# **Township of Cinnaminson** MIDPOINT REVIEW REPORT FOR THE THIRD ROUND HOUSING ELEMENT AND FAIR SHARE HOUSING PLAN

Township of Cinnaminson 1621 Riverton Road Cinnaminson NJ 08077 856-829-6000 June 30, 2020

Prepared by:



## Township of Cinnaminson MIDPOINT REVIEW REPORT FOR THE THIRD ROUND HOUSING ELEMENT AND FAIR SHARE HOUSING PLAN

## <u>Purpose</u>

The Township of Cinnaminson's Settlement Agreement with Fair Share Housing Center ("FSHC") requires that the Township comply with the statutory midpoint review requirements of the Fair Housing Act ("FHA") and specifically <u>N.J.S.A.</u> 52:27D-313, which provides in relevant part: "[t]he Council shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public." Pursuant to the FSHC Settlement Agreement, that review requires the Township to post on its website, with a copy to FSHC, and an opportunity for comment, a status report regarding its compliance mechanisms and whether or not unbuilt sites/unfulfilled mechanisms continue to present a realistic opportunity. The Settlement also contemplates review of unmet need/deferred mechanisms, though the realistic opportunity for the construction of those mechanisms during the compliance period is not applicable.

## **Relevant Background**

On February 26, 2014 the Township of Cinnaminson filed a Declaratory Judgment Action seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:270-301 et seq. The matter has proceeded as a declaratory judgment action 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.

The Township entered into a Settlement Agreement with FSHC on August 6, 2018, which was approved by the Court at the duly-noticed October 16, 2018 Fairness Hearing. During the Compliance phase, the Township adopted a Third Round Housing Element and Fair Share Plan and several Ordinances allowing for inclusionary residential housing i.e. IR Ordinance, IR-2 overlay Ordinance and IR-3 overlay Ordinance. On October 24, 2019, the Township received a Final Judgment of Compliance and Repose with Conditions. The Township is currently amending the Third Round Housing Element and Fair Share Plan, inclusionary residential ordinances and Affordable Housing Trust Fund Spending Plan for submittal to the Court for final approval and issuance of a Final Judgement of Compliance and Repose without Conditions.

## Rehabilitation Program(s) Update

The Township of Cinnaminson has a Rehabilitation Obligation of 30 units.

## **Owner Occupied Rehabilitation Program:**

The Township participates in the County of Burlington Home Improvement Program that is funded with County of Burlington Community Development Block Grant. The Township has entered into an inter-local services agreement with the County that demonstrates the County's commitment to work with the Township in addressing its present need. The Township is actively marketing the Housing Rehabilitation Program through by posting the program's flyer on the Township website, including in tax billings and posting on Township social media websites.

No units have been completed as of June 15, 2020

## Rental Rehabilitation Program

The Township adopted Resolution #2020-41 and entered into a Professional Services Agreement for a Rental Only Housing Rehabilitation Program with Community Grants, Planning and Housing (CGP&H). CGP&H administers the Burlington County Shared Services Rental Rehabilitation Program. The Township will set aside \$40,000.00 in their Affordable Housing Trust Fund Spending Plan for a minimum amount of \$10,000 per housing unit for a rental rehabilitation program designed to rehabilitate 4 units. No units have been completed as of June 15, 2020.

## Realistic Opportunity Review

The realistic opportunity standard applies to all mechanisms for non-adjustment municipalities and RDP/non-deferred mechanisms for Vacant Land/Durational Adjustment municipalities.

## Vacant Land Adjustment

The settlement agreement with FSHC dated August 6, 2018 acknowledges that the Township is entitled to a vacant land adjustment. The settlement also concludes that the RDP of Cinnaminson Township is 0.

<u>Mechanism</u>	<u>Description</u>	<u>Ordinance</u> <u>Adopted</u> (Yes/No)	<u>Status</u>	<u>Notes/Additional</u> Information
MEND/Conifer	54 affordable	N/A	Certificate of	
100% Affordable	units		Occupancy Issued	
Project – NJHMFA	1410 Riverton		on 12/19/19	
9 % LIHTC	Road (Block		54 Units Rented to	
	1004, Lot 45)		Date	
Habitat for	4-6 For Sale	N/A	Planning Stages	No units approved or
Humanity	affordable units			built yet. Township is

	in the form of duplexes (2 or 3 duplexes). Township to provide land			preparing an agreement/ letter of intent for signature by Habitat.
Market to Affordable Program	12-14 For Sale and/or For Units. Program to be administered by Township Administrative Agent, Triad Associates	N/A	Planning Stages	Once Housing Element/Fair Share Plan and Spending Plan have been finalized and approved, implementation will begin
SC Holdings – 20 Family (IR- Inclusionary Residential District)	20 Family Units – IR District to include rezoning of a 16.42 acre parcel adjoining Union Landing Rd - Block 702, Lot 2	Ordinance has been revised and is scheduled to be re-adopted	Ordinance has been revised and is scheduled to be re- adopted	Planning Stages

## Unmet Need

The table on the following page summarizes the mechanisms allocated to the Third Round Unmet Need and their current status.

<u>Mechanism</u>	<u>Description</u>	<u>Ordinance</u> <u>Adopted</u> <u>(Yes/No)</u>	<u>Status</u>	Notes/Additional Information
IR-3 Light Rail Line Overlay Zone which is located east of Bannard Street from Pear Avenue to South Belleview Avenue	The proposed transit village area zoning, includes 43 acres, consists of outdated and/or underutilized industrial uses sandwiched between single- family residential neighborhoods.	Ordinance has been revised and is scheduled to be re-adopted	Ordinance has been revised and is scheduled to be re- adopted	At 20 units/acre, this area could yield over 800 housing units, including potentially 150 or more affordable units (at a 20% set aside) If rental units are proposed with a 15% set aside, over 100 affordable units could be produced.

ID 2 Overlay Zene	This 22-acre	Ordinance has	Ordinance has been	At 15 units/sore this
IR-2 Overlay Zone				At 15 units/acre, this
(Block 2001, Lots	overlay zone	been revised	revised and is	area could yield over
1, 2, and 3)	(Block 2001, Lots	and is	scheduled to be re-	300 housing units,
	1, 2, 3) would	scheduled to	adopted	including as many as
	encompass	be re-adopted		60 for sale affordable
	Haines Farm and			units (at a 20% set
	Garden Supply,			aside). If rental units
	ESML and a			are proposed with a
	retail strip			15% set aside, over
	anchored by Pep			40 affordable rental
	Boys			units could be
				produced

## Very-Low Income Analysis

Paragraph 12 of the 2018 Settlement Agreement indicates that 13% of all units referenced in the Agreement constructed after July 1, 2008 shall be very-low income units. Half of those units must be available for families.

Affordable Units Constructed or To Be Constructed After 2008	<u>Total</u> <u>Affordable</u> <u>Units</u>	<u>Proposed</u> <u>VLI Units</u>	<u>Existing</u> <u>VLI</u> <u>Units</u>	<u>VLI</u> <u>Percentage</u> <u>of Total</u>	<u>Status</u>
MEND/Conifer 100% Affordable Project	54	6	6	11%	Constructed, deed restricted and occupied. CO issued 12/19/19
Group Homes	41	41	41		The Township provides supportive and special needs housing. The Township will apply 40 of these units to its Third Round credits as outlined in Table 26.

## **Conclusion**

The Township's plan implementation continues to create a realistic opportunity where that standard is applicable.



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		•	mes/As ior Rou		Group H Living - 1			d	Camelot	at Cinnan	ninson	544 & 5	for Huma 48 Kern 19 53 & 555	939 Bro	Restric	Conifer ted Unit		SC Ho		(IR-Incl tial Dis	lusionary trict)	/ Mai	ket to Affo Program		Habitat	for Huma	anity 202		ight Rail Lin Zone	e Overlay		2 Overlay	Zone
		P	rior Rou	nd		Third	Round			Prior Rou	nd		Third Rour	nd		Third R	ound		Thire	d Round	d		Third Rou	nd		Third Rour	nd		Third Rou	nd		Third Rou	ind
PROJECT TYPE:	Gro	oup Hor	nes/Assis	ted Living	Group Ho	omes/A	ssisted L	iving	Inclusiona	ary - Family	Rentals	100% Fa	nily For Sal	le	100% S	nior Ren	tals	Inclusi Rental		20 Fam	nily	12-14 U Rent/Fo	nit MTA Pro or Sale	ogram - For		For Sale Ur	nits						
BLOCK/LOT/STREET	See	attach	ed spread	dsheet	See attac	hed spi	readshee	ŧt				Block 30	3, Lot 4.01, 3, Lot 4.02, ., Block 303 Lot 8	Block 30	01	104, Lot 4	5	of a 16 adjoini	5.42 acr	re parce on Land		To be d	etermined		To be det	ermined		of Banı	ict to include nard Street fi to South Be	om Pear	2001, Lot encompa Garden S	s 1, 2, 3) v	Farm and 1L and a
STATUS:	Con	npleted			Complete	d			Complete	ed		Complet	ed		CO Issu	ed 12/10,	/19	Planne	ed			Planned	I		Planned			Planne	d		Planned		
DATE:									2013			2012 to 2				,																	
ADMINISTRATIVE AGENT:	Indi	ividual	Sroup He	imes	Individua	Grour	1 Homes		Donna J. Kaplan Co 198 Came  Cinnami	Urbanavago ompanies elot Court nson, NJ 08 ax: 856-780	077	r Habitat f	or Humanii aple Shade	'	99 E 2n p, 08057		ealty - restown, NJ (856)		determ	ined		Triad As	ssociates		Habitat fr	or Humanii	ty 2020		Го be detern	ined	То	be deter	nined
CONTRIBUTION:	0	Iviuuai	aroup no	illes	0	I GI U U	JHOINES		0			Land	(830) 4	+39-0717	722-70	0		0	ueterm	ineu		Thau As	sociates		nabitat it		ly 2020		to be detern	ineu		be deten	nineu
TYPE OF UNITS	Gro	oup Hor	nes		Group Ho Bedroom		ssisted L	iving -	Family Re	ntals		For Sale	Family		Age Res	tricted R	ental	Family	Rental	ls		Family F	Rental/Sale		For Sale -	Family							
AFFORDABLE UNITS	16			-	41				136			5			54			20				12			4								
BEDROOM DISTRIBUTION: Very Low-Income	1BR	ł	2BR	3BR	1BR	28	BR	3BR	1BR	2BR	3BR	1BR	2BR	3BR	1BR	2BR	3BR	1BR	2B	R	3BR	1BR	2BR	3BR	1BR	2BR	3BR	1BR	2BR	3BR	1BR	2BR	3BR
Low-Income									1	3 4	-	14			5	27																	
Moderate-Income									1	4 4	1	13				21																	
Back-up Documents			with Thir e Docum	rd Round ents	Submitte Complian			und		d with Third ce Docume			d with Thir		with Th	rd Round informat	submitted I Complianc ion to be	e;			I					<u> </u>							



	Inception to April 30, 2020	May 1, 2020 to April 30, 2021	Total
		•	
Barrier Free Escrow			
Development Fees	\$929,146.15		
Interest Earned	\$100,255.24		
Other Income	\$567.60		
Payments - in - Lieu	\$1,315,794.00		
TOTAL	\$2,345,762.99		
KPENDITURE SUMMARY			
Administration	385,629.44		
Affordability Assistance	0		
RCA	1445643.68		
Housing Activity	\$133,868.53		
TOTAL	\$1,965,141.65		
	TRUST FUND BALANCE A	S OF April 30, 2020 = \$	380,621.34
OUSING ACTIVITY: May 1, 2020 THR	OUGH April 30, 2021		
			1





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.

August 6, 2018

Ronald C. Morgan, Esq. Parker McCay 9000 Midlantic Drive Suite 300 Mount Laurel, NJ 08054

# Re: In the Matter of the Application of Cinnaminson Township, County of Camden, Docket No. BUR-L-450-14

Dear Mr. Morgan:

This letter memorializes the terms of an agreement reached between the Township of Cinnaminson (the Township or "Cinnaminson"), 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.

### Background

Cinnaminson filed the above-captioned matter in 2014, seeking a declaration of its compliance with the <u>Mount Laurel</u> doctrine and Fair Housing Act of 1985, <u>N.J.S.A.</u> 52:27D-301 et seq. The matter has proceeded as a declaratory judgment action in accordance with <u>In re N.J.A.C. 5:96</u> 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 <u>Mount Laurel</u> 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:

- 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 <u>Mount Laurel</u> doctrine and Fair Housing Act of 1985, <u>N.J.S.A.</u> 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 <u>Mount Laurel IV</u> 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 Cinnaminson hereby agree that the Township's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report <sup>1</sup> )	30
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	331
Third Round (1999-2025) Prospective Need (per	315
Kinsey Report, as adjusted through this Agreement)	

- 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's efforts to meet its present need include the following: Cinnaminson will continue to contract with the Burlington County CDBG program to address this obligation. As part of the compliance phase of this litigation, the parties will work with the Special Master to evaluate whether a rental rehabilitation program must be administered by the Township and both parties agree to abide by his recommendation. If the Master determines that a rental rehabilitation program is required, the Township will establish a Rental Rehabilitation Program during the compliance phase. This is sufficient to satisfy the Township's present need obligation of 30 units.
- 6. As noted above, the Township has a Prior Round prospective need of 331 units, which is met through the following compliance mechanisms:

Developments/Compliance Mechanisms	Details/Status	Units	Bonuses
<ol> <li>K-Land (formerly Cresmont), family rentals</li> </ol>	This inclusionary development includes 136 affordable family rental units. All 136 units are completed and have been rented. The units have been deed restricted for a minimum of 30 years. During the compliance phase of the litigating, the municipality will demonstrate the creditworthiness of these units and provide the deed restrictions. During the compliance phase, the municipality will confirm the low/moderate-income split. Rental bonuses are recognized for 83 of the affordable family rental units.	136	83
2. Group Homes	See Exhibit A, attached hereto. During the compliance phase of the litigation, Cinnaminson 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.	16	

<sup>&</sup>lt;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/April 2017.

Developments/Compliance Mechanisms	Details/Status	Units	Bonuses
3. Regional Contribution Agreement (RCA) with Pemberton Township	This \$1.44 million RCA was approved by the Council on Affordable Housing on May 7, 2003.	72	
4. SC Holdings, Block 702, Lot 2, family rentals	This 16.42-acre parcel is currently zoned at a density of 6 units per acre. It will be rezoned in accordance with the terms of this settlement agreement to permit 15 units per acre for "for sale" units with a 20-percent set-aside and 17.5 units per acre 15-percent set-aside.	20	
5. Delaware House Mental Health Services, Prior Cycle Credit	During the compliance phase of the litigation, Cinnaminson 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	4	
		248	83
		Total:	331

7. The parties recognize that the municipality should receive a vacant land adjustment. The municipality has a realistic development potential (RDP) of zero units. The municipality has credits as follows:

Developments/Compliance Mechanisms	Details/Status	Units
6. Habitat For Humanity, family for sale units	During the compliance phase of the litigation, the municipality will demonstrate the creditworthiness of these units, including through providing a deed restriction.	5
7. Group Homes	See Exhibit B, attached hereto. During the compliance phase of the litigation, Cinnaminson 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.	55
8. MEND/Lutheran Social Ministries, Block 1004, Lot 45, 1410 Riverton Road	This 100% affordable development has been fully funded and is under construction on land provided by the municipality. The units are being funded principally through Low Income Housing Tax Credits. During the compliance phase of the litigation, the municipality will provide a deed restriction. The parties agree that these units do not exceed the age-restricted cap because, when viewed cumulatively, they are less than both 25-percent of the total number of developed units and less than 25-percent of the total Third Round obligation.	54
	Tround obligation.	Total: 114

The credits of 114 units, subtracted from the Third Round obligation of 315 units, results in an unmet need of 201 units, which shall be addressed through the following mechanisms, as more fully described in Exh. C to this Agreement.

- a. Light Rail Line Overlay Zone Broad/River Street Bannard Street, Blocks (north side) 309, 408, 407, 405, 406, 404, 403, 402, 401, 503, (south side) 409, 414, 415, 420, 421, 426, 504, 505, 508, 507, 601
- b. *Haines to Pep Boys Overlay Zone* (along Route 130 NB from Pennsauken Creek to Church Road)
- Town-wide set-aside ordinance The municipality agrees to adopt an ordinance C. that provides that an affordable housing set-aside of 20%, if the affordable units will be for-sale, and 15%, if the affordable units will be for rent, shall be required for all new multi-family residential developments of five (5) or more additional units (over and above those already permitted as of right) that are developed at a density of six (6) or more units per acre which developments become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted or a new or amended redevelopment plan or a new or amended rehabilitation plan. This does not give any developer the right to any such rezoning, variance, redevelopment designation or redevelopment plan approval or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance, redevelopment designation or redevelopment plan approval or other relief. This provision shall not apply to sites zoned for inclusionary residential development or for which an inclusionary residential redevelopment plan has been adopted consistent with the municipality's Courtapproved Housing Element and Fair Share Plan, which sites shall comply with the applicable adopted zoning. No site shall be permitted to be subdivided so as to avoid compliance with this requirement.
- 8. 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:

MEND/Lutheran Social Ministries, Block 1004, Lot 45, 1410 Riverton Road – 54 units of 100% affordable age-restricted housing

In accordance with <u>N.J.A.C.</u> 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. 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. The Township meets this obligation as follows:

The development has been fully funded and is under construction. Therefore, no further action by the municipality is needed at this time, provided the development

continues to move forward and the affordable units are made available as anticipated.

In accordance with <u>N.J.A.C.</u> 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 schedule shall provide for construction to begin within two years of court approval of this settlement. The municipality shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. The Township shall demonstrate compliance with these requirements during the compliance phase of the litigation.

9. 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:

For half of the required number of units, the municipality will rely on special needs units already provided. For the other half, the municipality will rely on the abovereferenced Light Rail Line Overlay Zone, Haines to Pep Boys Overlay Zone, and town-wide set-aside ordinance.

- 10. The Township shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties:
  - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
  - b. At least 50 percent of the units addressing the Third Round Prospective Need, including the unmet 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, including the unmet 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, including the unmet need, 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.
- 11. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to <u>N.J.A.C.</u> 5:80-26.15(f)(5), FSHC, 510 Park Blvd, Cherry Hill, NJ; Camden County NAACP, 1123 1/2 Kaign Avenue, Camden, NJ 08103; the Latino Action Network, PO Box 943, Freehold, NJ 07728; Willingboro NAACP, PO Box 207, Roebling 09854; Southern Burlington County NAACP, PO Box 3211, Cinnaminson, NJ 08077; Burlington County Community Action Program, 718 Route 130 South,

Burlington, NJ 08016; and the Supportive Housing Association, 15 Alden St # 14, Cranford, NJ 07016, 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.

- 12. 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, <u>N.J.A.C.</u> 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 <u>N.J.A.C.</u> 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 4) 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 D 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 <u>N.J.A.C.</u> 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.

- d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.
- 13. All new construction units shall be adaptable in conformance with P.L.2005, c.350/<u>N.J.S.A.</u> 52:27D-311a and -311b and all other applicable law.
- 14. As an essential term of this Agreement, within 120 days of Court's approval of this Agreement, the Township shall introduce 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 and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.
- 15. The parties agree that if a decision of a court of competent jurisdiction in Burlington 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 twenty (20%) 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; maintaining all mechanisms to address unmet need; and otherwise fulfilling fully the fair share obligations as established herein. 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 or seeking leave to amend an order or judgment pursuant to R. 4:50-1. 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.
- 16. 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.

- 17. 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.
- 18. 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 <u>N.J.S.A.</u> 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 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 <u>N.J.S.A.</u> 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.
- 19. 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.
- 20. 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. Borough 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".

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.

- 21. The Township agrees to pay FSHC's attorneys fees and costs in the amount of \$7500 within ten (10) days of the Court's approval of this Agreement through a court order pursuant to a duly-noticed fairness hearing.
- 22. 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.
- 23. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Burlington County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
- 24. 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.
- 25. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
- 26. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
- 27. 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.
- 28. 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.
- 29. 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.
- 30. 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.

- 31. 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.
- 32. 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.
- 33. 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.
- 34. 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:

Ronald C. Morgan, Esq. Parker McCay 9000 Midlantic Drive Suite 300 Mount Laurel, NJ 08054 Telecopier: 856-596-9631 Email: rmorgan@parkermccay.com

## WITH A COPY TO THE MUNICIPAL CLERK:

Lisa A. Passione Clerk 1621 Riverton Road Cinnaminson NJ 08077 Telecopier: 856-829-3361 Email: Ipassione@cinnaminsonnj.org Please sign below if these terms are acceptable.

Sincerely, D. Walsh, Esq. Ke

Counsel for Intervenor/Interested Party Fair Share Housing Center

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

Donald Brauckmann, Mayor

Dated: August 6, 2018

ATTEST: Lisa à l'assure Lisa À l'assione, RMC Municipal Clerk

		Fa	acilities Applied to 19	87-1999	•	
Name	Block	Lot	Street Address	Age- Restricted	Initial License Date	Bedrooms/ Credits
Cinnaminson Group Home / Kelsch Associates	2001	6.01	3 South Fork Landing Road		"1980's"	4
Quality Management Associates	2404	28	60 Sussex Drive		6.24.95	4
The ARC of Burlington County	2811	8	2421 Chestnut Hill Drive		8.30.99	*4
Ally Group Home	1004	44.02	1414 Riverton Road	Yes	"over 30 years"	4
Total						16

### Exhibit A Alternative Living Arrangements (Group Homes) Facilities Applied to 1987-1999

\* ARC facility has 5 bedrooms. One surplus bedroom is carried forward to 3<sup>rd</sup> round.

Name	ame Block		Street Address	Age Restricted	Initial License	Bedrooms / Credits	
				Restricted	Date	7 Oreans	
NHS Human Services	423	12	820 Belleview Avenue		10.2.15	3	
Oaks Integrated Care	601	17	610 Pear Street	Yes	[2008?]	2	
Oaks Integrated Care	1109	4	1006 Riverton Road		?	3	
?	1109	10	1103 Thomas Road		[2015?]	4	
Quality Management Associates	1212	7	1015 Washington Avenue		[2011?]	3	
Kelsch Homes Inc.	2001	6.01	3 South Fork Landing Road	Yes	"1980's" [1982?]	*3	
Cinnaminson House Crossroads	2002	22	2216 Lenola Road		2002	12	
Chestnut	2308	1	2180 Chestnut Place		1.29.04	4	
[FB Residential Holdings?]	2402	7	109 Wayne Drive		[2016?]	4	
ALLY Inc.	2403	10	2317 Laurel Drive	Yes	[2008?]	5	
Oaks Integrated Care	2802	22	2102 New Albany Road		[2005?]	3	
?	3011	1	2900 New Albany Road		[2016?]	4	
[Bancroft Neurohealth?]	3205	12	2810 Hunterdon Drive		[2014?]	4	
The ARC of Burlington County	2811	8	2421 Chestnut Hill Drive		8.30.99	**1	
Total						55	

### Exhibit B **Group Homes Applied to Third Round**

\* 3 additional bedrooms subsequent to prior round \*\* 1 surplus bedroom carried over from prior round

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### Exhibit C Description of Unmet Need Overlay Zones

Light Rail Line Overlay Zone (East of Bannard Street from Pear Avenue to South Belleview Avenue)

Block	Lot	Block	Lot
421	1	506	6.01
426	1.01	506	6.02
426	1.02	507	1
426	1.03	507	5.01
504	1	507	5.02
505	2	508	1.01
505	3	508	1.02
506	2	508	3
506	3	508	4
506	4.01	508	6
506	4.02	508	7
506	5	508	8

The following blocks and lots are proposed as the overlay zone:

The proposed transit village area, which includes 43 acres not counting rights of way, is shown at right. It consists of a series of outdated industrial uses sandwiched between single-family residential neighborhoods. These industrial uses are generally low employment generators and are of an older vintage (except the mini-storage). Local officials recognize the potential for repurposing this area as an inclusionary mixed use neighborhood.

The lands around Snowden and Pleasant north of the tracks are part of the Cinnaminson Harbor development and are not developable. However, the area below Bannard Street to the south of the railroad has the



potential to function as a transit village. With only a handful of owners involved, assemblage of outdated industrial uses here should yield a productive landscape for mixed use development with opportunities for significant affordable housing.

At 20 units/acre, this area could yield over 800 housing units, including potentially 150 or more affordable units (at a 20% set aside) If rental units are proposed with a 15% set aside, over 100 affordable units could be produced.

As noted above, the transit village is situated on industrially zoned lands in a residential area. This offers high land use compatibility for a mixed use transit village, which provides a major transportation advantage to the future residents.

*Haines to Pep Boys Overlay Zone* (along Route 130 NB from Pennsauken Creek to Church Road)

This 22-acre overlay zone (Block 2001, Lots 1, 2, 3) would encompass Haines Farm and Garden Supply, ESML and a retail strip anchored by Pep Boys.

At 15 units/acre, this area could yield over 300 housing units, including as many as 60 for sale affordable units (at a 20% set aside). If rental units are proposed with a 15% set aside, over 40 affordable rental units could be produced.



### Summary of Cinnaminson Unmet Need Mechanisms

A 315-unit proposed obligation, minus the 114 existing credits leaves a 201 unmet need for the third round. Cinnaminson's proposal to meet unmet need would provide for the following:

- 1. Town-wide set-aside ordinance
- 2. Transit Village overlay zoning of 43 acres at 20 units/acre (possible 800 total units with 20% set-aside could yield 100-150 affordable units)
- 3. Haines to Pep Boys overlay of 22 acres at 15 units/acre (possible 330 total units with 20% set-aside could yield 40- 60 affordable units)

### **EXHIBIT D: 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

			**	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase		Regional Asset
		1 Person	*1.5 Person									Rents**	Sales***	
Region 1	Median	\$60,271	\$64,576	\$68,882	\$77,492	\$86,102	\$89,546	\$92,990	\$99,878	\$106,766	\$113,655			
Bergen, Hudson, Passaic and Sussex	Moderate	\$48,217	\$51,661	\$55,105	\$61,993	\$68,882	\$71,637	\$74,392	\$79,903	\$85,413	\$90,924	1.7%	1.99%	\$166,493
	Low	\$30,136	\$32,288	\$34,441	\$38,746	\$43,051	\$44,773	\$46,495	\$49,939	\$53,383	\$56,827	1.770		
	Very Low	\$18,081	\$19,373	\$20,664	\$23,248	\$25,831	\$26,864	\$27,897	\$29,963	\$32,030	\$34,096			
Region 2	Median	\$65,953	\$70,663	\$75,374	\$84,796	\$94,218	\$97,987	\$101,755	\$109,293	\$116,830	\$124,368	1	3.25%	\$180,756
· · ·	Moderate	\$52,762	\$56,531	\$60,299	\$67,837	\$75,374	\$78,389	\$81,404	\$87,434	\$93,464	\$99,494			
Essex, Morris, Union and Warren	Low	\$32,976	\$35,332	\$37,687	\$42,398	\$47,109	\$48,993	\$50,878	\$54,646	\$58,415	\$62,184	1.770		
Onion and Warren	Very Low	\$19,786	\$21,199	\$22,612	\$25,439	\$28,265	\$29,396	\$30,527	\$32,788	\$35,049	\$37,310			
Region 3	Median	\$73 <i>,</i> 780	\$79,050	\$84,320	\$94,860	\$105,400	\$109,616	\$113,832	\$122,264	\$130,696	\$139,128		0.38%	\$200,698
Hunterdon,	Moderate	\$59,024	\$63,240	\$67,456	\$75,888	\$84,320	\$87,693	\$91,066	\$97,811	\$104,557	\$111,302	1./%		
Middlesex and	Low	\$36 <b>,</b> 890	\$39,525	\$42,160	\$47,430	\$52,700	\$54,808	\$56,916	\$61,132	\$65,348	\$69,564			
Somerset	Very Low	\$22,134	\$23,715	\$25,296	\$28,458	\$31,620	\$32,885	\$34,150	\$36,679	\$39,209	\$41,738			
Region 4	Median	\$66,022	\$70,738	\$75,454	\$84,885	\$94,317	\$98,090	\$101,862	\$109,408	\$116,953	\$124,498	3	1.53%	\$177,413
Mercer,	Moderate	\$52,817	\$56,590	\$60,363	\$67,908	\$75,454	\$78,472	\$81,490	\$87,526	\$93,562	\$99,599	1.7%		
Monmouth and	Low	\$33,011	\$35,369	\$37,727	\$42,443	\$47,158	\$49,045	\$50,931	\$54,704	\$58,476	\$62,249	1.770		
Ocean	Very Low	\$19,807	\$21,221	\$22,636	\$25,466	\$28,295	\$29,427	\$30,559	\$32,822	\$35,086	\$37,349			
Region 5	Median	\$58,240	\$62,400	\$66,560	\$74,880	\$83,200	\$86,528	\$89,856	\$96,512	\$103,168	\$109,824	1.7%	2.09%	\$154,194
Burlington,	Moderate	\$46,592	\$49,920	\$53,248	\$59,904	\$66,560	\$69,222	\$71,885	\$77,210	\$82,534	\$87,859			
Camden and	Low	\$29,120	\$31,200	\$33,280	\$37,440	\$41,600	\$43,264	\$44,928	\$48,256	\$51,584	\$54,912			
Gloucester	Very Low	\$17,472	\$18,720	\$19,968	\$22,464	\$24,960	\$25,958	\$26,957	\$28,954	\$30,950	\$32,947			
Region 6	Median	\$51,085	\$54,734	\$58,383	\$65,681	\$72,979	\$75,898	\$78,817	\$84,655	\$90,494	\$96,332	2 5 1.7%	0.00%	\$136,680
Atlantic, Cape	Moderate	\$40,868	\$43,787	\$46,706	\$52,545	\$58,383	\$60,718	\$63,054	\$67,724	\$72,395	\$77,066			
May, Cumberland,	Low	\$25,543	\$27,367	\$29,192	\$32,840	\$36,489	\$37,949	\$39,409	\$42,328	\$45,247	\$48,166			
and Salem	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 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 administive 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).