

**Section 8. Effective Date.** This ordinance shall take effect upon its passage, publication and filing with the Hunterdon County Planning Board, and as provided for by law

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
John Higgins, Mayor

Introduced: April 25, 2018

Adopted: \_\_\_\_\_

A-5 Structural Conditions Survey



# Exterior Housing Survey

## Township of Clinton

March 2018

Clinton Township's Exterior Housing, or Structural Conditions Survey, was prepared by the Township's Construction Official in accordance with N.J.A.C. 5:93-5.2 to assess the Township's actual count of dwelling units in need of rehabilitation. The survey of the community identified 10 homes that qualified as being in need of rehabilitation as indicated on the attached spreadsheet and should therefore reduce the Township's rehabilitation obligation to same. All of the qualifying homes were built in 1965 or earlier. The survey included each of the Township's applicable residential areas where deficiencies to both major and minor systems were evaluated.

# EXTERIOR HOUSING SURVEY

MUNICIPALITY: CLINTON TOWNSHIP

COUNTY: HUNTERDON

DATE: NOVEMBER 3, 2017

Street Address	Block/Lot	Number of Dwelling Units	Tenure of Units i.e. owner occupied/ rental/ mixed occupancy	Year Built	MAJOR SYSTEMS				MINOR SYSTEMS			Structure in Need of Repair (Mark "Yes" or "No")	If Yes, Provide Details
					One major system is required to indicate that the structure is in need of repair				Two minor systems are required to indicate that the structure is in need of repair				
					Foundation	Weatherization		Roof and Chimney	Eaves/Soffits/Gutters/Leaders	Rails/Stairs/Steps/Porch	Fire Escape		
Siding and Walls	Windows and Doors												
18-20 Center St., Annandale	B 49 L 8	1								X			This is a 2 family house
20 Center St., Annandale													
33 Fairview Ave.	B 73 L 4	1		1957		X	X						
38 Fairview Ave.	B 74 L 13	1		1947		X	X		X				
228 Main St.	B 7 L 28	1		1920		X	X		X				There is a detached garage with structure damage in the rear of the property
23 Round Top Dr.	B 46 L 17	1		1949		X	X						
16 Round Top Dr.	B 45 L 3	1		1948		X	X						
31 Round Top Dr.	B 46 L 14	1		1945			X			X			
17 Weimer Rd.	B 46 L 3	1		1965				X					
1233 Rt. 31 S.	B 88 L 11	1		1950		X	X		X	X			

I verify that I have conducted this exterior housing survey according to COAH criteria

Signature: 

Print Name and Title: Mike Wright, Construction Official

## A-6 COAH's Approval of Regional Contribution Agreement



## **RESOLUTION APPROVING REGIONAL CONTRIBUTION AGREEMENT**

WHEREAS, N.J.S.A. 52:27 D-312 allows a municipality to transfer up to 50 percent of its fair share obligation to another municipality within its housing region by means of a contractual agreement into which two municipalities voluntarily enter; and

WHEREAS, the Township of Clinton, Hunterdon County, has a precredited need of 392 units (57 rehabilitation and 335 new construction); and

WHEREAS, Clinton, as a component of its housing element and fair share plan, has proposed a regional contribution agreement (RCA) with the City of New Brunswick, Middlesex County, for 108 units; and

WHEREAS, Clinton submitted to the Council on Affordable Housing (COAH) an RCA contract (attached as Exhibit A) between Clinton and New Brunswick, pursuant to N.J.A.C. 5:91-11.1 (a); and

WHEREAS, Clinton will contribute \$ 20,000 per unit for each of the 87 rehabilitation units as per N.J.A.C. 5:93 – 6.1 and \$ 25,000 for each of the 21 gut rental rehabilitation units as per N.J.A.C. 5:93 – 1.3, for a total contribution of \$2,265,000; and

WHEREAS, both the Middlesex County Planning Board and the New Jersey Housing and Mortgage Finance Agency (HMFA) recommended approval of the RCA Recipient Certification; and

WHEREAS, on February 7, 1996, COAH granted New Brunswick RCA Recipient Certification, which enables New Brunswick to utilize funds from COAH-approved RCAs for projects within two certified housing production categories during the certification period; and

WHEREAS, New Brunswick received RCA Recipient Certification in two categories: limited or moderate rehabilitation of one- to four-family buildings and substantial rehabilitation, new construction or adaptive re-use of non-residential buildings containing more than four units; and

WHEREAS, the New Brunswick City RCA Recipient Certification is subject to the following conditions:

1. Because inflation may increase the cost of construction over the term of the RCA and affect the financial feasibility of the project plan, the receiving and sending municipalities must negotiate a mechanism acceptable to agency staff for meeting such cost increases; and
2. Annual submission must be made to HMFA of documentation acceptable to agency staff evidencing that there exists a sufficient number of applicants, projects and/or units to demonstrate continued plan feasibility; and
3. At the end of the third year of RCA Recipient Certification, HMFA and COAH will evaluate the receiving municipalities RCA programs in terms of the timely submission of reports and conformity to HMFA and COAH guidelines and directives; and
4. The City of New Brunswick must annually submit its municipal audit showing the disbursement of RCA funds to COAH and HMFA; and

WHEREAS, RCA Recipient Certification is an alternative to project-by-project approval of a municipality's project plan and although a specific RCA project plan for the Clinton / New Brunswick RCA does not need to be submitted at this time, the City of New Brunswick must forward a brief summary of each RCA project to HMFA, COAH and the Middlesex County Planning Board prior to the commencement of the project; and

WHEREAS, COAH has determined that the proposed RCA is feasible and complies with COAH rules governing RCAs, and further that the proposed RCA will provide a realistic opportunity for the provision of low and moderate income housing within convenient access to employment opportunities, as set forth in the COAH RCA report (attached as Exhibit B) and incorporated by reference herein.

NOW THEREFORE BE IT RESOLVED that COAH hereby approves the RCA between Clinton and New Brunswick for the transfer of 108 units from Clinton (21 of which are the transfer of a portion of Clinton's rental obligation) to New Brunswick; and

BE IT FURTHER RESOLVED that Clinton shall file the executed copy of the RCA contract with COAH within seven days of the execution; and

BE IT FURTHER RESOLVED that New Brunswick City shall comply with the following conditions:

1. The City of New Brunswick shall utilize the interest on the RCA to offset inflation.
2. The City of New Brunswick shall submit to HMFA documentation acceptable to agency staff evidencing that there exists a sufficient number of applicants, projects and/or units to demonstrate continued plan feasibility.
3. At the end of the third year of RCA Recipient Certification, HMFA and COAH shall evaluate The City of New Brunswick's RCA program in terms of the timely submission of reports and conformity to HMFA and COAH guidelines and directives.
4. The City of New Brunswick shall annually submit to HMFA and COAH, its municipal audit, signed by the mayor, showing the disbursement of all RCA funds; and

BE IT FURTHER RESOLVED that New Brunswick shall file with HMFA, COAH, and the Middlesex County Planning Board a brief summary of each project which utilizes Clinton RCA funds prior to the commencement of the projects; and

BE IT FURTHER RESOLVED that Clinton Township shall forward \$2,265,000 for this RCA according to the following schedule:

<u>Payment</u>	<u>Amount</u>	<u>Date</u>
1	\$525,000	60 days after the approval of the RCA and substantive certification by COAH, but no earlier than April 30, 2001.
2	\$435,000	April 30, 2002
3	\$435,000	April 30, 2003
4	\$435,000	April 30, 2004
5	\$435,000	April 30, 2005; and

BE IT FURTHER RESOLVED that if Clinton defaults on any payment, its substantive certification may be rendered null and void; and

BE IT FURTHER RESOLVED that New Brunswick shall establish an escrow account for all monies received from Clinton pursuant to the RCA; and

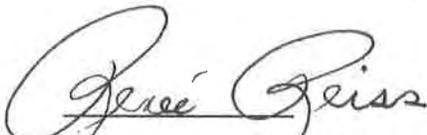
BE IT FURTHER RESOLVED that upon execution of the RCA within 30 days after COAH has approved this RCA, New Brunswick shall enter into a separate agreement with COAH that permits COAH to effectively monitor disbursements of funds received by New Brunswick pursuant to this RCA; and

BE IT FURTHER RESOLVED that New Brunswick shall file semi-annual reports with HMFA and COAH setting forth the progress in implementing the selected RCA projects until the final transferred unit is completed; and

BE IT FURTHER RESOLVED that New Brunswick shall file quarterly reports with COAH detailing the disbursements made from the RCA funds; such reports shall be in a form as determined by COAH and shall contain such information as required by COAH and shall be certified by the appropriate municipal officer; and

BE IT FURTHER RESOLVED that COAH shall file a copy of this resolution with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, pursuant to N.J.S.A. 52:27D-312 (d).

I hereby certify that the resolution  
was duly adopted by  
the Council On Affordable Housing  
at its public meeting on *January 3, 2001*



Renee Reiss, Secretary  
Council on Affordable Housing

## A-7 Second Round Substantive Certification



**RESOLUTION GRANTING  
CONDITIONAL SUBSTANTIVE CERTIFICATION  
CLINTON TOWNSHIP, HUNTERDON COUNTY 180-99**

WHEREAS, Clinton Township, Hunterdon County, received substantive certification for its first round obligation of 233 units on February 3, 1993; and

WHEREAS, Clinton Township adopted a second round housing element and fair share plan on January 26, 1999; and

WHEREAS, Clinton Township petitioned the Council on Affordable Housing (COAH) for substantive certification of its housing element and fair share plan for the second round in accordance with N.J.S.A. 52:27D-313 and N.J.A.C. 5:93 et seq. on February 2, 1999; and

WHEREAS, COAH has established a 1987 – 1999 precredited need for Clinton of 392 units (57 rehabilitation and 335 new construction); and

WHEREAS, Clinton published notice of its petition in the Hunterdon Review, a newspaper of general circulation, on February 11, 1999, which initiated a 45-day objector period, as per N.J.A.C. 5:91-1 et seq.; and

WHEREAS, COAH received five objections during the 45-day objection period that ended on March 29, 1999; and

WHEREAS, COAH prepared a COAH Report Requesting Additional Information on July 1, 1999; and

WHEREAS, mediation began on September 22, 1999; and

WHEREAS, the final mediation session was held on April 19, 2000 and a COAH Mediation Report was prepared on July 10, 2000; and

WHEREAS, as a result of mediation, the township amended its housing element and fair share plan to include a revision to the Mews approved development to reflect 35 age-restricted rental units generating 12 rental bonuses and the elimination of 20 credits from the former municipal construction site (15 age-restricted units and five rental bonuses); and

WHEREAS, COAH staff completed a review of the township's credits without controls application and awarded Clinton 13 eligible prior cycle credits pursuant to N.J.A.C. 5:93 – 3.2; and

WHEREAS, on August 3, 2000, Clinton Township published notice of its intent to amend its housing element and fair share plan as a result of mediation stating the amendments to the plan in the Hunterdon County Democrat; and

WHEREAS, the 45-day objector period ended on September 18, 2000 and COAH received no objections; and

WHEREAS, on October 10, 2000, the Clinton Township Planning Board adopted the amended housing element and fair share plan; and

WHEREAS, on November 8, 2000, pursuant to N.J.A.C. 5:91 – 7.4 (c), Clinton Township's governing body endorsed the amended housing element and fair share plan and, by resolution, requested that COAH review and approve the plan; and

WHEREAS, COAH issued a COAH Compliance Report dated December 15, 2000 (attached Exhibit A) which was distributed to the Clinton Township service list for a 14-day comment period; and

WHEREAS, during the 14-day comment period COAH received an emergent motion on January 2, 2001 that was filed by P&H Clinton Partnership, representing Windy Acres, an inclusionary site in the Clinton Township fair share plan; and

WHEREAS, P&H Clinton Partnership specifically objected to the adoption of a tree removal ordinance and buffering ordinances in addition to requesting that COAH place conditions on a grant of substantive certification; and

WHEREAS, because of the emergent nature of the motion, Clinton was not able to file a reply brief; and

WHEREAS, COAH heard oral argument at its January 3, 2001 meeting and during the course of oral argument, the attorneys for both the township and the owner of Windy Acres agreed to have COAH grant conditional substantive certification with the one condition that Clinton must establish to COAH that its tree removal and buffering ordinances do not contain any unnecessary cost generating features; and

WHEREAS, Clinton Township's fair share plan addresses its 12-year cumulative obligation of 392 units (57 rehabilitation and 335 new construction) through prior cycle credits, rehabilitation, accessory apartments, gut rehabilitation, approvals for affordable for-sale units and age-restricted rental units, a regional contribution agreement (RCA) and rental bonuses; and

WHEREAS, Clinton Township is eligible to receive a total of 243 credits and reductions: 19 prior cycle credits (six for a group home and 13 for eligible credits without controls), 145 reductions for approved for-sale units, 35 reductions for approved age-restricted rental units and 44 rehabilitation credits; and

WHEREAS, as a result of these 243 eligible credits and reductions, Clinton Township's precredited need of 392 is reduced to 149 units: 13 rehabilitation and 136 new construction; and

WHEREAS, Clinton Township is proposing to address its 149-unit calculated need through a 10-unit accessory apartment program, a 13-unit rehabilitation program, a three-unit gut rehabilitation rental project, 15 rental bonuses (three from the gut-rehabilitation and 12 from the age-restricted rental units) and an RCA for 108 units; and

WHEREAS, Clinton Township is composed of Planning Areas (PA) 2, 3, 5 and parkland and Clinton's inclusionary sites are in Planning Area (PA) 2 and its second round plan does not propose any additional inclusionary sites; and

WHEREAS, Clinton Township adopted a resolution of intent to bond for any shortfall in the funding of the projects in its fair share plan on November 8, 2000; and

WHEREAS, Clinton Township is proposing the creation of 10 accessory apartments to address a portion of its municipal housing obligation and will provide a subsidy of \$10,000 toward the creation of each unit, for a total of \$100,000; and

WHEREAS, the units will be affirmatively marketed and have affordability controls in effect for a minimum of 10 years; and

WHEREAS, the township has adopted an ordinance that will provide development standards and administrative procedures for this program and Clinton Township has identified the Hunterdon County Housing Coalition (HCHC) as the administrative entity; and

WHEREAS, two years after the grant of substantive certification, COAH will assess the status of Clinton's accessory apartment program and determine if this component remains realistic as per N.J.A.C. 5:93 – 5.9 (f); and

WHEREAS, Clinton Township intends to continue its existing rehabilitation program with HCHC in order to address its remaining 13-unit rehabilitation component; and

WHEREAS, Clinton states it will provide a minimum of \$11,500 per unit for rehabilitation; and

WHEREAS, Clinton is seeking credit for a deed restricted, three-unit gut rehabilitation project at 142–144 West Main Street, Block 66, Lot 3 being completed by HCHC; and

WHEREAS, the HCHC has stated to COAH that a 30-year deed restriction will be placed on the project, but the restriction is not currently in place; and

WHEREAS, the township proposes to transfer a 108-unit RCA to New Brunswick City, Middlesex County; and

WHEREAS, Clinton Township will transfer 21 of the 108 RCAs as rental units and provide \$20,000 per unit for 87 rehabilitation units and \$25,000 per unit for 21 gut rehabilitation rental units, for a total transfer of \$2,265,000; and

WHEREAS, Clinton Township is requesting 12 rental bonuses for the 35 age-restricted rental units approved at the Mews and three rental bonuses for the three-unit gut rehabilitation rental project; and

WHEREAS, COAH approved Clinton's development fee ordinance on March 11, 1993; and

WHEREAS, Clinton Township will utilize HCHC as the administrative entity for the rehabilitation program, the gut rehabilitation project, the age-restricted rental units at The Mews and the low and moderate income for-sale units at Windy Acres; and

NOW THEREFORE BE IT RESOLVED that COAH hereby grants Clinton Township conditional substantive certification; and

BE IT FURTHER RESOLVED that COAH has reviewed Clinton Township's petition for substantive certification of its housing element and fair share plan and has determined that they will be consistent with the rules and criteria adopted by COAH and the achievement of the low and moderate income housing needs of the region once Clinton establishes that the zoning ordinances contain no unnecessary cost generating features; and

BE IT FURTHER RESOLVED that the affirmative measures in the housing element and fair share plan make the achievement of the township's fair share of low and moderate income housing realistically possible once any unnecessary cost generating ordinances are removed; and

BE IT FURTHER RESOLVED that COAH grants Clinton credits and reductions for 243 units [145 approved for-sale, 35 approved age-restricted rentals, 44 rehabilitations and 19 prior cycle credits (six group home credits and 13 credits without controls)] based on the submitted documentation; and

BE IT FURTHER RESOLVED that Clinton Township shall address its 149-unit calculated need through a 10-unit accessory apartment program, a 13-unit rehabilitation program, a three-unit gut rehabilitation rental project, 15 rental bonuses and a 108-unit RCA; and

BE IT FURTHER RESOLVED that Clinton Township shall file with COAH a monitoring report three months after certification to assure that the deed restriction has been placed on the three-unit gut rehabilitation rental project; and

BE IT FURTHER RESOLVED that during January 2001, the attorneys for Clinton Township and P&H Clinton Partnership shall meet to attempt to resolve their disputes with regard to the application of Clinton's adopted tree removal and buffering ordinances to P&H Partnership's development; and

BE IT FURTHER RESOLVED that if there is no resolution by the parties by February 1, 2001, COAH shall appoint a mediator to meet with both parties; and

BE IT FURTHER RESOLVED that Clinton Township shall establish to COAH that its zoning ordinances do not have unnecessary cost generating features that impact the inclusionary zoning included in Clinton's fair share plan and shall file all documentation establishing the zoning's impact with COAH no later than Monday March 5, 2001; and

BE IT FURTHER RESOLVED that Clinton shall adhere to the following minimum funding schedule for the rehabilitation program pursuant to N.J.A.C. 5:93 – 5.2:

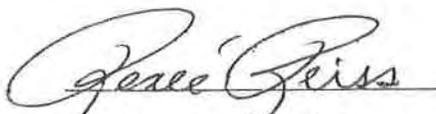
<u>Year</u>	<u>Units</u>	<u>Amount</u>
2001	4	\$40,000
2002	3	\$30,000
2003	3	\$30,000
2004	2	\$20,000
2005	1	\$10,000
Total	13	\$ 130,000

BE IT FURTHER RESOLVED that COAH shall assess Clinton’s accessory apartment program two years after substantive certification to determine if this component remains realistic per N.J.A.C. 5:93 – 5.9(f); and

BE IT FURTHER RESOLVED that any changes in the facts upon which this conditional certification is based, including any change in the planning area designation of an inclusionary site, or any deviation from the terms and conditions of this conditional certification, which affects Clinton Township’s ability to provide for the realistic opportunity of its fair share of low and moderate income housing and which Clinton Township fails to remedy, may render this conditional certification null and void; and

BE IT FURTHER RESOLVED that if Clinton Township addresses the one condition imposed by this resolution by March 5, 2001, COAH shall grant final substantive certification.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on 1/3/01



Renee Reiss, Secretary

Council on Affordable Housing

**RESOLUTION GRANTING FINAL SUBSTANTIVE CERTIFICATION**

**CLINTON TOWNSHIP, HUNTERDON COUNTY 180-99(a)**

WHEREAS, Clinton Township, Hunterdon County, petitioned the Council on Affordable Housing (COAH) on February 2, 1999 for substantive certification of its housing element and fair share plan; and

WHEREAS, the plan addresses Clinton Township's 12-year (1987-1999) affordable housing obligation of 392 units: 57 rehabilitation and 335 new construction; and

WHEREAS, COAH received five objections during the objection period; and

WHEREAS, COAH prepared a COAH Report Requesting Additional Information on July 1, 1999; and

WHEREAS, mediation ensued between the objectors and the municipality and a COAH Mediation Report was prepared on July 10, 2000 (attached to Exhibit 1); and

WHEREAS, the Clinton Township Planning Board amended its plan as a result of mediation; and

WHEREAS, on November 8, 2000 the Clinton Township governing body endorsed the amended plan and requested COAH to review and approve the amended plan; and

WHEREAS, Clinton Township published notice of its intent to amend its plan as a result of mediation on August 3, 2000 in the Hunterdon County Democrat; and

WHEREAS, Clinton Township repeteritioned COAH for substantive certification on November 8, 2000; and

WHEREAS, COAH received no objections to the amended plan; and

WHEREAS, Clinton Township's amended plan addresses its cumulative obligation of 392 units through 19 prior cycle credits, reductions for 180 units, rehabilitation credits for 44 units, a 13-unit rehabilitation program, a 10-unit accessory apartment program, a three-unit gut rehabilitation rental project, a 108-unit RCA and 15 rental bonuses; and

WHEREAS, COAH issued a COAH Compliance Report on December 15, 2000 (attached to Exhibit 1) which recommended the granting of substantive certification; and

WHEREAS, during the 14-day comment period for the COAH Compliance Report, an emergent motion was filed by P&H Clinton Partnership, representing the owners of Windy Acres, an inclusionary site in the Clinton Township plan; and

WHEREAS, the emergent motion requested that COAH postpone any substantive certification action with respect to Clinton Township and objected to Clinton Township's previous adoption of tree removal and buffering ordinances; and

WHEREAS, oral argument was held before the COAH board on January 3, 2001 and during the course of oral argument, both parties agreed to COAH's granting conditional substantive certification, provided Clinton Township established within 60 days, or before March 5, 2001, that its tree removal and buffering ordinances did not contain any unnecessary cost generating features; and

WHEREAS, COAH granted Clinton Township conditional substantive certification on January 3 (Exhibit 1) with the condition that Clinton Township establish that its zoning ordinances do not have unnecessary cost generating features impacting the Windy Acres site; and

WHEREAS, Clinton Township has satisfactorily addressed the condition imposed as set forth in the COAH Report on Final Substantive Certification dated March 1, 2001 (Exhibit 2).

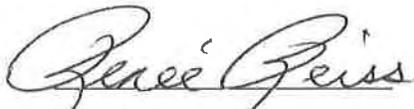
NOW THEREFORE BE IT RESOLVED that Clinton Township has addressed the one condition of conditional substantive certification; and

BE IT FURTHER RESOLVED that COAH hereby grants Clinton Township final substantive certification of its housing element and fair share plan; and

BE IT FURTHER RESOLVED that any change in the facts upon which the conditional and final substantive certification is based, including any change in the planning area designation of an inclusionary site, or any deviation from the terms and conditions of the conditional and final substantive certification, which affects Clinton Township's ability to provide for the realistic opportunity of its fair share of low and moderate-income housing and which Clinton Township fails to remedy, may render the substantive certification null and void; and

BE IT FURTHER RESOLVED that Clinton Township shall adopt its implementing fair share ordinance within 45 days of final substantive certification and file the adopted ordinances with COAH.

I hereby certify that this resolution was  
duly adopted by the Council on Affordable Housing  
at its meeting on *March 7, 2001*



Renee Reiss, Secretary

Council on Affordable Housing

2 (of)



CHRISTINE TODD WHITMAN  
Governor

State of New Jersey  
COUNCIL ON AFFORDABLE HOUSING  
PO Box 813  
TRENTON NJ 08625-0813  
609-292-3000  
FAX: 609-633-6056  
TDD#: (609) 278-0175

JANE M. KENNY  
Chairman  
SHIRLEY M. BISHOP, P.P.  
Executive Director

## COAH SUMMARY FACT SHEET 1987-1999

- |                    |                             |  |                 |
|--------------------|-----------------------------|--|-----------------|
| 1. Municipality    | <b>Clinton Township</b>     | 2. Dates of:                           |                 |
| County             | <b>Hunterdon</b>            | First Round Substantive Certification  | <b>2/3/93</b>   |
| Region             | <b>3</b>                    | Second Round Petition                  | <b>2/2/99</b>   |
| Planning Areas     | <b>2,3,5 &amp; Parkland</b> | COAH Request for Addl. Information     | <b>7/1/99</b>   |
|                    |                             | COAH Mediation Report                  | <b>7/10/00</b>  |
|                    |                             | Repetition / Resolution                |                 |
| 3. Staff Reviewer- | <b>Kate Butler</b>          | of Endorsement and Review              | <b>11/8/00</b>  |
|                    |                             | COAH Compliance Report                 | <b>12/15/00</b> |
|                    |                             | Second Round Substantive Certification | <b>1/3/01</b>   |

### 4. 1987 - 1999 Cumulative Obligation -

Precredited Need -		<b>392</b>
New Construction Component	<b>335</b>	
Rehabilitation Component	<b>57</b>	
Prior Cycle Credits		
Group Home		<b>- 6</b>
Credits Without Controls		<b>-13</b>
Rehabilitation Credits		<b>- 44</b>
Reductions for approved projects		
For-sale units		<b>-145</b>
Age-restricted rentals		<b>-35</b>

### 5. 1993 - 1999 Calculated Need **149**

New Construction	<b>136</b>
Rehabilitation	<b>13</b>

### 6. Fair Share Plan

Regional contribution agreement (RCA)	<b>108</b>
with New Brunswick City	
Accessory apartment program	<b>10</b>
Gut rehabilitation rental project	<b>3</b>
Rental bonuses	<b>15</b>
12 bonuses for age-restricted units	
3 bonuses for gut rehabilitation	
Rehabilitation program	<b>13</b>

**RECOMMENDATION - Grant Substantive Certification**



**EXECUTIVE SUMMARY**  
**CLINTON TOWNSHIP, HUNTERDON COUNTY**

Clinton Township, Hunterdon County, received substantive certification from the Council on Affordable Housing (COAH) for its first round obligation of 233 units on February 3, 1993.

Clinton adopted a second round housing element and fair share plan and petitioned COAH for substantive certification on February 2, 1999 for its second round obligation of 392 (57 rehabilitation / 335 new construction). COAH received five objections. Mediation ensued and a COAH Mediation Report was prepared on July 10, 2000. Pursuant to N.J.A.C. 5:91 – 7.4, Clinton published notice of its amended plan and COAH received no objections. On October 10, 2000, the Clinton Township Planning Board adopted the amended plan and on November 8, 2000, Clinton endorsed the amended plan and requested that COAH review and approve the amended plan.

Clinton is seeking 19 prior cycle credits, reductions for 180 units (145 for-sale and 35 age-restricted rentals) and 44 rehabilitation credits.

Clinton will address its remaining 149-unit need through a 10-unit accessory apartment program, a 13-unit rehabilitation program, three gut rehabilitated rental units, a 108-unit regional contribution agreement (RCA) with New Brunswick and 15 rental bonuses. COAH will monitor Clinton Township for three months from the date of substantive certification in order to ensure the completion of the deed restriction of the three-unit gut rehabilitation project.

COAH approved Clinton's development fee ordinance on March 11, 1993. Clinton has submitted a spending plan that will be reviewed in a separate report.

COAH staff recommends the grant of substantive certification.

**EXHIBIT A**

**COAH COMPLIANCE REPORT  
CLINTON TOWNSHIP, HUNTERDON COUNTY  
Kate Butler, Principal Planner  
December 15, 2000**

**I. BACKGROUND**

Clinton Township is located in the north-central portion of Hunterdon County and is traversed from east to west by US Route 22 and Interstate 78. The major north-south traffic artery is Route 31. Round Valley Reservoir is located in the southeasterly portion of the township.

Clinton Township received substantive certification for its first round obligation of 233 units on February 3, 1993.

Clinton Township adopted a second round housing element and fair share plan on January 26, 1999 and petitioned the Council on Affordable Housing (COAH) for substantive certification on February 2, 1999. Clinton's second round obligation is 392 units (57 rehabilitation and 335 new construction). Clinton published notice of its petition for substantive certification in the Hunterdon Review on February 11, 1999. COAH received five objections during the 45-day objection period ending on March 29, 1999.

COAH prepared a COAH Report Requesting Additional Information on July 1, 1999. Mediation began on September 22, 1999. The final mediation session was held on April 19, 2000. A COAH Mediation Report was prepared on July 10, 2000 (Exhibit 1).

As a result of mediation, the township amended its housing element and fair share plan to include a revision to the Mews approved development to reflect 35 age-restricted rental units that will be eligible for 12 rental bonuses and the elimination of 20 credits from the former municipal construction site (15 age-restricted units and five rental bonuses). In addition, concurrent with mediation, COAH staff completed its review of the township's credits without controls application and verified 13 eligible credits without controls (Exhibit 2).

On August 3, 2000, Clinton Township published notice of its intent to amend its housing element and fair share plan as a result of mediation in the Hunterdon County Democrat. The 45-day objector period ended on September 18, 2000. COAH received no objections. On October 10, 2000, the Clinton Township Planning Board adopted the amended housing element and fair share plan at a public meeting. On November 8, 2000, pursuant to N.J.A.C. 5:91 – 7.4 (c), Clinton Township's governing body endorsed the amended housing element and fair share plan and, by resolution, requested that COAH review and approve the plan as per N.J.A.C. 5:91 – 7.4 (c).

Clinton Township's fair share plan addresses its 12-year cumulative obligation of 392 units (57 rehabilitation and 335 new construction) through rehabilitation, accessory apartments, gut rehabilitation, approvals for affordable for-sale units and age-restricted, rental units, prior cycle credits, an RCA and rental bonuses.

## II. HOUSING STOCK INVENTORY AND PROJECTIONS

Clinton Township provided a Master Plan, amended September 2000, that provides data on housing inventory and an analysis based upon 1990 census data. According to the census, Clinton Township had 10,816 residents occupying 3,514 housing units, representing a 47 percent increase in population and a 60 percent increase in housing units since 1980. By 1990, 61 percent of the residential properties in the township were valued at greater than \$200,000 while the median household income stood at \$67,918. Clinton has provided sufficient data regarding housing stock, age of housing stock, condition of housing, values, occupancy characteristics, types, projection of housing stock, demographics, household size, household income, and employment data in conformance with N.J.A.C. 5:93 – 5.1(b).

## III. CREDITS, REDUCTIONS AND BONUSES

Clinton Township is seeking prior cycle credits, credits and reductions for 243 units that were approved or rehabilitated. These include the following:

- Windy Acres (AH-1), Block 7 \ Lots 18 & 31, was approved for 145 low and moderate-income for-sale units. The developer received general development plan approval from the planning board on October 9, 1996. The developer is currently before the Clinton Township Planning Board for preliminary approval of the subdivision and site plan. **[145 for-sale units]**
- The Mews (AH-2) was approved on December 1, 1997 for 35 age-restricted, low and moderate-income units. The developer has agreed to make these units rental, instead of for-sale, units. **[35 age-restricted rental units]**
- Clinton requested credit for the rehabilitation of 44 units after April 1, 1990. The township has provided crediting documentation for the 44 units which were completed under the auspices of the Hunterdon County Housing Corporation (HCHC) rehabilitation program. The rehabilitated units were brought up to code and a major system was completed. An average of \$14,890 was expended per unit and liens of six years were placed on the units. **[44 rehabilitation credits]**

- Clinton Township requested prior cycle credits for an existing group home housing six residents on Wayside Lane. The home was established in 1985 and includes 20-year affordability controls. Clinton provided crediting documentation and described the type of home, sponsor and funding. **[6 prior cycle credits]**

- On June 29, 2000 COAH awarded Clinton 13 eligible prior cycle credits for a credits without controls survey submitted pursuant to N.J.A.C. 5:93 – 3.2. (attached Exhibit 2) **[13 prior cycle credits]**

**[243 credits and reductions]**

#### **IV. PLANNING AREA**

Clinton Township is composed of Planning Areas (PA) 2, 3, 5 and parkland. Clinton's second round plan does not propose any additional inclusionary sites. Both Windy Hills and The Mews are in PA 2.

#### **V. NUMBER**

Clinton Township's cumulative second-round precredited need of 392 units (57 rehabilitation and 335 new construction) is reduced by 243 credits and reductions. The township's remaining affordable housing obligation is 149 units (13 rehabilitation and 136 new construction).

#### **VI. HOUSING ELEMENT AND FAIR SHARE PLAN**

Clinton Township is proposing to address its 149-unit calculated need through an accessory apartment program, a rehabilitation program, a gut rehabilitation project, an RCA and rental bonuses. Clinton Township adopted a resolution of intent to bond for any shortfall in the funding for all projects in its fair share plan on November 8, 2000. The methods used to address the fair share are described below:

- *Accessory Apartment Program*

Clinton Township is proposing the creation of 10 accessory apartments to address a portion of its municipal housing obligation. The township will provide a subsidy of \$10,000 toward the creation of each unit. The units will be affirmatively marketed and will have affordability controls in effect for a minimum of 10 years. The township has adopted an ordinance that will provide development standards and administrative procedures for this program. Clinton Township has identified HCHC as the administrative entity. Clinton has endorsed a resolution of intent to bond for the

\$100,000 cost of this program. After two years, COAH will assess the status of the accessory apartment program and determine if this component is realistic as per N.J.A.C. 5:93 – 5.9 (f). During the first year after substantive certification, Clinton must fund the 10-unit accessory apartment program as follows:

<u>Year</u>	<u>Units</u>	<u>Amount</u>
2001	2	\$ 20,000
2002	2	\$ 20,000
2003	2	\$ 20,000
2004	2	\$ 20,000
2005	2	\$ 20,000
Total	10	\$ 100,000

**[10-unit accessory apartment program]**

- *Rehabilitation Program*

Clinton Township intends to continue its existing rehabilitation program in order to address its remaining 13-unit rehabilitation component. The township will extend its contract with HCHC to act as the administrative agency for the rehabilitation program. Clinton will provide a minimum of \$11,500 per unit, of which up to \$3,500 may be used for administrative costs. Clinton must adhere to the following minimum funding schedule for its rehabilitation program pursuant to N.J.A.C. 5:93 – 5.2:

<u>Year</u>	<u>Units</u>	<u>Amount</u>
2001	4	\$ 40,000
2002	3	\$ 30,000
2003	3	\$ 30,000
2004	2	\$ 20,000
2005	1	\$ 10,000
Total	13	\$ 130,000

**[13-unit rehabilitation program]**

- *Gut Rehabilitation Project*

The township is seeking credit for a three-unit gut rehabilitation project at 142 – 144 West Main Street, Block 66, Lot 3. Prior to the rehabilitation activity, the structure was vacant. This project is nearly completed and already occupied by income eligible

tenants. Clinton has submitted documentation that the three-unit gut rehabilitation rental project being completed by HCHC was vacant at the inception of rehabilitation and will have a 30-year deed restriction. This project was made possible by a grant to HCHC.

**[3 rental units]**

- *Regional Contribution Agreement (RCA)*

The township proposes to transfer a 108-unit RCA to New Brunswick City, Middlesex County. Clinton has submitted an RCA contract with New Brunswick to transfer 108 units, 21 of which will be rental units. The RCA contract will be approved prior to action on substantive certification. Under the terms of the agreement, Clinton will provide \$20,000 per unit for 87 rehabilitation units and \$25,000 per unit for 21 gut rehabilitation rental units, for a total of \$2,265,000. **[108 RCA units]**

- *Rental Bonuses*

Clinton Township is requesting 12 rental bonuses for the 35 age-restricted rental units approved at the Mews and three rental bonuses for the gut rehabilitation project.

**[15 rental bonuses]**

**Summary of Credits and Reductions and the Proposed Fair Share Plan**

Component	Units
Precredited Need	392
Rehabilitation Credits	44
Prior Cycle Credits – Group Home	6
- Credits without controls	13
Reductions - for-sale units	145
- Age-restricted rental units	35
	<b>243 credits/ reductions</b>
Accessory Apartments	10
Gut rental rehabilitation	3
RCA	108
Rental Bonuses	15
Rehabilitation Program	13
	<b>149 units / rental bonuses</b>
<b>TOTAL</b>	<b>392</b>

## VII. RENTAL OBLIGATION

Clinton is calculating its rental obligation by adding together its first round rental obligation of 35 units and its current rental obligation of 34 which was determined by using the calculated need formula. The calculated need formula for a rental obligation is:

$$\begin{aligned} &.25 (\text{calculated need} - \text{the 1,000 unit limit} - \text{the rehabilitation component}) \\ &.25 (193 - 0 - 57) \\ &.25 (136) = 34 \end{aligned}$$

Clinton's plan addresses its 69-unit rental obligation through The Mews (35 age-restricted rentals), 10 accessory apartments, a three-unit gut rehabilitation rental project and 21 rental RCA units. As previously noted, Clinton is eligible to receive 12 rental bonuses for the 35 approved age-restricted rental units at the Mews and three rental bonuses for the three-unit gut rehabilitation rental project.

## VIII. AGE-RESTRICTED UNITS

A municipality is permitted to age-restrict up to 25 percent of its new construction obligation according to N.J.A.C. 5:93 - 6.1 (b) when a municipality is also transferring units as a part of an RCA. Clinton's age-restricted limit is:

$$\begin{aligned} &.25 (\text{precredited need} - \text{rehabilitation component} - \text{prior cycle credits} - \\ &\quad \text{transferred or proposed RCA units}) - \text{any first round age-restricted units.} \\ &.25 (392 - 57 - 19 - 108) \\ &.25 (208) = 52 \end{aligned}$$

Clinton's age-restricted cap is 52 units. Clinton proposes 35 age-restricted rental units in its plan.

## IX. RCA CALCULATION

Clinton will transfer 108 units (including 21 rental units) to the City of New Brunswick. Pursuant to N.J.A.C. 5:93 - 6.1, a municipality may transfer up to 50 percent of its housing obligation in the form of an RCA based on the following formula:

$$\begin{aligned} &= .5 (\text{precredited need} - \text{prior cycle credits} - \text{rehab after 1990} - \text{the 20\% cap} \\ &\quad - \text{the 1,000 unit limit}). \\ &.5 (392 - 19 - 44 - 0 - 0) \end{aligned}$$

$$.5 (329) = 164.5$$

Clinton may transfer up to 164 units as a part of an RCA. Clinton is proposing to transfer 108 units, which is less than 50 percent of its housing obligation.

#### **X. DEVELOPMENT FEE ORDINANCE**

COAH approved Clinton's development fee ordinance on March 11, 1993. Clinton has reported a total of \$141,843 in its affordable housing fund as of December 1999. The township may not expend development fee funds until the submitted spending plan has been reviewed and approved by COAH.

#### **XI. SPENDING PLAN**

Clinton Township has submitted a spending plan for review by COAH staff. The spending plan will be reviewed in a separate report.

#### **XII. ADMINISTRATIVE AGENCY AND AFFIRMATIVE MARKETING**

Clinton Township will utilize HCHC as the administrative entity for the rehabilitation program, the gut rehabilitation project, the age-restricted rental units at The Mews and the low and moderate income for-sale units at Windy Acres.

#### **XIII. FAIR SHARE ORDINANCE**

Clinton Township has submitted an amended fair share ordinance that delineates the changes required in COAH's Report Requesting Additional Information of July 1, 1999. The amended fair share ordinance meets COAH's requirements and must be adopted by the township within 45 days of COAH's grant of substantive certification.

#### **XIV. RECOMMENDATION**

COAH staff recommends that Clinton Township be granted substantive certification.

**EXHIBIT 1**

**COAH MEDIATION REPORT**  
**CLINTON TOWNSHIP, HUNTERDON COUNTY**

Prepared By: Keith Henderson, P.P.

July 10, 2000

**BACKGROUND**

Clinton Township adopted a second round housing element and fair share plan on January 26, 1999 and petitioned the Council on Affordable Housing (COAH) for substantive certification on February 2, 1999. Clinton's second round obligation is 392 units including 57 rehabilitation and 335 new construction. COAH prepared a COAH Report Requesting Additional Information, dated July 1, 1999, which reviewed Clinton's plan. As noted in that report, the township was to have provided additional information to document and clarify mechanisms being used to address the township's obligation. The following summary of Clinton's plan is based on the July 1, 1999 COAH Report.

Clinton Township's plan included reductions for zoning for 145 sale units on the Windy Acres site and 35 age-restricted sale units on the Mews site, credit for 37 units that had been rehabilitated as part of the township's ongoing rehabilitation program and a three-unit rental gut rehabilitation with three rental bonuses, prior cycle credits for six units in the Wayside group home, a 113-unit regional contribution agreement (RCA) with the City of New Brunswick, 15 age-restricted rental units and five rental bonuses on a township owned site, a 10-unit accessory apartment program and a 20-unit rehabilitation program. The Clinton plan addressed its 392-unit cumulative obligation. A request for prior cycle credits pursuant to N.J.A.C. 5:93-3.2(b) was included in the township's plan but the number of qualifying units was not known at that time. The credits without controls survey was proposed as a mechanism that would reduce the number of units transferred through the RCA. The following table summarizes the Clinton Township plan:

1987-1999 Cumulative Obligation		3923
Reductions for zoning (N.J.A.C. 5:93-3.5)		-180
Windy Acres	145	
The Mews	35	
Credits for units rehabilitated (N.J.A.C. 5:93-3.4)		-37
Credits for units built (N.J.A.C. 5:93-3.3)		-6
Gut Rehabilitation Project	3	
Rental Bonuses	3	
Prior Cycle Credits (N.J.A.C. 5:93-3.2)		-6
Wayside Group Home	6	
Proposed RCA with New Brunswick		-113
Age-restricted rental units (township owned site)		-15
Age-restricted rental bonuses		-5
Accessory Apartment Program		-10
Rehabilitation Program		-20
		0

**OBJECTIONS**

During the 45-day objection period following Clinton Township’s petition for substantive certification, COAH received five objections. The five objections are detailed below:

Carl Bisgaier, Esq., on behalf of Bi-County Development, objected to the plan because it did not indicate that the decision to provide a payment in lieu of construction of affordable units on the Bi-County site was that of the township. Bi-County is the owner of a parcel of land that was included in the Clinton petition as part of the township’s previously certified plan.

Bi-County was also concerned with the status of its efforts to obtain approvals and an agreement with regard to sewer on the site. Efforts have been underway to access

the state sewer conveyance line directly in front of the site. This matter is the subject of separate litigation between Bi-County and the Borough of High Bridge, the sewerage authority and the state. Bi-County believed that the actions of Clinton Township may have been jeopardizing the ability to access the line in conflict with Clinton's prior agreement to support Bi-County's acquisition of sewer.

Darin and Barbara Vogel objected to the redevelopment of a township-owned property (Block 53; Lot 3) on West Street in the Annandale section of Clinton that was to provide 15 age-restricted rental units on a site formerly used as the municipal building and headquarters for the fire department. The Vogels maintained that the proposal was contrary to policies of the State Historic Preservation Office and the New Jersey Department of Environmental Protection (DEP).

Thomas P. Borkowski also objected to the development of age-restricted rental units on the municipally owned site on West Street in Annandale. Mr. Borkowski indicated that the building on the property was constructed in the mid-1800s and was the original general store for the Village of Annandale. Mr. Borkowski maintained that the site is located in the "Annandale Historic District" and that any changes to the structure would require the approval of the State Review Board for Historic Sites.

In addition, Kevin M. Killcommons, Esq., on behalf of the Annandale Reformed Church, objected to the development of the age-restricted rental property on West Street in Annandale. The church is adjacent to the proposed site and objected to the plan for the following reasons:

- The Mews development as approved by the township contains 35 age-restricted units and will be located two blocks from the proposed site within the Village of Annandale. The church objected to the fact that over half of the age-restricted units in the Clinton plan would be concentrated within a small region of the township. Further, the church maintained that transportation and open space considerations did not warrant such a concentration of units.

- The church objected to the proposed project because the site is needed by the church to continue serving its congregants and the community at large; because the parking has been shared for decades and because the church property cannot be expanded due to septic constraints. The church feared that it would be required to relocate if the proposed site was developed. The church proposed that it lease or purchase the site and renovate the structure to serve church operated programs.
- The church indicated that the proposed project would require the demolition of an historic structure that would adversely impact the entire historic district.

Walter N. Wilson, Esq. objected on behalf of K&F Clinton Associates and K&F Building Associates, owners of property in Clinton's first round certification. The proposed development known as "The Mews at Annandale" is located in the Affordable Housing-2 zone in the village of Annandale. K&F objected to the following:

- Although the Clinton plan included The Mews at Annandale and the project has received preliminary major subdivision and site plan approval, the developer has been unable to satisfy the conditions of approval relating to water and sewer service. The developer did not believe that Clinton Township provided meaningful assistance in providing such service or that the township has been supportive of the developer's efforts to acquire sewer capacity for The Mews site.
- K&F was concerned with the status of the transfer of sewer capacity to The Mews site. Modifications to the plans for the AH-3 (Bi-County) site may have increased the availability of sewer capacity that was available through the Annandale Sewer District and K&F was concerned that Clinton may want to use this capacity for other areas of the township.

## MEDIATION

Mediation began on September 22, 1999. Subsequent discussions were held via telephone and a final session was held on April 19, 2000. Thomas Borkowski was elected to the position of Clinton Township Mayor and was inaugurated on January 3, 2000. As a result of the conflict of interest that arose between Mr. Borkowski being both an objector to the Clinton plan and mayor of the township, Mr. Borkowski withdrew his objection on February 22, 2000.

During mediation, Clinton Township reconsidered its intent to construct affordable housing on the location of the former municipal building in Annandale. As a result of mediation, the township will amend its petition for substantive certification to eliminate this site. Consequently, the objections of Darin and Barbara Vogel and the Annandale Reformed Church have become moot pending the filing by Clinton of an amended fair share plan.

Mediation caucus sessions between Clinton Township and both Bi-County Development and K&F Clinton Associates resulted in the opening of dialogue with the developers, the township, the Clinton Township Sewer Authority (CTSA) and DEP. CTSA consented to the transfer of capacity from other locations to the Mews site and K&F Clinton Associates agreed to construct the 35 age-restricted units at The Mews as rental units that would qualify for a one and one-third bonus credit pursuant to N.J.A.C. 5:93-5.15(d)2. Although no formal agreement has been signed between Bi-County Development and the township, several meetings between all concerned parties have been conducted and draft agreements have been circulated. The actions and efforts of the township are consistent with Clinton's prior agreement to support Bi-County's acquisition of sewer.

Therefore, as a result of mediation, the 15 age-restricted rentals and five rental bonuses that were to be on the site of the former municipal building will be deleted by an amendment to the Clinton plan. Additionally, the township will amend its plan to include

a revision to the Mews development component to reflect 35 age-restricted rental units that will be eligible for 12 rental bonuses to produce a total of 57 credits. The elimination of 20 credits from the former municipal building site and the addition of 12 rental bonuses from the Mews site result in a net loss of eight units. However, concurrent with mediation, COAH staff completed its review of the township's credits without controls application and, on June 29, 2000 (see attached memorandum), COAH verified 13 eligible credits without controls (prior cycle credits). Therefore, an amended plan will result in a surplus of five units. In the alternative, Clinton may reduce its RCA by five units to produce a 108-unit RCA and no surplus.

## CONCLUSION

Mediation was concluded without agreements between the parties. The township will amend its housing element and fair share plan as a result of mediation and there are no material contested issues of fact at this time that necessitate transfer to the Office of Administrative Law (OAL). This report will be forwarded to the township, objectors and all others on the service list for comments to be submitted within 14 days or no later than July 21, 2000. All comments to the COAH Mediation Report will be addressed in a report to COAH. The COAH Mediation Report is expected to be presented to COAH at its next regularly scheduled public meeting.

N.J.A.C. 5:91-7.4(a) requires that Clinton Township publish notice of the housing element amendment as the result of mediation within seven days after this COAH Mediation Report is presented to COAH at a public meeting. The notice must be published in a newspaper of general circulation within the municipality and county. The notice must state that as a result of mediation, the Clinton Township housing element and fair share plan will be amended at a public meeting of the Clinton Township Planning Board; that the township has withdrawn the former municipal building in Annandale (Block 53; Lot3) from its plan (deleting the 15 age-restricted rentals and five rental bonuses that were to be built on the site); that the 35 age-restricted affordable units at the Mews site will be rental units rather than for sale units and that the township is requesting

12 rental bonuses from the Mews site because of a developer's agreement to construct the 35 age-restricted rental units. The notice should also state that any objections or comments to the amended housing element and fair share plan must be filed with COAH and Clinton Township within 45 days of the date of the publication of the notice. COAH's address should be included in the notice. Finally, the notice must state the place and time the amended housing element will be available for public inspection in Clinton Township.

If there are no objections after the 45-day objection period, the planning board must amend the housing element at a public meeting and forward the adopted amendment to the governing body. The governing body must endorse the amendment and forward it to COAH for review and approval pursuant to N.J.A.C. 5:91-7.4.

**EXHIBIT 2**

**MEMORANDUM.....New Jersey Council on Affordable Housing**

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MEMO TO: Mary Beth Lonergan, Supervising Planner  
Kate Butler, Principal Planner  
Keith Henderson, Principal Planner

CC: Shirley M. Bishop, Executive Director

FROM: Monica Etz, Principal Planner

RE: Clinton Township, Hunterdon County  
Credits without Controls

DATE: June 29, 2000

In May 1999, Clinton Township, Hunterdon County, initiated the Credits without Controls process pursuant to N.J.A.C. 5:93-3.2. Out of 200 Credits without Controls surveys mailed by Clinton Township, approximately 80 completed surveys were returned to the Council on Affordable Housing (COAH) within the stipulated time frame.

Of those 80 surveys, 28 were found by COAH staff to represent homes occupied by income-eligible households pursuant to the COAH 1999 Regional Income Guidelines. All the surveys received by COAH were from either the Beaver Creek development or the Oak Knoll development.

In October 1999, Clinton Township's construction code official, building inspector and fire subcode official inspected the 28 homes. The structural conditions survey submitted to COAH documented that all 28 units were structurally sound.

In June 2000, COAH staff calculated the maximum sales prices and maximum rents for the Beaver Creek development and the Oak Knoll development based on the following information:

Annual Mortgage Rate for May 1999	8 %
Property Tax Rate for May 1999	\$ 2.45
Equalization Ratio for May 1999	94.01%
Personal Insurance	\$ 25 / month
PMI (for 5% down payment)	.0078
Oak Knoll Condo Dues:	\$202 / month
Beaver Creek Condo Dues:	\$170 / month

Based on these figures, the maximum COAH permitted (moderate-income) sales prices and maximum rent for the one-bedroom and two-bedroom (moderate-income) units at the Beaver Creek and Oak Knoll development were determined to be as follows:

	<u>Max. Sales Price</u>	<u>Max. Rent incl. utilities</u>
1-bedroom Oak Knoll	\$ 89,066	\$1,150
2-bedroom Oak Knoll	\$111,653	\$1,380
1-bedroom Beaver Brook	\$ 92,430	\$1,150
2-bedroom Beaver Brook	\$115,020	\$1,380

Conclusion

Based on the information provided in the surveys, comparables provided by the township and review by COAH staff, Clinton Township, Hunterdon County, is eligible for 13 credits without controls.

## A-8 Affirmative Marketing Ordinance



The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of sex, age or number of children, to housing units which are being marketed by a developer/sponsor, municipality and/or designated administrative agency of affordable housing. The plan will address the requirements of N.J.A.C. 5:93-11. In addition, the plan prohibits discrimination in the sale, rental, financing or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. The Township of Clinton is in the housing region consisting of Hunterdon, Middlesex, and Somerset Counties. The affirmative marketing program is a continuing program and will meet the following requirements:

1. All newspaper articles, announcements and requests for applications for low and moderate income units will appear in the following newspapers/publications: Hunterdon County Democrat and The Star-Ledger
2. The primary marketing will take the form of at least one press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an "as needed" basis.
3. The advertisement will include a description of the street address of units, direction to housing units, number of bedrooms per unit, range of prices/rents, size of units, income information, and location of applications including business hours and where/how applications may be obtained.
4. All newspaper articles, announcements and requests for applications for low and moderate income housing will appear in publications such as the weekly newspaper which circulates in the municipality, religious publications and organizational newsletters within the region. Regional radio and/or cable television station(s) will also be used.
5. The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program including specific employment centers within the region: Posting of notices in the Township Hall, the municipal library, on-site sales and rental offices, and delivery of notices to the municipal clerks of all municipalities in the region.
6. The following is a listing of community contact persons and/or organizations in the township that will both administer the program and will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region: Marvin Joss Township Administrator, County housing office, and various houses of worship.
7. Quarterly flyers and applications will be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Hunterdon, Middlesex, and Somerset Counties.
8. Applications will be mailed to prospective applicants upon request.

9. Additionally, quarterly informational circulars and applications will be sent to the chief administrative employees of each of the following agencies in the counties within Clinton's housing region: welfare or social service board, rental assistance office (local office of DCA), Office on Aging, libraries, and housing agency or authority in each of the counties within the township's housing region.
10. A random selection method will be used to select occupants of the affordable housing units..
11. An experienced affordable housing administrator shall administer the affirmative marketing program. The person that will be appointed has the responsibility to income qualify low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to provide for the initial occupancy of low and moderate income units with income qualified households; to continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls; to assist with advertising and outreach to low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:93-9.1.
12. Households who live or work in the COAH-established housing region may be given preference for sales and rental units constructed within that housing region. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced. The township intends to comply with N.J.A.C. 5:93-11.7.
13. All developers of low and moderate income housing units will be required to assist in the marketing of the affordable units in their respective developments.
14. The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all low and moderate income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.
15. The affordable housing administrator will comply with monitoring and reporting requirements as per N.J.A.C. 5:93-11.6 and 12.1.

## A-9 Spending Plan



Township of Clinton  
Affordable Housing Trust Fund Spending Plan  
April 27, 2018

## INTRODUCTION

The Township of Clinton, Hunterdon County, has prepared a Third Round Housing Element and Fair Share Plan, dated April 27, 2018., that addresses its fair share of regional affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:93-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing and establishing an affordable housing trust fund was established by the Township on March 11, 1993.

As of December 31, 2017, the Township of Clinton's affordable housing trust fund has a balance of \$0, as its remaining funds were expended in the course of the prolonged Third Round Prior to the adoption of the Township's 2018 Housing Plan. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in Peapack Gladstone Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:93-8.16 as described in the sections that follow.

Since receiving approval to maintain an affordable housing trust fund in March 1993, the Township has

### I. REVENUES FOR CERTIFICATION PERIOD

It is anticipated that, during the period of Third Round substantive certification (2015-2025), the Township of Clinton will add an additional \$\_\_\_\_\_ to its affordable housing trust fund. The details of this funding allocation are provided below.

- A. Development fees: The Township anticipates that \$\_\_\_\_\_ in development fees will be generated between January 1, 2018 and December 31, 2025. This figure is based on the following assumptions:
  1. *Residential Development Fees*: Since \_\_\_\_\_, the Township of Clinton has collected an average of \$\_\_\_\_\_ per year in residential development fees for its Affordable Housing Trust Fund. It is anticipated that this annual average will continue during

the Third Round. As such, it is estimated that the Township will collect approximately \$\_\_\_\_\_ in residential development fees over the next 8 years.

2. *Non-Residential Development Fees:* Since \_\_\_\_, the Township collected an average of \$\_\_\_\_\_ per year in non-residential development fees for its Affordable Housing Trust Fund. It is anticipated that this annual average will continue during the Third Round. As such, it is estimated that the Township will collect approximately \$\_\_\_\_\_ in non-residential development fees over the next 8 years.

(a) Payment in lieu (PIL): The Township of Clinton does not currently anticipate the contribution of any payments in lieu toward the municipal affordable housing trust fund during the period of Third Round substantive certification.

(b) Other Funds: The Township of Clinton does not currently anticipate the contribution of any other funds toward the municipal affordable housing trust fund during the period of Third Round substantive certification.

(c) Projected interest: Since \_\_\_\_\_, the Township of Clinton has collected an average of \$\_\_\_\_\_ per year in interest for its Affordable Housing Trust Fund. It is anticipated that this annual average will continue during the Third Round. As such, it is estimated that the City will collect approximately \$\_\_\_\_\_ in total interest over the next 8 years.

**Table 1: Project Revenues – Affordable Housing Trust Fund (2018-2025)**

Source of Funds	THIRD ROUND										Total	
	2018	2019	2020	2021	2022	2023	2024	2025				
(a) Development fees:												
Residential Development												
Non-Residential Development												
(b) Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(c) Other Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(d) Interest												
<b>Total</b>												

As illustrated in Table 1, the Township projects a total of \$\_\_\_\_\_ in revenue to be collected between January 1, 2018 and December 31, 2025. All interest earned on the account shall be used exclusively for affordable housing purposes.

## II. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Township:

- (a) Collection of development fee revenues: Collection of development fee revenues shall be consistent with Clinton Township's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.8), and as may be amended.
- (b) Distribution of development fee revenues: The release of development fee revenues requires consideration by the Township Mayor and Council.

## III. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

- (a) Rehabilitation. The Township has a rehabilitation obligation of 10 units. In order to fully satisfy its rehabilitation obligation, Clinton Township will commit to spend a minimum of \$10,000 per unit, for a total of \$100,000. COAH's regulations require municipalities to set aside sufficient funds to address one-third of their rehabilitation obligation within one year of substantive certification of their plan. In addition, municipalities are required to set aside sufficient funds to address one-sixth of their rehabilitation obligation each subsequent year of the substantive certification period until the entire obligation is funded. As such, the City will set aside \$33,000 for the first year following substantive certification, and an additional \$17,000 each subsequent year following substantive certification until the rehabilitation share is met. If the Township can participate in a County rehabilitation program, or if at the time of mid-point review the \$100,000 is not needed, the balance can be re-allocated to another eligible purpose, including expenditures toward the construction of affordable units as provided for in the Township's 2018 Housing Element and Fair Share Plan.
- (b) Affordability Assistance. Pursuant to N.J.A.C. 5:93-8.16(c), the Township will commit to spend at least 30% of the revenues collected from development fees towards affordability assistance to low- and moderate-income households. As shown in Table 2, the City projects that approximately \$\_\_\_\_\_ will be available from the affordable housing trust fund for this purpose through 2025, one-third of which will need to be dedicated toward affordability assistance for very-low income households. The City's affordability assistance program will include down payment assistance, special condominium assessment assistance, emergency repair assistance, emergency/hardship mortgage payment assistance, rental assistance.

**Table 2: Projected Minimum Affordability Assistance Requirement**

Actual development fees + interest 7/17/08-12/31/17		
Development fees projected 1/1/2018-12/31/2025	+	
Interest projected 1/1/2018-12/31/2025	+	
Less rehab & housing activity expenditures 7/17/08-12/31/17	-	
<b>Total</b>	=	
30 percent requirement	x 0.30 =	
Less affordability assistance expenditures through 12/31/17	-	
<b>PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2018-12/31/2025</b>	=	
<b>PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2018-12/31/2025</b>	÷ 3 =	

(c) Administrative Expenses. Per N.J.A.C. 5:93-8.16(e), no more than 20% of the revenues collected from development fees shall be expended on administration. The Township projects that a maximum of \$\_\_\_\_\_ of housing trust funds will be permitted to be used for administrative purposes through 2025. Projected administrative expenditures, subject to the 20% cap, include the salaries and benefits for municipal employees and consultant fees necessary to develop or implement the following:

1. An updated Housing Element and Fair Share Plan.
2. A rehabilitation program.
3. An affirmative marketing program.
4. An affordability assistance program.

**Table 3: Projected Administrative Expenses (2018 to 2025)**

Actual development fees + interest earned through 12/31/17	+	
Development fees projected 1/1/2018-12/31/2025	+	
Interest projected 1/1/2018-12/31/2025	+	
<b>Total</b>	=	
20 percent requirement	x 0.20 =	
Less administrative expenditures through 12/31/17	-	
<b>PROJECTED MAXIMUM Administrative Expenses Requirement 1/1/2018-12/31/2025</b>	=	

**IV. EXPENDITURE SCHEDULE**

The Township of Clinton intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule on the following page parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

**Table 4: Projected Expenditures (2018 to 2025)**

		PROJECTED EXPENDITURE SCHEDULE 2018 -2025									
PROJECTS/PROGRAMS	Number of Units Projected	2018	2019	2020	2021	2022	2023	2024	2025	Total	
Rehabilitation	10	\$33,000	\$17,000	\$17,000	\$17,000	\$16,000				\$100,000	
New Construction											
Subtotal											
Affordability Assistance											
Administration											
<b>Total</b>											

## V. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of the Township of Clinton will adopt a resolution agreeing to fund any shortfall of funds required for implementing the plan. In the event that a shortfall of anticipated revenues occurs, the Township will handle the shortfall of funds through adopting a resolution with an intent to bond.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be allocated to other eligible affordable housing activities.

### SUMMARY

Clinton Township intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:93-8.16 and consistent with the housing programs outlined in the Township's 2018 Housing Element and Fair Share Plan.

The Township of Clinton has a balance of \$0 as of December 31, 2017, and anticipates an additional \$\_\_\_\_\_ in revenues through 2025 for a total of \$\_\_\_\_\_. During the Third Round period of substantive certification through 2025, the Township will agree to fund approximately \$100,000 towards rehabilitation of existing housing units, a minimum of \$\_\_\_\_\_ towards an affordability assistance program, and approximately \$\_\_\_\_\_ towards administrative costs.

Any shortfall of funds will be offset by an alternative funding source to be identified by the Township. If no alternative funding is available, the Township of Clinton will utilize the resolution of intent to bond to provide the necessary funding. The municipality will dedicate any excess funds or remaining balance toward additional affordable housing activities necessary to address its affordable housing obligation.

SPENDING PLAN SUMMARY	
Balance as of December 31, 2017	\$0
<b>PROJECTED REVENUE 1/1/2018-12/31/2025</b>	
Development fees	+
Payments in lieu of construction	+      \$ 0
Other funds	+      \$ 0
Interest	+
SUBTOTAL REVENUE	=
<b>TOTAL REVENUE</b>	
<b>EXPENDITURES</b>	
Funds used for Rehabilitation	-      \$100,000
Affordability Assistance	-
Administration	-
TOTAL PROJECTED EXPENDITURES	=
REMAINING BALANCE	=
(Reserved for Additional Affordable Housing Activity Necessary to Address Unmet Need, including facilitating construction toward the goal of 50 affordable housing units.)	

A-10 Highlands Approval Letters





**CHRIS CHRISTIE**  
*Governor*

**KIM GUADAGNO**  
*Lt. Governor*

## State of New Jersey

Highlands Water Protection and Planning Council  
100 North Road (Route 513)  
Chester, New Jersey 07930-2322  
(908) 879-6737  
(908) 879-4205 (fax)  
[www.nj.gov/njhighlands](http://www.nj.gov/njhighlands)



**JIM RILEE**  
*Chairman*

**MARGARET NORDSTROM**  
*Executive Director*

June 30, 2016

The Honorable John J. Higgins  
Clinton Township  
1225 Route 31 South  
Lebanon, NJ 08833

Subject: Final Adopted Clinton Township's Checklist Ordinance  
Plan Conformance Grant #09-033-011-1006  
Amended Grant Agreement Task 6b

Dear Mayor Higgins:

Thank you for providing Clinton Township's final adopted Checklist Ordinance. On behalf of the Highlands Water Protection and Planning Council (Highlands Council), I am pleased to advise and certify that the adopted Checklist Ordinance is herewith deemed consistent with the Highlands Regional Master Plan (RMP). The adopted document will be posted to the Highlands Council's website as a completed Plan Conformance implementation task.

With this submission, Item 6b of the municipality's Highlands Implementation Plan and Schedule is complete. The submittal fulfills the requirement under the Amended Grant Agreement, Task 6b, and the Final Consistency Review and Recommendations Report, Section D.1(b). The municipality may now submit corresponding invoices for the work completed under Task 6b of the executed Amended Plan Conformance Grant Agreement. The following not-to-exceed dollar amounts are available for reimbursement: \$1,000. A payment voucher will be issued by the Highlands Council only after a review of the submitted invoices and a determination that they are reasonable and administratively complete.

This adopted document is an important component of the municipality's fulfillment of Plan Conformance requirements as set forth under the Highlands Council Resolution of Petition approval. As a reminder, please recall that the "Compliance Component" of the adopted Highlands Council Resolution of Petition Approval requires that all amendments to master plans and development regulations applicable to the development and use of land in the municipality must be submitted to the Highlands Council for review prior to adoption to ensure consistency with the Regional Master Plan. We will provide as expeditious a review as possible, but request submission at least 30 days prior to the date on which such documents are needed, whether for purposes of discussion at a Board or Governing Body meeting, or initiating the formal process of introduction and adoption.

Thank you for your dedication to the Plan Conformance approval and implementation process. We are pleased to acknowledge the excellent work product provided by the municipality thus far, and look

forward to receipt of the next implementation task item. Please do not hesitate to contact me directly (telephone extension 101, e-mail address [margaret.nordstrom@highlands.nj.gov](mailto:margaret.nordstrom@highlands.nj.gov)) should you or your elected and appointed officials have questions or require assistance. Your Highlands Council Staff Liaison Corey Piasecki, Regional Planner (telephone ext. 129, e-mail address [corey.piasecki@highlands.nj.gov](mailto:corey.piasecki@highlands.nj.gov)), will continue to assist your professionals as the implementation phases of Plan Conformance proceed.

Sincerely,



Margaret Nordstrom  
Executive Director



Corey Piasecki  
Highlands Staff Liaison to Clinton Township

c: Andrea Malcolm, Lead Municipal Professional  
Kevin Cimei, Planning Board Chairperson  
Marvin Joss, Designated Municipal Plan Conformance Contact  
Marie Pardo, Municipal Grant Manager (CFO/Treasurer)



**CHRIS CHRISTIE**  
*Governor*

**KIM GUADAGNO**  
*Lt. Governor*

## State of New Jersey

Highlands Water Protection and Planning Council  
100 North Road (Route 513)  
Chester, New Jersey 07930-2322  
(908) 879-6737  
(908) 879-4205 (fax)  
[www.nj.gov/njhighlands](http://www.nj.gov/njhighlands)



**JIM RILEE**  
*Chairman*

**MARGARET NORDSTROM**  
*Executive Director*

June 30, 2016

The Honorable John J. Higgins  
Township of Clinton  
1225 Route 31 South  
Lebanon, NJ 08833

Subject: Certification of Highlands Exemption Ordinance  
Plan Conformance Grant #09-033-011-1006  
Amended Grant Agreement Task 18a

Dear Mayor Higgins:

I am pleased to inform you that your municipality is hereby authorized to issue Highlands Act Exemptions in accordance with the "Memorandum of Understanding Between the Highlands Water Protection and Planning Council and the New Jersey Department of Environmental Protection Regarding the Municipal Issuance of Certain Exemption Determinations" (MOU), dated July 19, 2012. The Highlands Council has determined that the adopted Clinton Township Highlands Area Exemption Ordinance is consistent with the MOU. We have confirmed that each individual listed (by job title/position) in the Exemption Ordinance as an Exemption Designee has successfully completed the required Highlands Council training program.

We congratulate you on reaching this important milestone and enclose a certification for the Township of Clinton indicating that all requirements of the Highlands Exemption program have been satisfied. We have also included a certificate for each Exemption Designee, Marvin Joss, Township Administrator and Tom Silvia, Zoning Officer. The Exemption Designees may now begin to issue the applicable Highlands Act Exemptions on behalf of the municipality. Should the Exemption Designees have any questions relating to Exemption Determinations, please have them contact your Highlands Council Staff Liaison, Corey Piasecki, Regional Planner (telephone ext.129, e-mail address [corey.piasecki@highlands.nj.gov](mailto:corey.piasecki@highlands.nj.gov)).

Please also be advised that the Township of Clinton may now submit invoices pertaining to preparation and adoption of the Exemption Ordinance and, if you have not already done so, attendance at the Exemption Certification training. A payment voucher will be issued by the Highlands Council upon review of the submitted invoices and a determination that they are reasonable and administratively complete.

Thank you for your continued efforts to address Plan Conformance and safeguard the resources of the Highlands Region. Please do not hesitate to contact me directly (telephone extension 101, e-mail address [margaret.nordstrom@highlands.nj.gov](mailto:margaret.nordstrom@highlands.nj.gov)) should you or your elected and appointed officials have questions or require assistance regarding this or any other Highlands matter.

Sincerely,



Margaret Nordstrom  
Executive Director  
Clinton



Corey Piasecki  
Highlands Staff Liaison to Township of

Enclosures

c: Marvin Joss, Township Administrator  
Tom Silvia, Zoning Officer  
Service List

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Lebanon, NJ 08833

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