

# HOUSING ELEMENT AND FAIR SHARE HOUSING PLAN

---

## BOROUGH OF KENILWORTH



*June 2025*

Prepared by

**HARBOR CONSULTANTS**  
ENGINEERS, SURVEYORS, AND PLANNERS  
320 NORTH AVENUE EAST  
CRANFORD, NJ 07016  
TEL (908) 276-2715 FAX (908) 709-1738



The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-12.

A handwritten signature in black ink, appearing to read "M. Mistretta".

---

Michael Mistretta, PP  
#00575900



## TABLE OF CONTENTS

---

### **I. INTRODUCTION**

### **II. FOURTH ROUND HOUSING ELEMENT**

- A. OVERVIEW
- B. AFFORDABLE HOUSING HISTORY PRIOR TO THE FOURTH ROUND
- C. FOURTH ROUND OF AFFORDABLE HOUSING BACKGROUND
- D. FOURTH ROUND METHODOLOGY
- E. MUNICIPAL DETERMINATION OF FOURTH ROUND PRESENT NEED AND PROSPECTIVE NEED OBLIGATIONS
- F. VACANT LAND ADJUSTMENT
- G. HOUSING, DEMOGRAPHIC AND EMPLOYMENT INFORMATION
  - 1. Analysis of Population and Demographics
  - 2. Analysis of Housing Characteristics
  - 3. Analysis of Employment Characteristics
  - 4. Projection of Borough Housing Stock
  - 5. Consideration of Lands of Developers Who Have Expressed a Commitment to Affordable Housing
  - 6. Consistency with State Plan and Redevelopment Plan

### **III. FOURTH ROUND FAIR SHARE PLAN**

- A. SATISFACTION OF COMPLIANCE MECHANISMS PRIOR TO THE FOURTH ROUND
- B. FOURTH ROUND PLAN COMPLIANCE MECHANISMS
- C. SITES FOR INCLUSIONARY DEVELOPMENT
- D. AFFORDABLE HOUSING ORDINANCE AND AFFIRMATIVE MARKETING PLAN
- E. SPENDING PLAN AND AFFORDABILITY ASSISTANCE MANUAL
- F. CONCLUSION

### **IV. APPENDICES**

## APPENDICES

---

APPENDIX A. Fourth Round Vacant Land Adjustment for the Borough of Kenilworth with Attached Exhibits, dated June 2025.

APPENDIX B. Borough Council Resolution No. 25-67 “Committing to Fourth Round Present and Prospective Need Affordable Housing Obligations,” dated January 15, 2025.

APPENDIX C. Court Order Fixing Municipal Obligations for “Present Need” and “Prospective Need” for the Fourth Round Housing Cycle for the Borough of Kenilworth signed by Hon. Daniel R. Lindemann, J.S.C., entered on March 27, 2025.

APPENDIX D. Borough of Kenilworth Declaratory Judgement Complaint, Docket No. UNN-L-000235-25, filed January 16, 2025.

APPENDIX E. 25 North 26<sup>th</sup> Street Redevelopment Plan, prepared by Harbor Consultants, Inc. and dated March 2021.

APPENDIX F. Borough Council Resolution No. 2021-07 Adopting the 25 North 26<sup>th</sup> Street Redevelopment Plan for the Delineated Redevelopment Area Consisting of Block 183, Lot 9, for the Development of Inclusionary Affordable Housing

APPENDIX G. DRAFT Affordable Housing Ordinance

APPENDIX H. DRAFT 2025-2035 Spending Plan.

APPENDIX I. DRAFT Ordinance Adopting an Overlay Zone for North Michigan Avenue Area (Block 183, Lots 1-8 and 10, Block 184.A, Lot 1, Block 87, Lots 1-9, Block 88, Lots 1-11, and Block 124, Lots 1-10).

APPENDIX J. DRAFT Ordinance Adopting an Overlay Zone for Market Street (Block 128, Lots 1-3, Block 131, Lots 1-3, Block 130, Lots 2 and 3, Block 179, Lot 6, Block 156, Lots 1-5, and Block 177, Lots 1-5).

APPENDIX K. DRAFT Ordinance Adopting an Overlay Zone for Former National Tool Site (Block 56, Lot 9.01, Block 58, Lot 4, and Block 59, Lots 1-3).

APPENDIX L. February 2024 AHTF Monitoring.

APPENDIX M. February 2025 AHMS Submittal.

## **THE BOROUGH OF KENILWORTH FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN**

### **I. INTRODUCTION**

This document is presented in two parts; which include (i) the Borough of Kenilworth Master Plan Housing Element and (ii) the Borough of Kenilworth Fair Share Plan. This Housing Element and Fair Share Plan addresses the Borough's compliance with the Municipal Land Use Law ("MLUL"), relevant Uniform Housing Affordability Controls ("UHAC") regulations, the requirements of the Uniform Housing Affordability Controls ("UHAC") regulations, the requirements of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) as amended by the A4/S50 legislation signed into law on March 20, 2024, and other applicable law.

The Master Plan Housing Element will examine the Borough's demographics, population, and employment characteristics, along with the housing stock and development trends throughout the decades. A Housing Plan, according to the MLUL N.J.S.A. 40:55D-28b(3), must include, but is not limited to, residential standards and proposals for the construction and improvement of housing. According to N.J.S.A. 52:27D-310, the Housing Element shall contain at least 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 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 as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);
- A consideration of the lands that are most appropriate for the 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;
- An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted



pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);

- For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

The Fourth Round Housing Element and Fair Share Plan will address the plan to meet Kenilworth's fair share obligation for the Fourth Round as settled and committed to by Resolution No. 25-67 adopted by Borough Council on January 15, 2025 (see *Appendix B*) and affirmed by the Court Order signed by Hon. Daniel R. Lindemann, J.S.C., dated March 27, 2025 (see *Appendix C*). The Housing Element and Fair Share Plan is part of the Borough of Kenilworth's request to acquire a compliance certification from the Affordable Housing Dispute Resolution Program ("the Program") and will include the projects and strategies addressing Kenilworth's affordable housing obligations.

## **II. BOROUGH OF KENILWORTH FOURTH ROUND HOUSING ELEMENT**

### **A. OVERVIEW**

This Fourth Round Housing Element and Fair Share Plan has been prepared in response to the requirements set forth in the amendments to the Fair Housing Act known as Bill A4/S50 ("FHA Amendments") signed into law on March 20, 2024. The law reformed municipal responsibilities regarding the provision of affordable housing for the fourth round and beyond in 10-year rounds of housing obligations beginning on July 1, 2025. The changes and regulations for the FHA Amendments are further explained in Section II.C and Section II.D below.

In accordance with the Municipal Land Use Law ("MLUL") at N.J.S.A. 40:55D-28b(3), this Fourth Round Housing Element and Fair Share Plan ("HEFSP") has been prepared pursuant to N.J.S.A. 52:27D-310, which specifies that the HEFSP must include 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, as established pursuant to section 3 of P.L.2024, c.2 (N.J.S.A. 52:27D304.1)." In accordance with the requirements of section 3 of P.L.2024, c.2 (N.J.S.A. 52:27D-304.1) this Fourth Round Housing Element and Fair Share Plan addresses its affordable housing obligations for the Prior Round, the Third Round, and the Fourth Round. The Borough's Fourth Round numbers have been established via the Borough resolution adopted on January 15, 2025 (see *Appendix B*) and memorialized by the Court on behalf of the Program in its Order dated March 27, 2025 (see *Appendix C*). The Fourth Round Housing Element and Fair Share Plan has also been prepared to comply with all requirements of the FHA, applicable COAH and UHAC regulations, and relevant Mount Laurel case law.

## **B. AFFORDABLE HOUSING HISTORY PRIOR TO THE FOURTH ROUND**

New Jersey affordable housing law began with the New Jersey Supreme Court's creation of the Mount Laurel doctrine in its landmark case, So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) also known as "Mount Laurel I". In Mount Laurel I, the Supreme Court decided that under the State Constitution, each municipality "must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there", including those of low and moderate income. Thus, the Mount Laurel I decision prohibits municipalities from using zoning powers to prevent the potential for the development of affordable housing.

Displeased with progress under its earlier decision, in 1983, the NJ Supreme Court decided So. Burlington Ct. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) or "Mount Laurel II". Because the Legislature had not yet acted to implement the holding in Mount Laurel I, the Court in Mount Laurel II fashioned a judicial remedy, now commonly referred to as a "Builder's Remedy". That remedy created a special process by which builders could file suit against a municipality for the opportunity to construct housing at much higher densities than a municipality otherwise would allow, creating affordable housing in the process. In essence, Builder's Remedy lawsuits seek to force towns to meet their affordable housing obligations.

Responding to the chaos created by the implementation of the Supreme Court's Mount Laurel decisions and the many Builder's Remedy lawsuits that followed, the State Legislature passed the Fair Housing Act (hereinafter "FHA") in 1985, which the Supreme Court upheld in (Hills Dev. Co. v. Bernards Twp., 103 N.J. 1 (1986) or "Mount Laurel III").

The FHA created COAH, and required COAH to (1) enact regulations that established the statewide affordable housing need, (2) assign to each municipality an affordable housing obligation for its designated region and (3) identify the techniques available to municipalities to meet its assigned obligation. The FHA included a process for municipalities to obtain Substantive Certification, which, if granted by COAH, would protect municipalities against Builder's Remedy lawsuits, or a lawsuit from a housing advocate, for a defined period of time. The FHA also transferred pending Builder's Remedy litigation to COAH for resolution through an administrative process, and established a process for bringing municipalities into compliance.

To implement the FHA requirements, COAH adopted a series of regulations. Round One regulations were enacted in 1987. Round 2 regulations were adopted by COAH in 1994. Round 3 regulations were supposed to be adopted in 1999 when the Round 2 rules were set to expire, but the first iteration of Round 3 rules were not adopted by COAH until 2004.

In 2007, the Appellate Division affirmed portions of COAH's 2004 Round 3 rules, but invalidated other aspects of them. See In Re Adoption of N.J.A.C. 5:94 & 5:95, 390 N.J. Super. 1 (App. Div. 2007). The opinion remanded the matter to COAH for adoption of new compliant regulations, and gave the agency six months to do so. The Appellate Division granted COAH two extensions, and COAH finally adopted a second set of Round 3 rules in September of 2008. Many municipalities submitted Round 3 affordable housing plans to COAH and to courts for approval in December of 2008 in response to the new third round rules. Indeed, Berkeley Heights Township petitioned COAH for approval of a Round 3 affordable housing plan on December 31, 2008.

On October 8, 2010, the Appellate Division concluded that COAH's revised 2008 regulations suffered from many of the same deficiencies as the first set of Round 3 rules, and it invalidated substantial portions of the 2008 Round 3 regulations again. See In re Adoption of N.J.A.C. 5:96 & 5:97, 416 N.J. Super. 462 (App. Div. 2010). The Court specifically directed COAH to use a methodology for determining prospective affordable housing needs similar to the methodologies used in the prior rounds.

During this same time period, Governor Christie initiated a series of steps to abolish or reduce the role of COAH. During this time period the Legislature introduced a Bill, which would have radically transformed the affordable housing world. The S-1 Bill in its initial form was supported by Governor Christie. By the time it went through the Assembly, however, a very different bill passed and the Governor conditionally vetoed the Bill.

Frustrated with the lack of movement by COAH to adopt updated Round 3 rules, the Supreme Court issued an order on March 14, 2014, which required COAH to adopt new Round 3 regulations by October 22, 2014. COAH proposed the third version of Round 3 regulations on April 30, 2014. However, in October of 2014, the COAH Board deadlocked 3-3 when voting to approve the regulations and the rules were not adopted.

In response, on March 10, 2015, the Supreme Court issued its decision In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), in which it (1) found that COAH had violated the March 14, 2014 Order by failing to adopt new Round 3 regulations by October 22, 2014; (2) held that, without new Round 3 regulations, COAH could not process municipalities' petitions for substantive certification; (3) directed trial courts to assume COAH's functions; (4) authorized municipalities under COAH's jurisdiction to file Declaratory Judgment Actions along with a motion for Temporary Immunity by July 8, 2015, or risk exposure to Builder's Remedy lawsuits; and (5) ruled that municipalities would have to prepare and file a Housing Element and Fair Share Plan with a trial court for review. The Supreme Court declined to determine fair share allocations, however, instead assigning this task to the trial court judges with the directive that they use a methodology similar to that used in COAH's first and second round Rules.

No objections to the Borough's adopted Round 4 obligations were received by the statutory deadline of February 28, 2025, so according to the FHA Amendments, the Borough's adopted obligations set forth in its binding resolution are automatically set as the Borough's Round 4 obligations. In an Order dated March 27, 2025, the Court memorialized the Borough's present and prospective need obligations on behalf of the Program, therefore setting the Borough's prospective need at 208 and its present need (also known as rehabilitation obligation) at 35 (see Appendix C).

## **C. FOURTH ROUND OF AFFORDABLE HOUSING BACKGROUND**

On March 20, 2024, Governor Murphy signed the FHA Amendments into law. The FHA Amendments established new guidelines for determining and regulating the affordable housing obligations of New Jersey municipalities for the Fourth Round and subsequent 10-year rounds as mandated by the Mount Laurel Doctrine and the FHA. This section outlines the key provisions instituted by the FHA Amendments.

### **Major Items of the FHA Amendments**

- The Council on Affordable Housing (“COAH”) is abolished, and its regulatory powers and functions are transferred to the Department of Community Affairs (“DCA”) and the Administrative Office of Courts (“AOC”).
- The DCA is responsible for calculating the regional need and municipal present and prospective fair share obligation for each municipality using the methodology established in sections 6 and 7 of P.L.2024, c.2. The March 8, 2018, Superior Court, Law Division, Mercer County, In re Application of Municipality of Princeton (also known as the “Jacobson opinion”) serves as the basis for any datasets or methodologies not directly addressed in the FHA Amendments. This Fourth Round methodology is further explained in Section II.E below.
- Per N.J.S.A. 52:27D-302, as amended, “the changes made to affordable housing methodologies, obligations, and fair share plans, as determined to be a necessity by the Legislature, through the enactment of [P.L.2024, c.2] are made with the intention of furthering consistency with the State Development and Redevelopment Plan.”
- A municipality will still be permitted to conduct a vacant land adjustment (“VLA”).
- A municipality may take into consideration the DCA calculations in determining its present and prospective need obligations, but the DCA calculations are not binding on any municipality. Each municipality establishes its own obligation number, and a municipality may deviate from DCA’s calculations in determining its obligation, provided that it adheres to the methodology established by the FHA Amendments.
- The Affordable Housing Dispute Resolution Program (“Program”) is established within the AOC and is responsible for handling any dispute regarding a municipality’s determination of and/or compliance with its fair share obligation. The Administrative Director of the Courts makes appointments to the Program, which consists of 3-7 retired Mount Laurel judges. These judges include Hon. Thomas C. Miller (chair), Hon. Ronald E. Bookbinder, Hon. Thomas F. Brogan, Hon. Stephan C. Hansbury, Hon. Mary C. Jacobson, Hon. Julio L. Mendez, and Hon. Paulette M. Sapp-Peterson.
- The availability of bonus credits has been expanded but credits remain capped. Notable credit provisions include:
  - More than one type of bonus credit may not be received for the same unit.
  - A maximum of 25% of a municipality’s prospective need obligation may be satisfied by bonus credits.
  - The rental bonus credit is eliminated.
  - A summary of the types of bonus credits is provided in the table below:

<b>Table 1: Fourth Round Bonus Credits</b>	
<b>Description</b>	<b>Bonus</b>
Special Needs or Supportive Housing Units	<b>1.0</b> bonus credit for each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing.
100% Affordable Developments with Municipal Contribution of Land or Funds	<b>1.0</b> bonus credit for each unit of low- or moderate-income housing in a 100% affordable housing project for which the municipality contributes to the cost of the project. This contribution can either be real property or contributions from the municipal affordable housing trust fund that covers no less than 3% of the project costs.

Market-to-Affordable	<b>1.0</b> bonus credit for each unit of low- or moderate-income housing created by transforming an existing rental or ownership unit from market rate to affordable. A municipality may only rely on this bonus credit as part of its fair share plan and housing element if the municipality demonstrates that a commitment to follow through with this market to affordable agreement has been made and: (a) this agreement has been signed by the property owner; or (b) the municipality has obtained ownership of the property.
Non-Profit Partnership for For-Sale Housing	<b>0.5</b> bonus credit for each unit of low- or moderate-income ownership unit created in partnership with a non-profit housing developer.
Proximity to Transit	<b>0.5</b> bonus credit for each unit of low- or moderate-income housing located within a 0.5 mile radius (or 1 mile radius if located in a Garden State Growth Zone) surrounding a NJ Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations.
Redevelopment	<b>0.5</b> bonus credit for each unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space.
Age-Restricted Units (with 10% Cap)	<b>0.5</b> bonus credit for a unit of age-restricted housing (Bonus credit only applicable to 10% of all age-restricted housing built that count towards the municipality's affordable housing obligation).
Family Housing	<b>0.5</b> bonus credit for each unit of low- or moderate-income family housing with at least three bedrooms above the minimum number required by the bedroom distribution. This bonus credit shall be calculated by taking into account the full municipal fair share plan and housing element, and the number of units with at least three bedrooms required for projects satisfying the minimum 50 percent family housing requirements.
Very Low-Income Units Beyond Minimum	<b>0.5</b> bonus credit for each unit of very low-income housing for families above the 13% of units required to be preserved for very low-income housing.
Extension of Affordability Controls	<b>0.5</b> bonus credit for each existing low- or moderate-income rental housing unit for which affordability controls are extended for a new term, and the municipality contributes funding towards the costs necessary for this preservation.

- A municipality must adopt and file with the Program a Housing Element and Fair Share Plan and drafts of the appropriate zoning and other ordinances and resolutions implementing its present and prospective obligation by June 30, 2025. The Housing Element and Fair Share Plan must assess the degree to which the municipality has complied with its obligations for the prior three rounds and determine whether the municipality has credits in excess of its prior round obligations. If any units are determined to be unfulfilled from prior rounds, the Plan must address how this unmet obligation will be fulfilled, as well as explain how it plans to meet its Fourth Round obligation. The Plan must also include a spending plan for current funds in the municipal affordable housing trust fund and projected funds towards the round.

- The law establishes several limitations to how units may be counted towards fulfilling a municipality's fair share obligation:
  - A maximum of 30% of the units counted toward the prospective need obligation may be age-restricted units, exclusive of bonus credits.
  - A minimum of 50% of the units used toward the prospective need obligation, exclusive of bonus credits, must be available to families with children.
  - A minimum of 25% of the units used toward the prospective need obligation, exclusive of bonus credits, must be rental units and at least half of that number must be available to families with children.
  - A minimum of 13% of affordable housing units must be available to very low-income households and at least half of that number must be available to families with children.
  - A maximum of 10% of a municipality's fair share obligation may be counted by transitional housing credits.
  - A municipality may lower its prospective need obligation to prevent an obligation of more than 1,000 housing units or a number exceeding 20% of the total number of households in the municipality.
  - The law increases the minimum period requiring affordability controls to 40 years for rental units and maintains a 30-year period for for-sale units. The minimum requirement for affordability controls cannot be reduced.
- The law establishes new development fee collection, expenditure, and monitoring rules.
- The amended FHA also establishes many deadlines, including but not limited to, the submission of a Fourth Round Housing Element and Fair Share Plan by June 30, 2025, and any objections being filed by August 31, 2025.

## **D. FOURTH ROUND METHODOLOGY**

Per N.J.S.A. 52:27D-304.1.d, "For the fourth round of affordable housing obligations, the [Department of Community Affairs] shall prepare and submit a report to the Governor, and, pursuant to [N.J.S.A. 52:14-19.1], to the Legislature providing a report on the calculations of regional need and municipal obligations for each region of the State within the earlier of seven months following the effective date of P.L.2024, c.2 (N.J.S.A. 52:27D-304.1 et al.) or December 1, 2024." On October 18, 2024, the Department of Community Affairs (DCA) released a report titled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background," inclusive of a calculation spreadsheet, which detailed the datasets and calculations used to generate the affordable housing obligation for each municipality within New Jersey for the Fourth Round. Per this report, the Borough of Kenilworth was calculated to have a present need of 35 units and a prospective need of 208 units for the Fourth Round. The subsections below outline the methodology for calculating the Borough's Fourth Round affordable housing obligation per the DCA report and in accordance with the FHA Amendments.

### **Present Need**

Per the FHA Amendments, "A municipality's present need obligation shall be determined by estimating the existing deficient housing units currently occupied by low- and moderate-income households within the municipality, following a methodology comparable to the methodology used to determine third round present need, through the use of datasets made available through the federal decennial census and the American Community Survey, including the Comprehensive Housing Affordability Strategy dataset thereof" (N.J. Stat. § 52:27D-304.2). P.L.2024, c.2 further defines

“deficient housing units” as “housing that: (1) is over fifty years old and overcrowded; (2) lacks complete plumbing; or (3) lacks complete kitchen facilities” (N.J.S.A. 52:27D-304).

In the Third Round, municipal present need calculations were based on the number of housing units lacking complete kitchen facilities, the number of units lacking complete plumbing facilities, and the number of overcrowded units. The present need calculations for the Fourth Round conducted by the DCA similarly use datasets measuring these three factors, but as explained in their report, “The US Department of Housing and Urban Development (HUD) and the US Census Bureau publish separate tables on housing age, lack of plumbing facilities, lack of kitchen facilities, and overcrowding. However, there is no data source that reports the number of units that meet any one of those three conditions. Therefore, this number must be estimated using data from existing tables, with measures taken to account for overlap and to narrow the scope to deficient housing units occupied by low- and moderate-income [(LMI)] households.” The DCA therefore used a combination of the latest data from HUD’s Comprehensive Housing Affordability Strategy (CHAS) LMI dataset corresponding to the latest Census Bureau American Community Survey (ACS) data (which was 2017-2021 5 Year Estimates at the time of the report’s release), data from the IPUMS Center for Data Integration, and the ACS Public Data Microdata Sample (PUMS) at the Public Use Microdata Area (PUMA) level to estimate the number of substandard/deficient low- and moderate-income occupied units (“present need”) for each municipality in New Jersey.

Per the methodology outlined above and described in further detail in the DCA report, the Fourth Round present need obligation for the Borough of Kenilworth was calculated as 35.

### **Prospective Need**

The statewide obligation for the Fourth Round has been calculated as 84,698. This obligation is distributed among the State’s municipalities, excluding Qualified Urban Aid municipalities.

As described in the FHA Amendments and summarized in the DCA report, a municipality’s Fourth Round prospective need obligation is calculated by multiplying its average allocation factor to the total prospective need of its corresponding Housing Region.

Per the FHA Amendments, the State is broken into six regions as follows:

Housing Region	Counties
1	Bergen, Hudson, Passaic, and Sussex
2	Essex, Morris, Union, and Warren
3	Hunterdon, Middlesex, and Somerset
4	Mercer, Monmouth, and Ocean
5	Burlington, Camden, and Gloucester
6	Atlantic, Cape May, Cumberland, and Salem

The average allocation factor is the average of three measures indicative of a municipality’s capacity/potential to address the regional prospective need: the equalized nonresidential valuation factor, the income capacity factor, and the land capacity factor.

The Fourth Round prospective need for each Housing Region is determined by calculating the change in the number of households within each Housing Region between the 2010 Census and 2020 Census. Per the FHA Amendments, “this household change, if positive, shall be divided by 2.5 to estimate the number of low- and moderate-income homes needed to address low- and moderate-

income household change in the region and to determine the regional prospective need for a 10-year round of low- and moderate-income housing obligations. If household change is zero or negative, the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region and the regional prospective need shall be zero” (N.J.S.A. 52:27D-304.2).

The Borough of Kenilworth is in Housing Region 2, which consists of Essex County, Morris County, Union County, and Warren County. The regional prospective need for Housing Region 2 was calculated as 20,506, and the Borough’s average allocation factor was calculated as 1.01%. The regional need of 20,506 multiplied by the Borough’s average allocation factor of 1.01% therefore resulted in a Fourth-Round prospective need obligation calculation of 208.

#### Equalized Nonresidential Valuation Factor

The equalized nonresidential valuation factor is one of the three components of the average allocation factor for each municipality. The equalized nonresidential valuation factor is representative of a municipality’s share of the change in nonresidential property value within its Housing Region.

This factor was calculated as follows:

1. The valuations of commercial properties and industrial properties in each municipality in 2023, per data from the NJ Division of Local Government Services, were summed up and then divided by the 2023 State Equalization Table Average Ratio corresponding with the municipality to obtain a total equalized nonresidential valuation for 2023.
2. The valuations of commercial properties and industrial properties in each municipality in 1999, per data from the NJ Division of Local Government Services, were summed and then divided by the 1999 State Equalization Table Average Ratio corresponding with the municipality to obtain a total equalized nonresidential valuation for 1999.
3. The difference in total equalized nonresidential valuation from 1999-2023 was calculated for each municipality.
4. The difference in total nonresidential valuation from 1999-2023 was summed up for all municipalities (excluding Qualified Urban Aid municipalities) within each Housing Region.
5. The difference in total nonresidential valuation from 1999-2023 for each municipality was divided by the sum of differences in total nonresidential valuation from 1999-2023 for its corresponding Housing Region to compute the municipality’s share of the regional nonresidential valuation change from 1999-2023.

The Borough’s equalized nonresidential valuation factor was calculated as 2.47% per the DCA report.

#### Income Capacity Factor

The second component of the average allocation factor for each municipality is the income capacity factor. The income capacity factor measures the degree to which a municipality’s median household income differs from an income floor of \$100 below the lowest median household income in its Housing Region.

Per the FHA Amendments, a municipality’s income capacity factor shall be “determined by calculating the average of the following measures:



- (a) The municipal share of the regional sum of the differences between the median municipal household income, according to the most recent American Community Survey Five-Year Estimates, and an income floor of \$100 below the lowest median household income in the region; and
- (b) The municipal share of the regional sum of the differences between the median municipal household incomes and an income floor of \$100 below the lowest median household income in the region, weighted by the number of the households in the municipality” (N.J. S.A. 52:27D-304.3).

At the time of the release of the DCA report on October 18, 2024, the most recent American Community Survey Five-Year Estimates data for median household income and number of households were found in Table S1903 of the Census Bureau’s American Community Survey 2018-22 5-Year Estimates.

The Borough’s income capacity factor was calculated as 0.49% per the DCA report.

#### Land Capacity Factor

The third component of the average allocation factor for each municipality is the land capacity factor. The land capacity factor indicates the percentage share of total “developable” land in a Housing Region accounted for by each municipality within that Region, excluding land area corresponding to Qualified Urban Aid municipalities. The DCA conducted a GIS analysis to identify the “developable” land within the state using several publicly available datasets, including but not limited to 2020 land use/land cover (LULC) data, New Jersey State Plan Planning Areas weighted by area type, statewide parcel data, open space and preserved farmland, category 1 waterways and wetlands, steep slopes, and open waters.

The steps below provide a summary of the methodology used to identify the vacant land in the state, and consequently identify each municipality’s share of developable land within its corresponding Housing Region.

1. Weights were applied to all New Jersey State Plan Planning Areas as specified in the Fourth Round Law.
2. The layer of weighted Planning Areas was merged with land use/land cover (LULC) data for the entire state sourced from 2020 aerial imagery. 18 different types of LULC, such as cropland and pastureland, deciduous forest, and coniferous forest, were identified and extracted as “vacant, developable land” from this merged dataset.
3. Of these areas identified as “developable” from the merged dataset, areas without underlying parcel data and areas with MOD-IV Property Tax data with property class codes for residential, commercial, industrial, apartment, railroad, and school uses were removed to prevent rights-of-way, tree-covered rear yards on residential properties and buffer areas on non-residential development from being included in the “developable” land calculation.
4. Municipally reported construction permit data to the DCA was used to remove properties otherwise identified as vacant through the LULC analysis.
5. Areas mapped as open space, preserved farmland, category 1 waterways and wetlands (and associated buffers based on special resource area restrictions) were removed from the “developable” land dataset.
6. Using 10 foot digital elevation LiDAR data, steep slope areas exceeding 15% and steep

slope areas consisting of 5,000 square feet or less were removed from the “developable” land dataset.

7. DCA reviewed an unspecified 22,000 vacant parcels to further remove homeowner association common areas, detention basins, and road and utility rights of way.
8. After the removal of all the aforementioned layers from the “developable” land dataset, remaining “slivers” of land with an area of 2,500 square feet or less were also removed due to their inability to support any kind of development.
9. The remaining land was identified as “developable” land and was summed based on the limits of each Housing Region and its corresponding municipalities.
10. The municipality’s percentage of total identified “developable” land within its Housing Region constitutes its land capacity factor.

Through this analysis, the DCA reported 4.65 acres of developable land in the Borough of Kenilworth and 5,358.483 acres of developable land in Housing Region 2 (excluding Qualified Urban Aid municipalities), therefore computing a land capacity factor of 0.09% for the Borough.

#### DCA Calculated Fourth Round Prospective Need Obligation

Given the calculations of the Borough’s equalized nonresidential valuation factor as 2.47%, income capacity factor as 0.49%, and land capacity factor as 0.09%, the average allocation factor for the Borough was computed as 1.01%. The average allocation factor of 1.01% multiplied by the Housing Region 2 regional prospective need of 20,506 totaled to a Fourth-Round prospective need obligation of 208 for the Borough per the DCA report.

### **E. MUNICIPAL DETERMINATION OF FOURTH ROUND PRESENT NEED AND PROSPECTIVE NEED OBLIGATIONS**

As per N.J.S.A. 52:27D-304.1, “[e]ach municipality shall determine its municipal present and prospective obligations in accordance with the formulas established in [N.J.S.A. 52:27D-304.2 - 304.3] and may take into consideration the calculations in the report published by the department.” Furthermore, “For the fourth round of affordable housing obligations, this determination of present and prospective fair share obligation shall be made by binding resolution no later than January 31, 2025” (N.J.S.A. 52:27D-304.1). The Borough reviewed and evaluated the DCA’s non-binding calculations of the Borough’s Fourth Round present need and prospective need, and as provided in the Resolution No. 25-67 adopted by Borough Council on January 15, 2025 (see Appendix B), the Borough of Kenilworth “hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 35 and the DCA Fourth Round Prospective Need (New Construction) Obligation of 208”, subject to all reservations of rights as specified in the Resolution. The Court memorialized the Borough’s Fourth Round present and prospective need obligations on behalf of the Program in an Order dated March 27, 2025 (see Appendix C). The Borough’s plan for satisfying its adopted Fourth Round present need and prospective need obligations is detailed further in Section III of this Fourth Round HEFSP.

### **F. VACANT LAND ADJUSTMENT**

Given municipal constraints on the amount of vacant land available for the development of affordable housing, the amended FHA, similarly to the Third Round, permits municipalities to adjust their prospective need obligations for the Fourth Round based on a lack of vacant land. The process for preparing a vacant land adjustment (“VLA”) for the Fourth Round follows the methodology

established in the Municipal Adjustments Subchapter of COAH's Prior Round Substantive Rules (N.J.A.C. 5:93-4.2), with some minor differences as specified in the Amended FHA. The application of the methodology for vacant land adjustments from COAH's Prior Round Substantive Rules in the Fourth Round is affirmed by language in N.J.S.A. 52:27D-311.m.: "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L.2024, c.2 (C.52:27D-304.1 et al.), or binding court decisions." Most notably, the FHA Amendments added an additional requirement to the vacant land adjustment process: "Any municipality that receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a lack of vacant land shall, as part of the process of adopting and implementing its housing element and fair share plan, identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so" (N.J.S.A. 52:27D-310.1). The Borough has conducted a VLA for the Fourth Round, which is attached hereto as Appendix A. The Fourth Round VLA calculates a Realistic Development Potential ("RDP") of 31 for the Borough for the Fourth Round, which is detailed in Table 2 below:

<b>Table 2: VLA Summary</b> <i>Borough of Kenilworth</i>					
<b>Vacant Developable Properties Contributing to the Borough's RDP</b>					
<b>Block</b>	<b>Lot</b>	<b>Comments/Discussion</b>	<b>Net Developable Area (ac)</b>	<b>Density (du/ac)</b>	<b>RDP</b>
<b>15</b>	5.02, 5.03, & 5.04	Block 15, Lots 5.02, 5.03, and 5.04 can be combined; vacant land with surrounding single-family homes, adjacent to Black Brook Park.	0.37	10	1
<b>50</b>	8.01 & 8.02	Block 50, Lots 8.01 and 8.02 can be combined. Surrounded by single-family homes, no environmental constraints.	0.284	10	1
<b>146</b>	13-18	Block 146, Lots 13-18 are contiguous and can be combined; located behind existing residences. No access to sites from Summit Ave but access from South 21 <sup>st</sup> Street through Block 146, Lot 18. No environmental constraints.	0.903	10	2
<b>162</b>	12 & 15	Block 162, Lots 12 and 15 can be combined. Vacant parcels surrounded by single-family homes with Garden State Parkway to the east. No environmental constraints.	0.43	10	1
<b>180</b>	2	Vacant and undeveloped land with access from Sumner Ave.	0.6	10	1
<b>Developed or Approved Properties Contributing to the Borough's RDP</b>					
<b>Block</b>	<b>Lot</b>	<b>Comments/Discussion</b>	<b>Net Developable Area (ac)</b>	<b>Density (du/ac)</b>	<b>RDP</b>
<b>183</b>	<b>9</b>	Included in the 25 North 26 <sup>th</sup> St Redevelopment Plan, adopted by the Borough Planning Board by Ordinance No. 2021-07.	3.79	43.5*	<b>25</b>
<b>Sites "Likely to be Redeveloped"</b>					
<b>Block</b>	<b>Lot</b>	<b>Comments/Discussion</b>	<b>Net Developable Area (ac)</b>	<b>Density (du/ac)</b>	<b>RDP</b>

183	9	Included in the 25 North 26 <sup>th</sup> St Redevelopment Plan, adopted by the Borough Planning Board by Ordinance No. 2021-07.	3.79	43.5*	25
56	9.01	Former National Tool Site; Age-Restricted	4.33	15	13
58	4				
59	1-3				
RDP					31
* Density established as per the Redevelopment Plan <b>adopted by Ordinance No. 2021-07.</b>					

As detailed in the table above, 25 units of the Borough's 31-unit Fourth Round RDP are accounted for by the "likely to redevelop" 25 North 26<sup>th</sup> Street property, which addresses 80.6% of the Borough's RDP. Furthermore, the Borough has prepared an overlay zone ordinance for the Former National Tool Site property implementing a 20% affordable housing set-aside on the site (see Appendix K). The Borough therefore satisfies the requirement that a municipality must "identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation" as part of conducting a VLA for the Fourth Round.

## **G. HOUSING, DEMOGRAPHIC AND EMPLOYMENT INFORMATION**

The following Housing, Demographic, and Employment background information regarding Kenilworth helps to describe and create an inventory of characteristics in the Borough that directly apply to current and future housing demand in the town and region. This analysis will include population demographics, housing characteristics, regional comparison, and recent trends.

### **1. Analysis of Population and Demographics**

The following tables analyze the population trends in the Borough of Kenilworth using data from the United States Census Bureau Decennial Census and American Community Survey ("ACS"). An analysis of population demographics in a target area can help a community to understand and plan for the range of people that live and work within its borders. Also, local population demographics understood in the context of and compared to the larger regional area provides a unique opportunity to understand larger geographic implications of present conditions and future local and regional opportunities. This demographic profile was broken down into functional areas including analyses of community demographics, housing stock, employment data, and land use patterns and zoning.

## Population

Table 3, which depicts the population change since 1930, shows that from 1930 to 1970, the Borough saw a number of booms in population – notably from 1940 to 1950 and 1950 to 1960. From the 1970s to the 1990s, the Borough of Kenilworth experienced declines in population, but the population has remained fairly steady from 2000 to the present.

Kenilworth' largest increase in growth occurred during the 1950's and 1960's. The Borough's population doubled in the 1950s, and continued to grow by 70% through the 1960s.

Table 4, which depicts the population change between 2000 and 2023 amongst Kenilworth and Union County at large, shows that both the Borough and the County saw an increase in population up until 2020, from which the populations for both the Borough and the County experienced modest declines.

<b>Table 3: Population 1930-2023, Borough of Kenilworth</b>		
<b>Year</b>	<b>Total Population</b>	<b>% change</b>
<b>1930</b>	2,243	-
<b>1940</b>	2,451	9.3%
<b>1950</b>	4,922	101%
<b>1960</b>	8,379	70.2%
<b>1970</b>	9,165	9.4%
<b>1980</b>	8,221	-10.3%
<b>1990</b>	7,574	-7.9%
<b>2000</b>	7,675	1.3%
<b>2010</b>	7,914	3.1%
<b>2020</b>	8,427	6.5%
<b>2023 (est.)</b>	8,259	-2.0%
<b>Source: U.S. Census Bureau, 1930-2020 Decennial Censuses</b>		

<b>Table 4 . Population Changes 2000-2023, Borough of Kenilworth and Union County Comparison</b>				
<b>Census Year</b>	<b>Kenilworth Borough</b>		<b>Union County</b>	
	<b>Total Population</b>	<b>% Change</b>	<b>Total Population</b>	<b>% Change</b>
<b>2000</b>	7,675	-	522,541	-
<b>2010</b>	7,914	3.1%	536,499	2.7%
<b>2020</b>	8,427	6.5%	575,345	7.2%
<b>2023 (est.)</b>	8,259	-2.0%	572,726	-0.5%
<b>Source: U.S. Census Bureau, 1990-2020 Decennial Censuses</b>				

## Age Characteristics

Understanding the age make up of a community is important in planning for new housing, resources, and the future of the Borough as a whole. Looking at a further breakdown of population data by age and sex, it shows that the town has a large amount of population in specific age cohorts. Table 5 depicts that the population in Kenilworth is distributed fairly evenly amongst age cohorts, with the largest being that 30% of the population is 40-59 years old. People 19 and under make up 24% of the population, people 25-40 make up 18% of the population, and people over 60 years old make up 22% of the population.

These age cohorts generally suggest that Kenilworth not only consists of families with middle-aged parents and children, but likewise that the families are multi-generational and that the community is aging in place.

Table 6 below provides more detail to how Kenilworth and its population by age has changed over the decades, and compares it to that of Union County as a whole. It shows the steady decrease in residents aged 25 to 34 in Kenilworth from 2000 to 2020 – from 14.2% to 12.2% to 11.9%, respectively. The trend follows in Union County as a whole, with the same age cohort declining from 14.4% in 2000 to just 12.8% in 2020.

	<b>All</b>	<b>Male</b>	<b>Female</b>
<b>Total 2020 Census Population</b>	8,427	4,118	4,309
<b>Under 5 years</b>	411	211	200
<b>5 to 9 years</b>	467	250	217
<b>10 to 14 years</b>	548	290	258
<b>15 to 19 years</b>	572	291	281
<b>20 to 24 years</b>	509	276	233
<b>25 to 29 years</b>	493	266	227
<b>30 to 34 years</b>	504	234	270
<b>35 to 39 years</b>	540	277	263
<b>40 to 44 years</b>	661	304	357
<b>45 to 49 years</b>	550	252	298
<b>50 to 54 years</b>	651	320	331
<b>55 to 59 years</b>	639	304	335
<b>60 to 64 years</b>	530	275	255
<b>65 to 69 years</b>	408	183	225
<b>70 to 74 years</b>	333	150	183
<b>75 to 79 years</b>	255	106	149
<b>80 to 84 years</b>	151	66	85
<b>85 years &amp; over</b>	205	63	142
<b>Median age</b>	41.4	39.5	42.8

**Source: U.S. Census Bureau, 2020 Decennial Census**

Age	2000				2010				2020			
	Kenilworth		Union County		Kenilworth		Union County		Kenilworth		Union County	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Under 5</b>	423	5.5	36,441	7.0	401	5.1	35,783	6.7	411	4.9	33,661	5.9
<b>5 to 17</b>	1,173	15.3	73,754	14.1	1,326	16.8	95,475	17.8	1,315	15.6	101,853	17.7
<b>18 to 24</b>	531	6.9	61,215	11.7	616	7.8	45,879	8.6	781	9.3	49,214	8.6
<b>25 to 34</b>	1,089	14.2	75,189	14.4	969	12.2	69,279	13.0	997	11.9	73,519	12.8
<b>35 to 44</b>	1,273	16.6	88,398	16.9	1,145	14.5	78,418	14.6	1,201	14.2	79,963	13.9
<b>45 to 54</b>	1,077	14.0	69,568	12.5	1,258	15.9	83,409	15.5	1,201	14.2	79,764	13.8
<b>55 to 64</b>	710	9.3	45,935	8.8	966	12.2	60,495	11.3	1,169	13.9	75,226	13.0
<b>65 &amp; Over</b>	1,399	18.2	72,041	13.8	1,233	15.6	67,761	12.6	1,352	16.0	82,145	14.3
<b>Total</b>	7,675	100	522,541	100	7,914	100	536,499	100	8,427	100	575,345	100

**Note: Figures may not add up due to rounding.**

**Source: U.S. Census Bureau, 2000, 2010, and 2020 Decennial Censuses**

In contrast, the number of 45- to 54-year olds has increased from 14 % to 15.9% from 2000 to 2010, but declined to 14.2% in 2020 in Kenilworth, with a similar pattern seen in the County. The Under 5 age cohorts both saw a steady decrease throughout the decades as well. The decline in the 25 to 34 in conjunction with a steady increase in a middle-aged cohort 45 to 54 and under 17 age cohort could signify that Kenilworth is seeing a loss of job-seeking, post-college aged students and an uptick in family households.

#### Race

Table 7 shows the racial breakdown of the population according to responses from the 2020 Decennial Census. Over 85% of the population responded as “One Race”, with 69.8% being only white. The next largest racial group in Kenilworth is “Some Other Race” at 7.5%. The smallest population that identified as “One Race” was Native Hawaiian/Pacific Islander, which only 2 residents identifying as such. 14.0% of respondents identified as “Two or More Races”. The Hispanic population of any race makes up 22.9% of the total population.

#### Household Size and Characteristics

In addition to population demographics, household size in relation to the population helps to characterize the Borough. Using Decennial Census data from 2000-2020, Table 6 below shows that the Average Household Size in Kenilworth increased steadily from 2000-2020, in conjunction with an increase in population and number of occupied housing units. From 2000 to 2010, the number of occupied housing units saw a slight decrease, and the average household size increased as a result. Union County as a whole saw a similar trend in the average size of household increasing from 2000 to 2010, but it decreased between 2010 and 2020.. Table 7 shows that household sizes in occupied housing units was highest for 2 persons in Kenilworth, at 32.0%. The next largest household size reported was 4 persons or more at 30.3%.

<b>Table 7 : Race 2020, Borough of Kenilworth, NJ</b>		
<b>Race</b>	<b>Number</b>	<b>Percent</b>
<b>One Race</b>	7,249	86.0%
<b>White</b>	5,886	69.8%
<b>Black or African American</b>	226	2.7%
<b>American Indian/Alaska Native</b>	61	0.7%
<b>Asian</b>	446	5.3%
<b>Native Hawaiian/Other Pacific Islander</b>	2	0.0%
<b>Some Other Race</b>	628	7.5%
<b>Two or More Races</b>	1,178	14.0%
<b>Total Population</b>	8,427	100%
<b>Hispanic Population (of any race)</b>	1,933	22.9%
<b>Source: U.S. Census Bureau, 2020 Decennial Census</b>		

<b>Table 8 : Households and Population 2000-2020, Kenilworth And Union County</b>									
	<b>2000</b>			<b>2010</b>			<b>2020</b>		
	HH Populat ion	Occu pied Hous ing Units	Avg HH Size	HH Populatio n	Occupie d Housing Units	Avg HH Size	HH Population	Occupied Housing Units	Avg HH Size
<b>Kenilworth</b>	7,675	2,854	2.69	7,914	2,841	2.78	8,419	2,932	3.00
<b>Union County</b>	514,733	186,124	2.77	536,499	188,118	2.97	569,791	200,372	2.86
<i>Source: U.S. Census Bureau, 2000, 2010, and 2020 Decennial Censuses</i>									

<b>Table 9 : Household Size, 2019-2023 ACS Borough of Kenilworth</b>		
<b>Household Size</b>	<b>Number of Households</b>	<b>%</b>
<b>1 Person</b>	550	19.1
<b>2 Persons</b>	922	32.0
<b>3 Persons</b>	535	18.6
<b>4 Persons or More</b>	873	30.3
<b>Total Occupied Housing Units</b>	2,880	100
<i>Source: Source: Occupancy Characteristics, 2019-2023 American Community Survey, 5-Year Estimates</i>		

### *Income*

Overall, in terms of household and per capita income, Kenilworth fares well compared to the whole of Union County at 126,295 versus the county's 100,117 . Compared to Union County's percent of people below the poverty level at 8.5%, Kenilworth stands at 6.0% in the 2019-2023 American Community Survey (Table 8).

<b>Table 10 : Income Characteristics – 2019-2023 ACS, Borough of Kenilworth And Union County</b>			
	<b>Borough of Kenilworth</b>	<b>Union County</b>	<b>State of New Jersey</b>
<b>Median Household Income</b>	126,295	100,117	101,050
<b>Median Family Income</b>	139,573	120,310	123,892
<b>Per Capita Income</b>	55,278	51,850	53,118
<b>Percent of Persons Below Poverty Level</b>	6.0%	8.5%	9.7%
<i>Source: Selected Economic Characteristics, 2019-2023 American Community Survey 5-Year Estimates</i>			



The income limits in Table 10 were produced by the Affordable Housing Professionals of New Jersey in 2024 to set the Affordable Housing Regional Income Limits. The table shows the very low income, low income, and moderate-income thresholds for Union County for each household size. Specific rows are for calculating the pricing for one and three-bedroom sale and rental units per N.J.A.C. 5:80-26.4(a).

<b>Table 11 : Affordable Housing Professionals of New Jersey 2024, Affordable Housing Regional Income Limits Region 2: Union County, New Jersey</b>			
<b>Household Size</b>	<b>Moderate Income</b>	<b>Low Income</b>	<b>Very Low Income</b>
<b>1 Person</b>	\$72,473	\$45,296	\$27,177
<b>1.5 Persons*</b>	\$77,650	\$48,531	\$29,119
<b>2 Persons</b>	\$82,826	\$51,766	\$31,060
<b>3 Persons</b>	\$93,180	\$58,237	\$34,942
<b>4 Persons</b>	\$103,533	\$64,708	\$38,825
<b>4.5 Persons*</b>	\$107,674	\$67,296	\$40,378
<b>5 Persons</b>	\$111,816	\$69,885	\$41,931
<b>6 Persons</b>	\$120,098	\$75,061	\$45,037
<b>7 Persons</b>	\$128,381	\$80,238	\$48,143
<b>8 Persons</b>	\$136,663	\$85,415	\$51,249
Source: Affordable Housing Professionals of New Jersey			
* These are for calculating the pricing for one and three-bedroom sale and rental units per N.J.A.C. 5:80-26.4(a)			

## 2. Analysis of Housing Characteristics

### Age of Housing Stock

As of 2023, Kenilworth Borough had 3,058 housing units, amounting to 1.4% of the total housing stock in Union City. More than 60% of this existing stock was built in the 1950s and 1940s. Typically, homes that are over 40 years old require more frequent maintenance and repairs than newer homes. Therefore, it would be reasonable to assume that homeowners in the borough spend a great deal of time and money trying to maintain the livability of their homes. In addition, housing growth appears to have stalled since 2000. This low growth may be attributable to slow recovery from the economic recession of 2008. Table 12 shows the age of the housing stock in Kenilworth.

The county's housing stock grew quite slowly, by only 5.4% during that time; however, Kenilworth Borough experienced no growth in the same period. The housing growth rates for the county as a whole have consistently grown at a higher rate than the borough since 1970, suggesting that other parts of Union County

<b>Table 12 : Age of Housing – 2019-2023 ACS, Borough of Kenilworth and Union County</b>				
	<b>Kenilworth Borough</b>		<b>Union County</b>	
<b>Year Built</b>	<b>Number of Units</b>	<b>Percent</b>	<b>Number of Units</b>	<b>Percent</b>
<b>2020 or later</b>	20	0.7%	3,659	1.7%
<b>2010 to 2019</b>	206	6.7%	11,637	5.4%
<b>2000 to 2009</b>	3	0.1%	11,651	5.5%
<b>1990 to 1999</b>	79	2.6%	6,421	3.0%
<b>1980 to 1989</b>	40	1.3%	11,172	5.2%
<b>1970 to 1979</b>	268	8.8%	16,655	7.8%
<b>1960 to 1969</b>	302	9.9%	29,439	13.8%
<b>1950 to 1959</b>	1,199	39.2%	46,641	21.8%
<b>1940 to 1949</b>	640	20.9%	24,652	11.5%
<b>1939 or earlier</b>	301	9.8%	51,676	24.2%
<b>Total</b>	3,058	100%	213,603	100%
Note: Figures may not add up due to rounding				
Source: 2019-2023 American Community Survey 5-Year Estimates				

have been more attractive for development than the borough.

### Condition of Housing Stock

While it is important to understand the development trends and existing age of housing, it is just as important to understand the living conditions. Table 13 shows that despite the advanced age of the housing stock, and the need for increased repairs and maintenance associated with older homes, housing conditions are very good in Kenilworth Borough. No housing units lacked complete plumbing facilities, just 1.3% lacked complete kitchen facilities and just 1.6% of housing units were overcrowded. These figures fell below the Union County averages. While the most common housing deficiency in the county was extreme overcrowding, Kenilworth Borough did not experience any extreme overcrowding in 2023..

<b>Table 13 : Condition of Housing Stock, 2019-2023 ACS, Borough of Kenilworth</b>				
<b>Deficiency Indicator</b>	<b>Kenilworth Borough</b>		<b>Union County</b>	
	<b>Number of Units</b>	<b>Percent</b>	<b>Number of Units</b>	<b>Percent</b>
<b>Total Number of Occupied Housing Units</b>	2,880		206,095	
<b>Lacking complete kitchen facilities</b>	37	1.3%	2,165	1.1%
<b>Lacking complete plumbing facilities</b>	0	0.0%	1,086	0.5%
<b>Crowded housing</b>				
<b>1.01 to 1.50 persons per room</b>	0	0.0%	7,547	3.7%
<b>1.51 or more persons per room</b>	47	1.6%	3,994	1.9%

Source: ACS 5-Year Estimates, 2019-2023

### Occupancy and Vacancy Characteristics

Table 14 below depicts the housing stock by tenure and vacancy. Kenilworth Borough has a housing vacancy rate, of 178 units, or 5.8% of the housing stock, remaining vacant. By contrast, the Union County housing vacancy rate was lower than , at 3.5%. Additionally, 27.2% of all 2,880 occupied housing units in the borough were renter-occupied, while the Union County renter occupancy rate is much higher, at 41.1%.

<b>Table 14 : Tenure and Housing Vacancy Rates 2019-2023 ACS, Borough of Kenilworth and Union County Comparison</b>				
<b>Occupancy Status</b>	<b>Kenilworth Borough</b>		<b>Union County</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Occupied housing units</b>	2,880	94.2%	206,095	96.5%
<b>Vacant housing units</b>	178	5.8%	7,508	3.5%
<b>Total housing units</b>	3,058	100%	213,603	100%
<b>Homeowner vacancy rate</b>	--	0.0%	--	0.3%
<b>Renter vacancy rate</b>	--	6.9%	--	2.5%
<b>Housing Tenure</b>				
<b>Owner-occupied housing units</b>	2,097	72.8%	121,379	58.9%
<b>Renter-occupied housing units</b>	783	27.2%	84,716	41.1%

Source: ACS 5-Year Estimates, 2019-2023

As shown in Table 15, in Kenilworth Borough, over 70% of housing units are one-unit, detached homes. The remainder of housing unit types consist mostly of two-unit (21.7%) and 1-unit, attached

buildings (3.8%). The share of housing units that are in two-unit buildings is higher in Kenilworth than in the Union County as a whole. . In addition, the data shows that only a handful of buildings in Kenilworth Borough contain more than five units. These building types are much more common in other parts of Union County, with over 31,527 units, or 14.8%, in buildings with 20 or more units. Still, half of all housing units can be described as single-unit, detached homes, making this the predominant housing type in the county.

#### *Size of Housing by Number of Rooms*

<b>Table 15 : Units in Structure, 2019-2023 ACS, Borough of Kenilworth and Union County</b>				
	<b>Kenilworth Borough</b>		<b>Union County</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Total housing units</b>	3,058	100%	213,603	100%
<b>1-unit, detached</b>	2,174	71.1%	107,770	50.5%
<b>1-unit, attached</b>	117	3.8%	11,444	5.4%
<b>2 units</b>	664	21.7%	33,875	15.9%
<b>3 or 4 units</b>	19	0.6%	15,857	7.4%
<b>5 to 9 units</b>	22	0.7%	6,466	3.0%
<b>10 to 19 units</b>	0	0.0%	6,310	3.0%
<b>20 or more units</b>	62	2.0%	31,527	14.8%
<b>Mobile home</b>	0	0.0%	187	0.1%
<b>Boat, RV, van, etc.</b>	0	0.0%	167	0.1%
Source: U.S. Census, ACS DP04, 2019-2023				

Data from Table 16 shows that Kenilworth Borough tends to have larger housing units than Union County. This conclusion is reasonable because the county includes urban cities, which often have small housing sizes than do suburban communities like Kenilworth Borough. The most common housing sizes in the borough are three and four bedroom units, whereas two and three bedroom units are most common in the county. Union County also offers a larger share of small housing units, of one or fewer bedrooms, than does Kenilworth Borough. These units comprise only 2.6% of the borough's housing stock.

<b>Table 16 : Housing Size by the Number of Bedrooms, 2019-2023 ACS, Borough of Kenilworth and Union County</b>				
	<b>Kenilworth Borough</b>		<b>Union County</b>	
<b>Number of Rooms</b>	<b>Number of Units</b>	<b>Percent</b>	<b>Number of Units</b>	<b>Percent</b>
<b>No bedroom</b>	62	2.0%	6,723	3.1%
<b>1 bedroom</b>	17	0.6%	33,064	15.5%
<b>2 bedrooms</b>	588	19.2%	49,383	23.1%
<b>3 bedrooms</b>	1,635	53.5%	71,090	33.3%
<b>4 bedrooms</b>	580	19.0%	41,778	19.6%
<b>5 or more bedrooms</b>	176	5.8%	11,565	5.4%
<b>Total</b>	3,058	100%	213,603	100%
Source: U.S. ACS DP04, 2019-2023				

## Value of Housing Stock

In 2023, the median value of owner-occupied homes in Kenilworth Borough was \$521,100, which is very similar to the Union County median home value. In the borough, 92.8% of owner-occupied homes were valued between \$300,000 and \$999,999. In Union County, this figure was 80.9%, explained by a greater proportion of homes having a higher value. Given that Kenilworth

Borough has predominantly older homes, it stands to reason that newer homes in other parts of the county would have a greater worth. The monthly cost to owners with a mortgage was somewhat lower in Kenilworth Borough, averaging \$2,790 compared to \$2,982. This estimate may include a combination of mortgage payments, property taxes, and maintenance and repair costs.

<b>Table 17 : Housing Characteristics, 2019-2023 ACS, Borough of Kenilworth and Union County</b>		
	<b>Kenilworth Borough</b>	<b>Union County</b>
<b>Housing Characteristics</b>		
<b>Owner-occupied units</b>	2,097	121,379
<b>Median value</b>	\$521,100	\$522,500
<b>Median of selected monthly owner costs</b>		
<b>With a mortgage</b>	\$2,790	\$2,982
<b>Without a mortgage</b>	\$1,151	\$1,338
Source: ACS DP04, 2019-2023		

<b>Table 18 : Value of Owner-Occupied Housing 2019-2023 ACS, Borough of Kenilworth and Union County</b>				
	<b>Kenilworth Borough</b>		<b>Union County</b>	
<b>Housing Value</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Less than \$50,000</b>	56	2.7%	1,325	1.1%
<b>\$50,000 to \$99,999</b>	0	0.0%	892	0.7%
<b>\$100,000 to \$149,000</b>	0	0.0%	1,404	1.2%
<b>\$150,000 to \$199,999</b>	41	2.0%	1,285	1.1%
<b>\$200,000 to \$299,999</b>	55	2.6%	7,167	5.9%
<b>\$300,000 to \$499,999</b>	821	39.2%	45,160	37.2%
<b>\$500,000 to \$999,999</b>	1,124	53.6%	52,992	43.7%
<b>\$1,000,000 or more</b>	0	0.0%	11,154	9.2%
<b>Total</b>	2,097	100%	121,379	100%
Source: ACS DP04, 2019-2023				

It is important to examine how much households spend on housing as a percentage of their income since the amount spent, alone, does not tell us whether it is affordable for residents to live there.

According to U.S. HUD, households that spend more than 30% of their income on housing are cost-burdened such that meeting their other needs may be difficult. In Kenilworth Borough, more than a quarter, 29.7%, of households with a mortgage fall into this category, while a higher proportion, 35.3%, of Union County households with a mortgage are over-burdened. In the borough, the difference in housing cost burden between households with and without a mortgage is small.

<b>Table 19 : Selected Monthly Owner Costs as a Percentage of Household Income, 2019-2023 ACS, Borough of Kenilworth and Union County</b>				
	<b>Kenilworth Borough</b>		<b>Union County</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Housing units with a mortgage</b>				

Less than 20.0 percent	490	36.2%	34,528	42.4%
20.0 to 24.9 percent	239	17.7%	10,192	12.5%
25.0 to 29.9 percent	221	16.3%	7,991	9.8%
30.0 to 34.9 percent	199	14.7%	6,003	7.4%
35.0 percent or more	203	15.0%	22,695	27.9%
<b>Total</b>	<b>1,352</b>	<b>100%</b>	<b>81,409</b>	<b>100%</b>
<b>Housing units without a mortgage</b>				
Less than 10.0 percent	209	28.1%	12,241	31.4%
10.0 to 14.9 percent	163	21.9%	7,312	18.8%
15.0 to 19.9 percent	58	7.8%	5,073	13.0%
20.0 to 24.9 percent	44	5.9%	3,938	10.1%
25.0 to 29.9 percent	53	7.1%	1,844	4.7%
30.0 to 34.9 percent	71	9.5%	1,636	4.2%
35.0 percent or more	147	19.7%	6,889	17.7%
<b>Total</b>	<b>745</b>	<b>100%</b>	<b>38,933</b>	<b>100%</b>
Source: ACS DP04, 2019-2023				

Examining rent paid as a proportion of household income shows a worse situation for renters in Kenilworth Borough and a worse situation for renters in Union County as a whole. Over half, 53.3% of renter households in the borough are housing cost-burdened, while nearly half, 48.7%, of Union County renters are in a similar situation. However, the median monthly gross rent was higher in Kenilworth Borough than in Union County, suggesting that the incomes of renters in the borough are generally higher than their counterparts in the county.

<b>Table 20 : Rent Levels – 2019-2023 ACS, Borough of Kenilworth and Union County</b>				
	<b>Kenilworth Borough</b>		<b>Union County</b>	
<b>Occupied units paying rent</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Less than 15.0 percent	99	12.9%	9,952	12.1%
15.0 to 19.9 percent	104	13.5%	8,294	10.1%
20.0 to 24.9 percent	104	13.5%	11,397	13.9%
25.0 to 29.9 percent	52	6.8%	12,406	15.1%
30.0 to 34.9 percent	20	2.6%	6,136	7.5%
35.0 percent or more	390	50.7%	33,766	41.2%
Source: ACS DP04, 2019-2023				

### 3. Analysis of Employment Characteristics

Economic data regarding Kenilworth was retrieved from City-data.com, which reports that the estimated Median Household Income in 2022 was \$100,711 ,

Based on the “Major Employers List” prepared for the Union County Board of Chosen Freeholders by the Union County Economic Development Corporation in 2022 , Kenilworth is home to

one of 8 businesses in Union County with over 1,000 employees – Merck & Co. – and it is the largest single employer in Union County with 4,000 employees. There are five major employers within Kenilworth and Table 20 depicts entities who employ over 100 people and it is not reflective of all of the businesses and employers within the Borough. However, this table does indicate that Kenilworth does have a variety of healthy employment opportunities within its borders.

<b>Table 21 : Economic Data Borough of Kenilworth</b>	
<b>Description</b>	<b>Amount</b>
<b>Estimated Median Household Income in 2022</b>	\$100,711
<b>Estimated Median Household Income in 2000</b>	\$59,929
<b>Estimated Per Capita Income in 2022</b>	\$52,150
<b>Estimated Median House or Condo Value in 2022</b>	\$504,173
<b>Estimated Median House or Condo Value in 2000</b>	\$177,000
<b>Mean Price of All Housing Units in 2022</b>	\$468,554
<b>Mean Price of Detached Houses in 2022</b>	\$464,387
<b>Mean Price of Two Unit Structures in 2022</b>	466,328
<b>Median Gross Rent in 2022</b>	\$1,939
<b>Source: City-Data.com</b>	

<b>Table 22 : Borough of Kenilworth, Major Employers</b>			
<b>Employer</b>	<b>Address</b>	<b>Business</b>	<b>No. of Employees</b>
<b>Merck &amp; Co.</b>	2000 Galloping Hill Road	Pharmaceutical Preparation Manufacturing	1,000+
<b>Auto Action Group, Inc.</b>	121 North Michigan Ave.	Automotive	100-199
<b>Kenilworth Board of Education</b>	426 Boulevard	Education	100-199
<b>White Systems, Inc.</b>	30 Boright Ave.	Industrial machinery and equipment merchant wholesalers	100-199
<b>ACME</b>	801 Boulevard	Supermarket	100-199
<i>Source: "2022 Major Employers" Prepared for Union County Board of County Commissioners, by Union County Economic Development Corporation, 2022</i>			

The Borough of Kenilworth has a high percentage of high school graduates, but a lower proportion of bachelor's degree and graduate or professional degree attainees. The average commute time is 23.4 minutes, indicating that many of the residents commute to work elsewhere, but are likely within close proximity of Kenilworth.

<b>Table 23 : Education and Employment Data for the Borough of Kenilworth</b>	
<b>For population 25 years and over</b>	
<b>High school or Higher</b>	90.3%
<b>Bachelor's Degree or Higher</b>	29.6%
<b>Graduate or Professional Degree</b>	10.6%
<b>Unemployed</b>	4.6%
<b>Mean Travel Time to Work (Commute)</b>	23.4 mins
<b>Source: City-Data.com</b>	

As per the MLUL, specifically, N.J.S.A. 52:27D-310.b, a housing element must contain 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.

As shown in Table 24, 54 new housing units were built between 2009 and 2023. During this period, 14 housing units were demolished. This yields a net gain of 40 housing units over this 15-year period, or an average of about 2.5 units per year.

Table 24: Historic Trend of Certificates of Occupancy and Demolition Permits (2009-2023)																
Type	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18	'19	'20	'21	'22	'23	Total
CO	6	3	5	11	8	5	3	1	1	3	2	5	0	0	1	54
Demo	3	2	1	0	4	0	0	0	1	0	1	0	1	1	0	14
Net	3	1	4	11	4	5	3	1	0	3	1	5	-1	-1	1	40
Source: NJ DCA Housing Units Certified and NJ DCA Development Trends Viewer																

[illegible]

<b>2. Projected Historic Trends</b>	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	<b>TBD</b>
<b>3. Other Projected Development</b>	25	--	--	--	--	--	--	--	--	--	--	<b>25</b>
<b>25 North 26<sup>th</sup> Street</b>	25	--	--	--	--	--	--	--	--	--	--	<b>25</b>
<b>Total Projected Residential Development</b>												<b>25</b>

<b>Table 26: Projection of Affordable Units Borough of Kenilworth</b>												
<b>Type</b>	<i>July 1, 2025</i>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>	<b>2031</b>	<b>2032</b>	<b>2033</b>	<b>2034</b>	<i>June 30, 2035</i>	<b>Total</b>
<b>1. Approved New Residential Development Permits Issued</b>	--	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	<b>0</b>
<b>2. Other Projected Development</b>	--	25	--	--	--	--	--	--	--	--	--	<b>25</b>
<b>25 North 26<sup>th</sup> Street</b>	--	25	--	--	--	--	--	--	--	--	--	<b>25</b>
<b>Total Projected Development</b>	--	25	--	--	--	--	--	--	--	--	--	<b>25</b>

## **5. A Consideration of Lands of Developers Who Have Expressed a Commitment to Affordable Housing**

Pursuant to the Fair Housing Act (N.J.S.A.52:27D-310.f) and the Municipal Land Use Law N.J.S.A. 40:55D-28b(3), a Housing Element must include “a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.” Thus, it is the Borough’s responsibility to consider sites offered for affordable housing. However, the Borough does not have an obligation to include every parcel a developer has proposed. In this case, a number of developers have expressed interest in the construction of affordable housing and their site has been included in this Plan below.

## **6. Consistency with State Plan and Redevelopment Plan**

Pursuant to the Fair Housing Act (N.J.S.A.52:27D-310.i) and the Municipal Land Use Law N.J.S.A. 40:55D-28b(3), a Housing Element must include “an analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.” Per the existing State Development and Redevelopment Plan (SDRP), which was adopted in 2001, the Borough of Kenilworth is located in the Metropolitan Planning Area (PA1). As stated in the 2001 SDRP, the State Plan’s intention in PA1 is to “provide for much of the state’s future redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older suburbs; redesign



areas of sprawl; and protect the character of existing stable communities.” The SDRP further elaborates that “these goals will be met by strategies to upgrade or replace aging infrastructure; retain and expand employment opportunities; upgrade and expand housing to attract a balanced residential population; restore or stabilize a threatened environmental base through brownfields redevelopment and metropolitan park and greenway enhancement; and manage traffic effectively and create greater opportunities for public transportation connections within the Metropolitan Planning Area and between the Metropolitan Planning Area, suburban employment centers, and the Philadelphia and New York areas.”

On December 4, 2024, the State Planning Commission approved the updated Preliminary State Development and Redevelopment Plan. Per the Preliminary SDRP, Kenilworth remains in Metropolitan Planning Area (PA1). The Preliminary SDRP provides that the intent of the Metropolitan Planning Area is to “provide for much of the state’s future growth in compact development and redevelopment; revitalize cities, towns and neighborhoods, and in particular overburdened neighborhoods; address existing legacy issues such as air pollution, urban heat islands, lead contamination, Brownfields, urban highways, and combined sewer systems; prevent displacement and gentrification; promote growth that occurs in Centers, other appropriate areas that are pedestrian friendly, and in compact transit-oriented forms; rebalance urbanization with natural systems; promote increased biodiversity and habitat restoration; stabilize and enhance older inner ring suburbs; redesign and revitalize auto oriented areas; protect and enhance the character of existing stable communities.” Given that the final updated SDRP is not expected to be adopted until late Fall 2025, the consistency of the City’s Fourth Round Housing Element with the State Development and Redevelopment Plan is evaluated based on the 2001 SDRP. The Borough reserves the right to amend this Housing Element and Fair Share Plan to reevaluate its consistency with the updated SDRP after its adoption.

Redevelopment has been used as a primary tool for housing development in Kenilworth over the last decade, which is a core objective of the existing SDRP and Preliminary SDRP for PA1. The Borough particularly has prioritized redevelopment efforts in its industrial corridors, surrounding brownfield sites where industrial land uses were formerly operated, which has brought an influx of residential development to the Borough’s underutilized, blighted properties, improving walkability and infrastructure. By concentrating higher-density development in the Borough’s underutilized industrial sites and engaging in infill development, Kenilworth is providing for its future growth in “compact” form as envisioned by the SDRP. The Borough is continuing to promote redevelopment as a tool for the provision of affordable housing units as part of its compliance with its Fourth Round affordable housing obligations. The Borough evaluates the viability of all planned and prospective affordable housing sites with respect to utility access, environmental impacts, and traffic/circulation. The projects contemplated for compliance towards the Borough’s Fourth Round affordable housing obligation are further evaluated in this Housing Element and Fair Share Plan.

### III. BOROUGH OF KENILWORTH FOURTH ROUND FAIR SHARE PLAN

#### A. SATISFACTION OF COMPLIANCE MECHANISMS PRIOR TO THE FOURTH ROUND

##### Compliance with Fourth Round Deadlines

As described in Section II.D of this Housing Element and Fair Share Plan, the FHA Amendments established several deadlines prior to the commencement of the Fourth Round on July 1, 2025. This section details the Borough's compliance with the deadlines mandated by the FHA Amendments leading up to the preparation of this Housing Element and Fair Share Plan.

- **June 18, 2024:** Deadline for the municipality to submit to the DCA a detailed accounting of all nonresidential development fees collected and expended since it was authorized to collect such fees. This deadline was retroactively moved to coincide with the September 16, 2024, unit and program monitoring report deadline. The Borough formally submitted an affordable housing trust fund report inclusive of all residential and non-residential fees through December 31, 2023, to DCA Commissioner Jacquelyn A. Suarez on June 18, 2014 (see Appendix ).
- **September 16, 2024:** Deadline for the municipality to submit to the DCA a detailed accounting of all residential development fees collected and expended since it was authorized to collect such fees. Starting in September 2024, the DCA released a new Affordable Housing Monitoring System (AHMS) as required by A4/S50 for all municipalities to record and report all affordable housing trust fund and unit monitoring activity. The Borough formally submitted all affordable housing trust fund activity through December 31, 2023, on the new online Affordable Housing Monitoring System (AHMS) on September 16, 2024 (see Appendix ).
- **September 16, 2024:** Deadline for the municipality to submit a unit and program monitoring report to the DCA. The Township formally submitted all affordable housing project and unit monitoring data through December 31, 2023, on the new online Affordable Housing Monitoring System (AHMS) on September 16, 2024 (see Appendix ).
- **October 20, 2024:** Deadline for DCA to prepare and submit a report on the calculation of regional need and municipal obligations for each region. The DCA released a report titled "Affordable Housing Obligations for 2023-20235 (Fourth Round) Methodology and Background" on October 18, 2024.
- **January 31, 2025:** Deadline for a municipality to adopt its fair share obligation numbers via binding resolution, which will either accept the DCA numbers, or describe why the numbers should be adjusted and what those adjusted numbers should be.
- **48 hours following adoption of the resolution:** Deadline for a municipality to file an action with the Program regarding the adopted resolution and committing to its fair share numbers. The resolution must be published on the municipal website.
- **February 15, 2025:** Deadline for the municipality to submit to the DCA a detailed accounting of all nonresidential and residential development fees collected and expended

from the previous year. The Township formally submitted and confirmed all affordable housing trust fund activity through December 31, 2024, on the AHMS on February 12, 2025, and the Township formally submitted and confirmed all affordable housing project and unit monitoring data through December 31, 2024, on the AHMS on February 12, 2025 (see Appendix ).

- **February 28, 2025:** Deadline for an interested party to challenge a municipality's adopted numbers. The Borough of Kenilworth committed to the original numbers as described in the DCA Report released on October 18, 2024; no party challenged the numbers.
- **March 1, 2025:** If no challenges, the Borough's numbers are established by default and immunity from exclusionary zoning litigation remains in effect.
- **March 31, 2025:** Deadline for the Program to settle challenges to a municipality's fair share obligation numbers. The Program must issue a decision on any challenges to the municipality's fair share obligation by (i) making a finding that the municipality's determination of its present and prospective need obligation did not facially comply with the law and revoking the municipality's immunity, (ii) making an adjustment to the municipality's determination to comply with the law without revoking immunity or (iii) rejecting the challenge and affirming the municipality's determination of its fair share obligation. NJBA notified the Program in writing by their counsel that they would not object to any settlement reached between the Borough and the FSHC.
- **June 30, 2025:** Deadline to adopt and endorse a Housing Element and Fair Share Plan and propose drafts of the appropriate zoning and other ordinances and resolutions implementing the municipality's present and prospective obligation. This Fourth Round HEFSP, inclusive of all ensuing attachments and appendices, has been prepared for review and adoption by Borough Council prior to the June 30, 2025, deadline.
- **June 30, 2025 or 48 hours following the Plan's adoption (whichever is sooner):** Deadline for the municipality to file the Housing Element and Fair Share Plan and drafts of resolutions and ordinances to implement its present and prospective obligation with the Program. The Plan and appropriate resolutions and ordinances must be posted on the municipal website.

### Fair Share Obligations Prior to the Fourth Round

In the 3<sup>rd</sup> round, the Borough followed the fair share methodology approved by Judge Mary C. Jacobson in her decision, dated March 8, 2018. Based upon the obligations approved in that decision, the Borough had a zero (0) unit Rehabilitation Obligation; an 83-unit prior round (Second Round) obligation and a 271-unit Third Round obligation. The following chart illustrates the numbers for the Prior Round (Second Round) and for the Third Round:

<b>Table 27 : Breakdown of Fair Share Housing Obligations Borough of Kenilworth, Union County, NJ</b>	
Prior Round Rehabilitation Obligation	0 units
Prior Round Obligation (1987-1999):	83 units
Third Round Jacobson Number (1999-2025)	271 units

<b>Total Obligation:</b>	<b>354</b>
--------------------------	------------

The Borough has not satisfied with its Prior Round Obligation of 83 or its Third Round Jacobson Obligation of 271. Therefore, this unmet need will be carried over to the Fourth Round. A Prior Round and Third Round combined unmet need of 354 will be added to the Borough's Fourth Round Prospective Need Obligation.

### **Satisfaction of Third Round Rehabilitation Obligation**

According to Judge Jacobson, the Borough had a Third Round Rehabilitation obligation of zero (0); there was no rehabilitation obligation for the Borough to satisfy.

### **Satisfaction of Prior Round Obligation**

The Borough had a prior round obligation of 83. The Borough will address it unmet prior round obligation as part of its comprehensive planning efforts in the forthcoming Fourth Round.

### **Satisfaction of Third Round Prospective Need Obligation**

The Borough had a Third Round Prospective Need Obligation of 271, pursuant to the Judge Jacobson decision. The Borough will address this unmet third round prospective need obligation as part of its comprehensive planning efforts in the forthcoming Fourth Round.

## **B. FOURTH ROUND PLAN COMPLIANCE MECHANISMS**

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

As explained in detail in Section II.D and Section II.E of this Fourth Round Housing Element and Fair Share Plan, the Borough's Fourth Round present need (rehabilitation) obligation is 35. The Borough intends to participate in the Union County Home Improvement Program until the rehabilitation obligation has been fully satisfied, and the Borough shall amend the Spending Plan to fund the balance of its present need if the County program is ever abandoned or loses its funding. In the event that the County program sufficiently addresses the Borough's rehabilitation obligation for owner-occupied units, the Borough reserves the right to amend the Spending Plan to allocate funds to other affordable housing activities.

### **Fourth Round Prospective Need Obligation**

As explained in detail in Section II.D, Section II.E, and Section II.F of this HEFSP, on January 16, 2025, the Borough filed a Declaratory Judgement Action (Appendix D) along with a resolution of participation with the Affordable Housing Dispute Resolution Program, adopted on January 15, 2025, which calculated the Borough's Fourth Round Prospective Need obligation as 208 units, as calculated by the DCA. The Borough Council adopted a binding resolution committing to a Fourth Round Prospective Need obligation of 208 units on January 15, 2025. The Township's Fourth Round Prospective Need obligation of 208 units was thereby established in a Court Order dated March 27, 2025.

## **1. Vacant Land Adjustment**

As discussed in Section II.F of this HEFSP, the Borough has conducted a Vacant Land Adjustment as part of addressing its Fourth Round prospective need obligation (see Appendix A). As a result of the VLA, taking into consideration vacant and “developable” properties, developed/approved properties determined to generate an RDP, and properties identified as likely to redevelop, the Borough calculated an RDP of 31.

## **2. Fourth Round Rental Obligation**

Per N.J.S.A. 52:27D-311, “A municipality shall satisfy a minimum of 25 percent of the actual affordable housing units, exclusive of any bonus credits, to address its prospective need affordable housing obligation, through rental housing, including at least half of that number available to families with children.” Based on the Borough’s Fourth Round RDP of 31, its minimum rental obligation is twenty five percent (25%) of 31, or 8 units. The Borough has proposed 25 affordable family rental units towards its Fourth Round RDP. The Borough will therefore satisfy its minimum 8-unit rental obligation. The Borough will continue to comply with this requirement over the course of the Fourth Round period as units are constructed and the RDP is adjusted.

## **3. Fourth Round Family Housing Obligation**

Per N.J.S.A. 52:27D-311, “A municipality shall satisfy a minimum of 50 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its prospective need affordable housing obligation through the creation of housing available to families with children 45 Borough of Garwood – Fourth Round Housing Element and Fair Share Housing Plan and otherwise in compliance with the requirements and controls established pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321).” In compliance with this fifty percent (50%) minimum family housing requirement, 16 units of the Borough’s 31-unit Fourth Round RDP, or fifty percent (50%), will be satisfied by affordable family units. These 16 affordable family units are comprised of 25 affordable family rental units from the 25 North 26<sup>th</sup> Street Redevelopment project. The Borough will continue to comply with this requirement over the course of the Fourth Round period as units are constructed and the RDP is adjusted.

## **4. Fourth Round Age-Restricted Housing**

Per N.J.S.A. 52:27D-311, “A municipality may not satisfy more than 30 percent of the affordable housing units, exclusive of any bonus credits, to address its prospective need affordable housing obligation through the creation of age-restricted housing.” The Borough intends to adopt an age-restricted, inclusionary overlay zone on the Former National Tool Site, encompassing 4.33 acres of land. The proposed density for this overlay zone is set at 15 units per acre, which would yield approximately 65 total units with a 20% set-aside of 13 affordable, age-restricted units; therefore, the Borough will remain under the maximum of 30% of its 208-unit Fourth Round prospective need obligation, or 63 units, of affordable age-restricted units.

## **5. Fourth Round Very Low-Income Housing Obligation**

Per N.J.S.A. 52:27D-329.1, "Housing elements and fair share plans adopted pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) shall ensure that at least 13 percent of the housing units made available for occupancy by low-income and moderate-income households to address a municipality's prospective need obligation will be reserved for occupancy by very low income households, as that term is defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304), with at least half of such units made available for families with children. The 13 percent shall count towards the minimum 50 percent of the housing units required to be made available for occupancy by low-income households to address a municipality's prospective need obligation." Based on the Borough's 208-unit Fourth Round prospective need obligation, the Borough will provide a minimum of 28 units to very low-income households, with a minimum of 14 of said units made available for families with children. While the income distribution for the units in each development contributing to the Borough's Fourth Round prospective need has not yet been finalized, the Borough will ensure that the required 13% minimum very-low income threshold is met as each project is built out over the Fourth Round period. Units constructed as part of the Borough's Fourth Round prospective need compliance shall be subject to the revised UHAC rules effective as of December 19, 2024, and subject to final revision and adoption, which include amendments at N.J.A.C. 5:80-26.1, 26.2, 26.4 through 26.27 and at Appendices A through Q, and new rules at N.J.A.C. 5:80-26.3 and 26.28 to codify statutory requirements enacted pursuant to P.L. 2024, c.2.

## **6. Fourth Round Bonus Credits**

Per N.J.S.A. 52:27D-311, "A municipality shall not receive more than one type of bonus credit for any unit and a municipality shall not be permitted to satisfy more than 25 percent of its prospective need obligation in the fourth round or any subsequent round through the use of bonus credits." The Borough is currently eligible for 6 bonus credits based on the twenty-five percent (25%) bonus credit cap on the RDP of 31 generated by developed properties/properties pending approval. Based on the Borough's 208-unit Fourth Round prospective need obligation, the Borough will be eligible to credit up to 52 total bonus credits towards satisfaction of its Fourth Round prospective need as units are built out over the Fourth Round period and the RDP calculation is adjusted. The 6 bonus credits for which the Borough is currently eligible are provided as follows:

- a) 6 rental bonus credits from 25 proposed affordable units located at the 25 North 26<sup>th</sup> Street Redevelopment site.
- b) The Borough reserves the right to adjust the allocation of bonus credits in accordance with the FHA Amendments to fully satisfy the twenty five percent (25%) bonus credit cap applicable to the Fourth Round prospective need obligation should any condition of this HEFSP change.

## 7. Satisfaction of Fourth Round RDP

The Borough's Fourth Round RDP of 31 shall be satisfied as follows:

Table 28. Existing and Proposed Projects Addressing the Fourth Round RDP Borough of Kenilworth, Union County, NJ					
FOURTH ROUND RDP	25 units from developed properties/properties pending approval				
	6 rental bonus credits				
	31 TOTAL RDP				
Mechanism	Proposed Units	L	M	VL	Total
Redevelopment	25				
Adopted Redevelopment Plan allows a total of 165 total units on the 25 North 26th Street site (Block 183, Lot 9), which will deliver a total of 25 affordable family rental units.	25	9	12	4	25 (FR)
Site size: Approx. 3.79 +/- acres					
Rental Bonus Credits (25% of the RDP, or maximum 6)	6				
TOTAL CREDITS AND UNITS	31				
(FR) = Family Rental					

## 8. Detailed Summary of Fourth Round RDP Satisfaction

- a. 25 units from the following new inclusionary redevelopment project:
  - i. Redevelopment of 25 North 26<sup>th</sup> Street (Block 183, Lot 9). 165 total rental units, including 25 inclusionary affordable family rental units, based on a 15% set-aside located in multi-family buildings.
- b. 6 rental bonus credits, based on a maximum of 25% of the 31-unit RDP.

## 9. Other Mechanisms

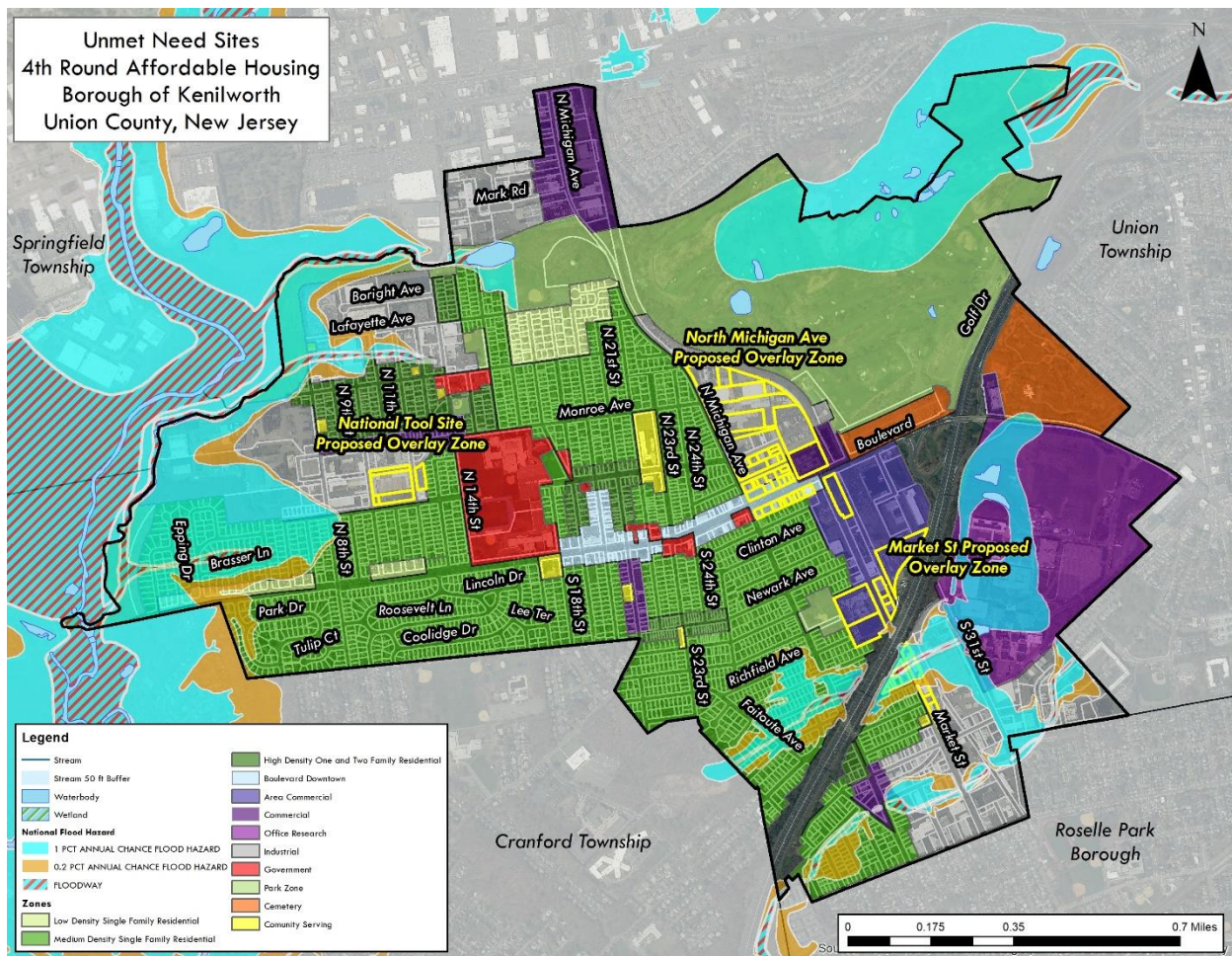
- a. **Mandatory Set Aside Ordinance.** The Borough will adopt a Affordable Housing Ordinance, which will include Mandatory Set Aside Ordinance ("MSO") to provide that all developments will provide a 20% set aside for both rental and for-sale developments. A draft of the amended MSO is provided in Appendix G.

#### **Fourth Round Prospective Need Obligation**

With the Prior Round unmet obligation of 83, the Judge Jacobson Third Round (1999-2025) number of 271, along with the Fourth Round (2025-2035) DCA number of 208, and the Borough's RDP of 31, then the combined Prior Round, Third Round, and Fourth Round remaining Unmet Need will be **531** ( $83 + 271 + 208 - 31 = 531$ ). The Borough will address the remaining portion of its allocation of the "unmet need", through the following mechanisms:

<b>Table 29: Proposed Projects Addressing the 4th Round "Unmet Need"</b> <b>Borough of Kenilworth, Union County, NJ</b>		
<b>4th Round Unmet Need</b>	<b>531</b>	
	<b>Proposed Affordable Units</b>	<b>Total</b>
<b>Inclusionary Overlay Zone on North Michigan Avenue Area</b> <b>(20% set-aside)</b>		
<i>North Michigan Avenue</i> <i>(Approx. 26.5 acres comprised of 40 properties at an average density of 20 units/acre)</i>	106	106
<b>Inclusionary Overlay Zone on Market Street</b> <b>(20% set-aside)</b>		
<i>Inclusionary Overlay District on Market Street</i> <i>(Approx. 12.48 +/- acres at an average of 18 units/acre)</i>	45	45
<b>Age-Restricted, Inclusionary Overlay Zone on Former National Tool Site</b> <b>(20% set-aside)</b>		
<i>Age-Restricted Overlay Zone on Former National Tool Site</i> <i>(Approx. 4.33 +/- acres at an average of 15 units/acre)</i>	13	13
<b>Total Unmet Need Units</b>	<b>164</b>	<b>164</b>





## 1. Detailed Summary of Fourth Round Unmet Need Satisfaction

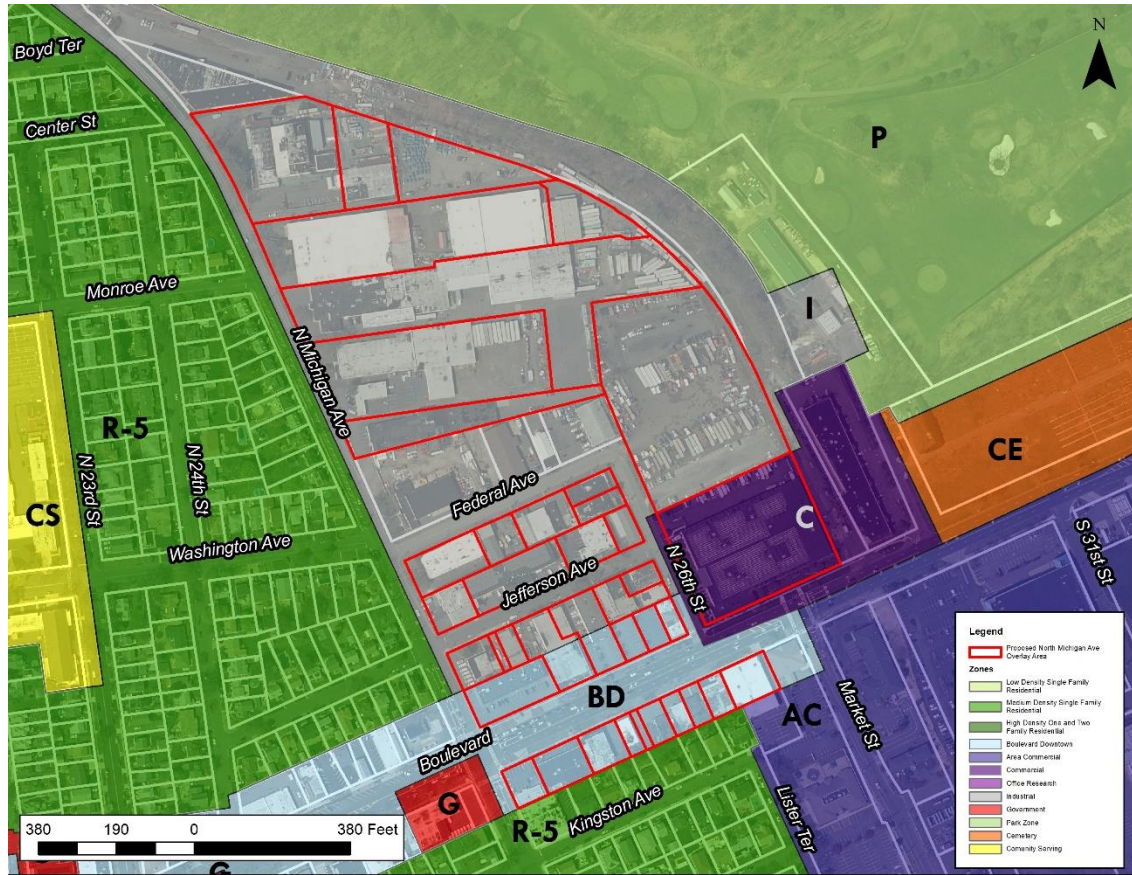
### a. 106 units from Overlay along the entire North Michigan Avenue corridor:

As part of the Light Industrial area in Kenilworth slowly changing over time and to create future opportunities for affordable housing, the Borough will enact an amendment to the zoning code for the area located along the entire North Michigan Avenue Corridor. The properties to be included in the overlay are as follows:

- a. 40 properties:
  - i. Block 183, Lots 1, 2, 3, 4, 5, 6, 7, 8, and 10;
  - ii. Block 184.A, Lot 1;
  - iii. Block 87, Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9;
  - iv. Block 88, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; and
  - v. Block 124, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10.

The Overlay Rezoned Area includes a total of approximately 26.5 acres of unconstrained land, which are proposed to be developed for inclusionary affordable housing at an average of 20 units per acre, which would yield

approximately 530 total units, including a 20% set-aside of 106 affordable units.



This Overlay area includes part of the “gateway” area into Kenilworth along the Boulevard. The Borough envisions that the portions of the North Michigan Avenue Overlay District along the Boulevard gateway and with frontage on North Michigan Avenue will allow for residential uses as part of mixed-use structures combining retail or service businesses on the ground floor, with housing (apartments and vertical duplexes) on the upper floors. The character of the existing zoning districts is entirely commercial or commercially-related uses, and therefore the Overlay intends to preserve and extend the commercial character, while providing an opportunity for complementary residential uses at appropriate densities that will provide a set-aside, as well as sufficient open space, amenities, parking, and other sound planning strategies. Surrounding single-family uses will also benefit from the proposed mixed-use character of the area.

**b. 45 units from an Overlay Zone along Market Street**

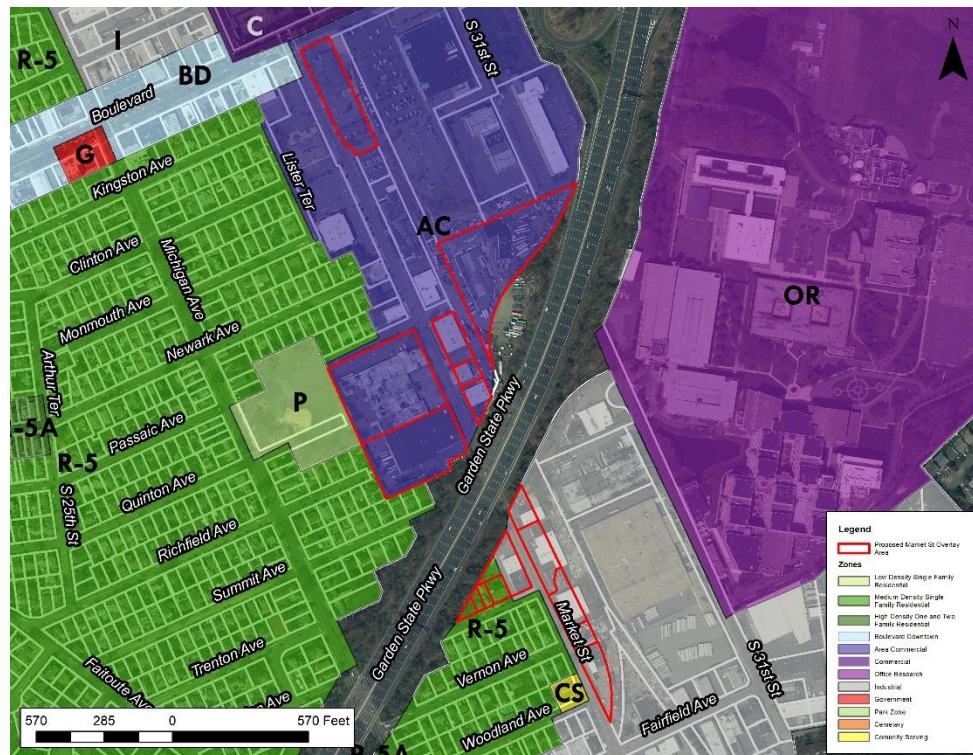
The Area Commercial (AC) and Light Industrial (I) zone districts along Market Street have a number of existing commercial businesses on various sized parcels, surrounded by residential districts to the west and other non-residential districts to the east. To create future opportunities for affordable housing, the Borough will enact an amendment to the zoning



code for the area located along the Market Street Corridor. The properties to be included in the overlay are as follows:

b. 17 properties:

- i. Block 128, Lot 1;
- ii. Block 131, Lots 1, 2, and 3;
- iii. Block 130, Lots 2 and 3;
- iv. Block 179, Lot 6;
- v. Block 156, Lots 1, 2, 3, 4, and 5; and
- vi. Block 177, Lots 1, 2, 3, 4, and 5.



The Overlay Rezoned Area includes a total of approximately 12.48 acres of unconstrained land, which are proposed to be developed for inclusionary affordable at an average of 18 units per acre because of the irregular shape of the sites, which would yield approximately 225 total units with a **20% set-aside of 45 affordable units.**

This Overlay area is located directly off of the main commercial corridor in Kenilworth, the Boulevard. The Borough envisions that the because of the mixture of non-residential and residential uses along Market Street and in the surrounding area, that this Overlay Zone will allow for residential uses as part of mixed-use structures combining retail or service businesses on the ground floor, with housing (apartments and vertical duplexes) on the upper floors. The Overlay intends to allow for a mixed-use product where appropriate, while also providing an opportunity for complementary residential uses at appropriate densities that will provide a set-aside, as

well as sufficient open space, amenities, parking, and other sound planning strategies.

### 3. 13 units from an Age-Restricted Overlay Zone on Former National Tool Site

The National Tool Site is located in the Light Industrial (I) zone district at the rear of Monroe Avenue, between North 10<sup>th</sup> and North 12<sup>th</sup> Streets. This property is currently developed as a light-industrial use, and directly abuts the R-5 Residential zone. To create future opportunities for affordable housing, the Borough will enact an amendment to the zoning code for this property. The properties to be included in the overlay are as follows:

- a. 5 properties
  - i. Block 56, Lot 9.01;
  - ii. Block 58, Lot 4; and
  - iii. Block 59, Lots 1, 2, and 3.



The Overlay Rezoned Area includes a total of approximately 4.33 acres of unconstrained land, which are proposed to be developed for inclusionary age-restricted affordable units at an average of 15 units per acre, which would yield approximately 65 total units with a 20% set-aside of **13 affordable units**.

### 4. Mandatory Set-Aside Ordinance to capture remaining Unmet Need

The adoption of the MSO requires any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough which results in multi-family residential development of five (5) dwelling units or more to produce affordable housing at a set-aside rate of 20% for

for-sale and rental affordable units. The adoption of the MSO does not give any developer the right to any such rezoning, variance, redevelopment designation or other relief, or establish any obligation on the part of Borough or its boards to grant such rezoning, variance, redevelopment designation or other relief (See Appendix G).

## C. SITES FOR INCLUSIONARY DEVELOPMENT

As required by the FHA, several proposals for inclusionary affordable residential development have been considered during the preparation of this Housing Element and Fair Share Plan and were ultimately included in this Plan. These sites are outlined below. These sites also comply with N.J.A.C. 5:93-1.1, 5.3 and 5.6, which require all new construction sites to be available, approvable, developable and suitable.

### 1. 25 North 26th Street (Block 183, Lot 9)



#### a. Site Description and Project History

- i. The Borough proposed to rezone the single parcel at Block 183, Lot 9 that comprises this approximately 3.79 acre site – and prepared an investigation for a redevelopment designation and redevelopment plan – to permit a gross density of 43.5 units per acre, and thus produce up to 165 units, inclusive of a 25-unit affordable family rental set-aside, based on a 15% set-aside requirement.
- ii. The Borough Council adopted resolution No. 21-07 on June 9, 2021, officially adopting the Redevelopment Plan for 25 North 26<sup>th</sup> Street (See Appendix F).
- iii. Site Control. The property is owned by Kenilworth Redevelopers Urban Renewal.



iv. An Administrative Mechanism. The Borough Council Resolution states that “the Redevelopment Plan also requires the affordable units to be subject to the Fair Housing Act (“FHA”), the Uniform Housing Affordability Controls (“UHAC”) regulations (N.J.A.C. 5:80-26.1 et seq.), applicable Council on Affordable Housing (“COAH”) regulations, and all applicable laws regarding the construction, phasing, administration, and affirmative marketing of affordable units”. This will ensure that all applicants for the project are properly income qualified in compliance with UHAC.

v. Proforma and Construction Schedule. A proforma and construction schedule will be provided as the project moves forward.

## **b. Site Suitability**

The project complies with N.J.A.C. 5:93-1.1, 5.3 and 5.6 that require all new construction sites to be available, approvable, developable, and suitable. This consistency is demonstrated as follows:

- i. There are no known encumbrances that would prohibit or otherwise effect the development of the property in general. The owner of the site approached the Borough with a developer, expressing interest in being a part of the Borough’s Affordable Housing Plan.
- ii. The site has access to appropriate streets and is adjacent to compatible land uses on its northeastern border with the golf course. The uses surrounding to the immediate north and west are largely industrial or outdoor storage in nature, which is not typically compatible. Proper buffers, landscaping, and off-site improvements can mitigate the impacts of incompatible uses, especially because of the size of this parcel and its regular shape. The site has frontage and access from N. 26<sup>th</sup> Street at its southwestern corner.
- iii. There is adequate water infrastructure and water capacity to serve the site.
- iv. The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- v. It is anticipated the site can be developed consistent with the Residential Site Improvement Standards and the appropriate number of parking spaces in accordance with Borough standards.
- vi. The site location is consistent with the adopted State Development and Redevelopment Plan. It is located in Planning Area 1, where development is encouraged.
- vii. Per NJDEP mapping, there are no wetlands, flood plains, or C-1 streams on the site.
- viii. There are no slopes greater than 15 percent on the site.
- ix. Per NJDEP mapping, the site is not located within 300 feet of a currently designated Category One waterbody.
- x. Per NJDEP, the site is not an active property on the Known Contaminated Sites list.

- xi. There are no known historic or cultural resources on the site.

#### **D. AFFORDABLE HOUSING ORDINANCE AND AFFIRMATIVE MARKETING PLAN**

The Borough will adopt an Affordable Housing Ordinance and an Affirmative Marketing Plan that is applicable to all new and existing affordable housing units created within Kenilworth. The Borough will also enter into a contract with a qualified affordable housing administrator to act as the Administrative Agent to manage the affordability controls and the affirmative marketing plan for all affordable housing units in the Borough.

#### **E. SPENDING PLAN AND AFFORDABILITY ASSISTANCE MANUAL**

The Borough has prepared a draft Spending Plan (see Appendix H), which is to be adopted by the Borough Council as part of its Fourth Round compliance. The Spending Plan outlines the anticipated collection and distribution of mandatory development fees and in lieu contributions and the Borough's proposals for spending the money that comes into the Affordable Housing Trust Fund. Development fees are collected in accordance with the Borough's Development Fee Ordinance, which was prepared during the Third Round and adopted by Borough Council on September 28, 2016. The Borough will revise the Development Fee Ordinance if necessary to comply with statutory changes in the Fourth Round. The Borough understands that no funds may be expended without the Court's approval of the Spending Plan.

#### **F. CONCLUSION**

In summary, the following map and table provide a visual depiction of all affordable mechanisms that are existing or proposed within the Borough of Kenilworth as part of its compliance with its Fourth Round affordable housing obligations.

<b>Table 30: Summary of Kenilworth's Fourth Round Affordable Housing Plan</b>		
<b>Obligation</b>	<b>#</b>	<b>Summary of Affordable Housing Strategies</b>
<b>Fourth Round Present Need</b>	<b>35</b>	The Borough will participate in the Union County Community Home Improvement Program until the remaining rehabilitation obligation has been fully satisfied.
<b>Fourth Round Prospective Need Obligation</b>	<b>562</b>	Prior Round Unmet Obligation (1987-1999): 83 Third Round Unmet Jacobson Obligation (1999-2025): 271 Fourth Round Prospective Need (2025-2035): 208 <b>83 + 271 + 208 = 562</b>

<b>RDP</b>	<b>31</b>	<p>TOTAL CREDITS = 31</p> <p>Total new units: 25</p> <p>Bonus credits: 6 bonus credits</p> <p><u>Proposed New Units from Inclusionary Developments: 25</u></p> <ul style="list-style-type: none"> <li>• Redevelopment of 25 North 26<sup>th</sup> Street (Block 183, Lot 9) <ul style="list-style-type: none"> <li>• 25 affordable family rental units based on a 15% set-aside applied to a 165-unit building at 25 North 26<sup>th</sup> Street.</li> </ul> </li> </ul> <p><u>Bonus Credits: 6</u></p> <ul style="list-style-type: none"> <li>• The Borough will be eligible to credit up to 52 total bonus credits towards satisfaction of its Fourth Round prospective need as units are built out over the Fourth Round period and the RDP calculation is adjusted.</li> <li>• Redevelopment of 25 North 26<sup>th</sup> Street (Block 183, Lot 9) <ul style="list-style-type: none"> <li>• 6 rental bonus credits applied to 25 proposed affordable rental units</li> </ul> </li> </ul>
<b>Unmet Need</b>	<b>531</b>	<p>TOTAL CREDITS FOR UNMET NEED = 531</p> <p>Total new units through Unmet Need Strategies : 164</p> <ul style="list-style-type: none"> <li>• North Michigan Avenue Overlay Zone <ul style="list-style-type: none"> <li>• Adopt an overlay zone to permit a density of up to 20 dwelling units an acre on an approximately 26.5 acre area. Results in 106 affordable housing units to be applied to the Fourth Round unmet need.</li> </ul> </li> <li>• Market Street Overlay Zone <ul style="list-style-type: none"> <li>• Adopt an overlay zone to permit a density of up to 18 dwelling units an acre on an approximately 12.48 acre property. Results in 45 affordable housing units to be applied to the unmet need.</li> </ul> </li> </ul>



		<ul style="list-style-type: none"><li>• Former National Tool Site Overlay Zone<ul style="list-style-type: none"><li>• Adopt an overlay zone to permit a density of up to 15 dwelling units an acre on an approximately 4.33 acre property. Results in 13 affordable housing units to be applied to the unmet need.</li></ul></li><li>• Mandatory Set Aside Ordinance<ul style="list-style-type: none"><li>• The adoption of the MSO requiring any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough which results in multi-family residential development of five (5) dwelling units or more to produce affordable housing at a set-aside rate of 20% for for-sale and rental affordable units.</li></ul></li></ul>
--	--	--

#### **IV. APPENDICES**

**VACANT LAND ADJUSTMENT  
FOR THE  
BOROUGH OF KENILWORTH**



Borough of Kenilworth  
Union County, New Jersey

**June 2025**

Prepared by



**HARBOR CONSULTANTS**  
ENGINEERS, SURVEYORS, AND PLANNERS  
320 NORTH AVENUE EAST  
CRANFORD, NJ 07106  
TEL (908) 276-2715 FAX (908) 709-1738

The original of this report was signed and  
sealed in accordance with N.J.S.A. 45:14A-12.

A handwritten signature in black ink, appearing to read "M. Mistretta".

---

Michael Mistretta, PP #00575900

## VACANT LAND ADJUSTMENT FOR THE BOROUGH OF KENILWORTH

I.	INTRODUCTION.....
II.	LAND INVENTORY BY OWNERSHIP CLASS.....
III.	REFINED METHODOLOGY.....
IV.	VACANT AND DEVELOPABLE PARCELS .....
V.	DEVELOPED SITES DETERMINED TO CONTRIBUTE TO RDP .....
VI.	“LIKELY TO REDEVELOP” PROPERTIES.....
VII.	SUMMARY.....
VIII.	REFERENCE LIST .....
IX.	EXHIBITS .....
A.	Class 1 Vacant and 15C Public Exempt Parcel Inventory.....
B.	Vacant Land Adjustment Analysis Spreadsheet .....

## I. Introduction

On March 20, 2024, Governor Murphy signed into law Bill A4/S50 (P.L. 2024, c.2), which amended the Fair Housing Act, N.J.S.A. 52:27D-302 et. seq. ("Amended FHA"), abolished the Council on Affordable Housing ("COAH"), and established new guidelines and methodology for determining and regulating the affordable housing obligations of New Jersey municipalities for the fourth 10-year-round (July 2025 – July 2035). As required by P.L. 2024, c.2, "With consideration of the calculations contained in the relevant report published by the [Department of Community Affairs], for each 10-year round of affordable housing obligations beginning with the fourth round, a municipality shall determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in sections 6 and 7 of P.L.2024, c.2 (C.52:27D-304.2 and C.52:27D-304.3) by resolution, which shall describe the basis for the municipality's determination and bind the municipality to adopt a housing element and fair share plan pursuant to paragraph (2) of this subsection based on this determination as may be adjusted by the program... For the fourth round of affordable housing obligations, this determination of present and prospective fair share obligation shall be made by binding resolution no later than January 31, 2025. After adoption of this binding resolution, the municipality shall file an action regarding the resolution with the program no later than 48 hours following adoption."

In accordance with the requirements of P.L. 2024, c.2, the Municipal Council of the Borough of Kenilworth adopted Resolution #25-67 on January 15, 2025, which accepted the Department of Community Affairs ("DCA") calculations of the Borough's fair share obligations and committed to its fair share of 35 units present need and 208 units prospective need "subject to the right to adjust the Borough's fair share obligations based on a windshield survey or similar survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law." On January 16, 2025, the Borough filed a Declaratory Judgment Action with the Court and Affordable Housing Dispute Resolution Program.

Similarly to the Third Round, P.L. 2024, c.2 grants municipalities the ability to adjust their prospective need obligations for the Fourth Round based on a lack of vacant land. The process for preparing a vacant land adjustment ("VLA") for the Fourth Round follows the methodology established in the Municipal Adjustments Subchapter of COAH's Prior Round Substantive Rules (N.J.A.C. 5:93-4.2), with some minor differences as specified in P.L. 2024, c.2 and explained further in this report. The application of the methodology for vacant land adjustments from COAH's Prior Round Substantive Rules in the Fourth Round is affirmed by language in N.J.S.A. 52:27D-311.m.: "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L.2024, c.2 (C.52:27D-304.1 et al.), or binding court decisions."

The premise of a vacant land adjustment is that in instances where a municipality has exhausted all of its land and is still unable to provide a realistic opportunity for addressing its state-mandated affordable housing obligations, the municipality can satisfy its prospective need obligation through a combination of a realistic development potential ("RDP") calculation (which is lower than the Township's prospective need) and unmet need mechanisms addressing the remaining credit deficit from the municipality's prospective need. Per COAH's Prior Round Substantive Rules, "Where a municipality attempts to demonstrate that it does not have the capacity to address the housing obligation calculated by the Council, the municipality shall identify sites that are realistic for inclusionary development in order to calculate the realistic development potential (RDP) of the

community, in accordance with N.J.A.C.5:93-4.2. Where the RDP is less than the precredited need minus the rehabilitation component the municipality shall provide a response toward the obligation not addressed by the RDP. Examples of such a requirement include, but are not necessarily limited to, a redevelopment ordinance, an ordinance permitting apartments in developed areas of the municipality and a mandatory development fee ordinance” (N.J.A.C. 5:93-4.2).

Before detailing the procedure for extrapolating the RDP for Kenilworth, it is useful to understand the purpose of the exercise. The RDP establishes the number of affordable units a municipality could theoretically and realistically generate through traditional inclusionary zoning, if it were to rezone every vacant and underutilized parcel at a minimum density of six units per acre (as established by N.J.A.C. 5:93-4.2(f)) with a 20 percent set-aside and in a manner that would comport with sound planning. However, while P.L. 2024, c.2 did not formally increase the minimum density to be used in the calculation of the Fourth Round RDP, the minimum density established in the Prior Round by N.J.A.C. 5:93-4.2(f) was established with the condition that the “Council shall consider the character of the area surrounding each site and the need to provide housing for low and moderate income households in establishing densities and set-asides for each site.” Therefore, it may be expected that the densities assigned for the Borough’s Fourth Round RDP calculation are to be tailored in a way that realistically reflects development trends in the Fourth Round rather than adhere to the Prior Round standard for minimum density.

In addition, if the owner or contract purchaser of a site offers to redevelop a site that is currently developed, this site could also contribute to the RDP under the principles established in the *Cherry Hill* case<sup>1</sup>. A municipality need not rezone the sites that contribute to the RDP; rather, once the RDP is established, the municipality has the full range of compliance strategies available to satisfy it. However, as specified by new language for the Fourth Round, “Any municipality that receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a lack of vacant land shall, as part of the process of adopting and implementing its housing element and fair share plan, identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so.”

The extrapolation of the RDP is essentially a three-step process as established by Prior Round regulations with minor modifications per P.L. 2024, c.2. Step 1 requires a determination of the number of vacant and underutilized parcels, as well as any additional site that may contribute to the RDP based on the *Cherry Hill* case. Step 2 requires a determination of what sites or portions of sites should be removed from the vacant land inventory based upon the updated criteria provided in N.J.S.A. 52:27D-310.1 and detailed further in Section III. of this report. Step 3 requires a determination of the RDP that could be generated from the sites or portions of sites that remain after removal of site or portions thereof through the Step 2 analysis. Step 3 requires a determination of an appropriate density for each site, which then provides the RDP that the site could theoretically generate – calculated by the total number of units that the site could reasonably accommodate, multiplied by 20 percent.

---

<sup>1</sup> *Fair Share Housing Center v. Cherry Hill*, 173 N.J. 393 (2002)

## II. Land Inventory by Ownership Class

In order to identify and calculate the “developable” land adjustment for the Borough of Kenilworth, an up-to-date inventory<sup>2</sup> of all Class 1 (Vacant Land), Class 3A (Farm Property - Regular), Class 3B (Farm Property - Qualified), and Borough-owned properties (predominantly Class 15C (Public Property) properties, but also may be inclusive of Class 15A (Public School Property), Class 15E (Cemeteries and Graveyards), and/or Class 15F (Other Exempt) properties owned by the Borough) was requested from the Borough’s Tax Assessor. While other publicly-owned parcels include those lands owned by the State Department of Transportation (NJDOT) and the Union County Parks Commission, these were not included as part of the inventory and analysis of publicly-owned properties.

The definitions of the property classifications included in the land inventory are provided in N.J.A.C. 18:12-2.2 as follows:

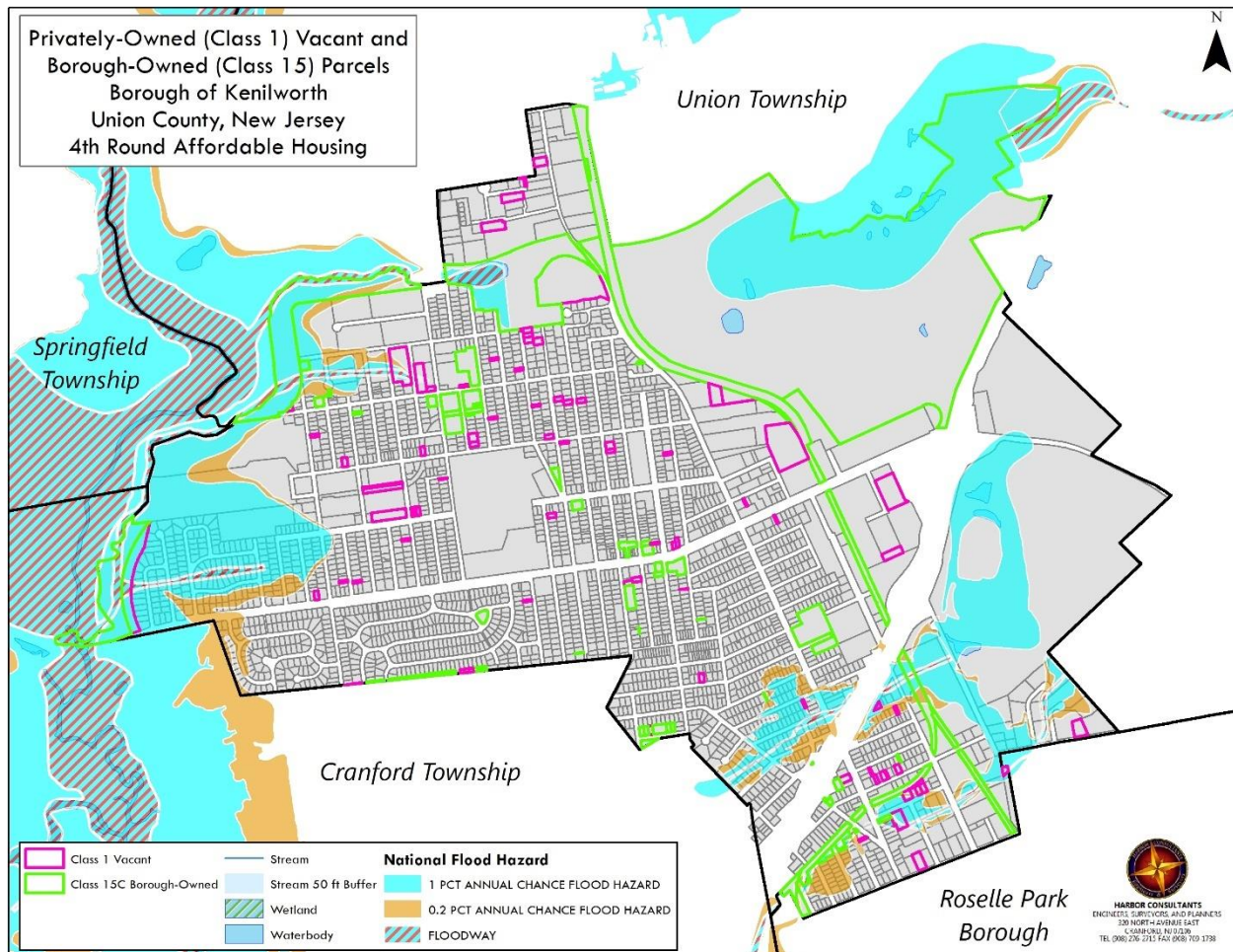
- Class 1: "Vacant Land" means land itself above and under water in its original, indestructible, immobile state. Vacant land is idle land, not actively used for agricultural or any other purpose; unused acreage; and is land in an approved subdivision actively on the market for sale or being held for sale.
- Class 3A: "Farm Property (Regular)" means:
  - 1. Land, together with improvements, where the use of the land and function of the buildings on that land are for agricultural or horticultural purposes, but which is not qualified for nor assessed under the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.;
  - 2. Improvements of the types and like listed in N.J.S.A. 54:4-23.11, including barns, sheds, silos, etc., which are located on land classified as Class 3B "Farm Property (Qualified)." However, such improvements shall not include "single-use agricultural or horticultural facilities" as defined in N.J.S.A. 54:4-23.12, which are considered personal property; and
  - 3. Farm houses and the lots or parcels of land on which they are situated. For definitions of agricultural use and horticultural use, see N.J.A.C. 18:15-1.1, adopted under the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.
- Class 3B: "Farm Property (Qualified)" means land that has qualified and is assessed under the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.
- Class 15A: "Public School Property" means real property owned by Federal, State, county, or local governments, or their agencies used for public education.
- Class 15C: "Public Property" means real property owned by Federal, State, county, or local governments, or their agencies and devoted to public uses.
- Class 15E: "Cemeteries and Graveyards" means real property solely devoted to or held for use as a cemetery, graveyard, or burial ground.
- Class 15F: "Other Exempt" means real property exempt from taxation but not described in any of the foregoing classes.

---

<sup>2</sup> Vacant Properties list provided upon request from the Borough of Kenilworth Tax Assessor, February 2025.

The Class 1, Class 3A, Class 3B, and Borough-owned properties and their acreage were inventoried, totaled, and mapped on the accompanying spreadsheet (*Exhibit A*) and map (see *Figure 1* below and *Exhibit B*).

There are ninety-one (91) privately-owned vacant (Class 1) parcels for an estimated total area of approximately 29.06 acres; and seventy-five (75) Borough-owned (Class 15C) properties, for an estimated total area of approximately 317.13 acres.



*Figure 1: Map of Class 1 and 15C Properties*



### III. Refined Methodology

From this raw data collection, the inventoried properties were refined based on a parcel-by-parcel investigation and analysis that was guided by the granted exclusions in the New Jersey Fair Housing Act (N.J.S.A. 52:27D-310.1), as amended by P.L. 2024, c.2, and COAH Round 2 Substantive Rules (N.J.A.C. 5:93-4.2). A comprehensive spreadsheet of the Borough's vacant land inventory detailing the reason for inclusion/exclusion of each parcel from the Borough's RDP is provided in *Exhibit B* of this report.

The analysis was carried out through the intersection of (1) Borough Tax Assessor's parcel data to determine exact parcel size, configuration, and ownership; (2) publicly available GIS data from NJDEP and FEMA to overlay with zoning, wetlands and their buffers, and National Flood Hazard Zones; (3) publicly available topography data from NJGIN; (4) publicly available 2020 aerial orthoimagery from NJGIN and 2024 Google satellite imagery; and (5) property site visits to determine any existing developments or encumbrances on site.

To elaborate, those properties that exceed the below criteria, and cannot be excluded, all contribute towards the calculation of the RDP. Per N.J.S.A. 52:27D-310.1, "When computing a municipal adjustment regarding available land resources as part of the determination of a municipality's fair share of affordable housing, the municipality, in filing a housing element and fair share plan pursuant to subsection f. of section 3 of P.L.2024, c.2 (C.52:27D-304.1), shall exclude from designating, and the process set forth pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) and section 13 of P.L.1985, c.222 (C.52:27D-313) shall confirm was correctly excluded, as vacant land:

- (a) any land that is owned by a local government entity that as of January 1, 1997, has adopted, prior to the institution of a lawsuit seeking a builder's remedy or prior to the filing of a petition for substantive certification of a housing element and fair share plan, a resolution authorizing an execution of agreement that the land be utilized for a public purpose other than housing;
- (b) any land listed on a master plan of a municipality as being dedicated, by easement or otherwise, for purposes of conservation, park lands or open space and which is owned, leased, licensed, or in any manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education, or by more than one municipality by joint agreement pursuant to P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains such ownership, lease, license, or operational control of such land;
- (c) any vacant contiguous parcels of land in private ownership of a size which would accommodate fewer than five housing units based on appropriate standards pertaining to housing density;
- (d) historic and architecturally important sites listed on the State Register of Historic Places or National Register of Historic Places prior to the date of filing a housing element and fair share plan pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) or initiation of an action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313);
- (e) agricultural lands when the development rights to these lands have been purchased

or restricted by covenant;

- (f) sites designated for active recreation that are designated for recreational purposes in the municipal master plan; and
- (g) environmentally sensitive lands where development is prohibited by any State or federal agency, including, but not limited to, the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), for lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities.”

N.J.S.A. 52:27D-310.1 concludes as follows, that: “No municipality shall be required to utilize for affordable housing purposes land that is excluded from being designated as vacant land.”

Pursuant to N.J.A.C. 5:93-4.2(e), the standards for refining parcels from the RDP include the following:

1. Agricultural lands shall be excluded when the development rights to these lands have been purchased or restricted by covenant.
2. Environmentally sensitive lands shall be excluded as follows:
  - i. Within the areas of the State regulated by the Pinelands Commission, Division of Coastal Resources of the DEP and the Hackensack Meadowlands Development Commission of DCA, the Council shall adhere to the policies delineated in The Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; the Coastal Permit Program Rules, N.J.A.C. 7:7-1; Coastal Resource and Development Rules, N.J.A.C. 7:7E1; and the Zoning Regulations of the Hackensack Meadowlands District, N.J.A.C. 19:4.
  - ii. In areas of the State not regulated by the Pinelands Commission, the Division of Coastal Resources and the Hackensack Meadowlands Development Commission, municipalities may exclude as potential sites for low and moderate income housing: inland wetlands as delineated on the New Jersey Freshwater Wetlands Maps, or when unavailable, the U.S. Fish and Wildlife Service National Wetlands Inventory; or as delineated on-site by the U.S. Army Corps of Engineers or DEP, whichever agency has jurisdiction; when on-site delineation is required by the Council; flood hazard areas as defined in N.J.A.C. 7:13; and sites with slopes in excess of 15 percent, as determined from the U.S.G.S. Topographic Quadrangles, which render a site unsuitable for low and moderate income housing. In cases where part of a site is unsuitable for low and moderate income housing because of flood hazard areas or inland wetlands, the Council shall not permit low and moderate income housing to be constructed on that unsuitable part of the site; provided however, this rule shall not prohibit construction of low and moderate income housing on the remainder of the site. In the case of slopes in excess of 15 percent, a municipality may regulate inclusionary development through a steep slope ordinance, provided the ordinance also regulates non-inclusionary developments in a consistent manner. The Council reserves the right to exclude sites in whole or in part when excessive slopes threaten the viability of an inclusionary development.

- iii. Where the Legislature adopts legislation that requires the mapping of other natural resources and provides a mechanism for their regulation, the Council shall include such resources in its criteria and guidelines for municipal adjustment.
3. Historic and architecturally important sites may be excluded as follows:
- i. Historic and architecturally important sites shall be excluded if such sites were listed on the State Register of Historic Places in accordance with N.J.A.C. 7.4 prior to the submission of the petition of substantive certification.
  - ii. Municipalities may apply to exempt a buffer area to protect sites listed on the State Register of Historic Places. The Council shall forward such request to the Office of New Jersey Heritage for a recommendation pertaining to the appropriateness and size of a buffer.
  - iii. Upon receipt of the Office of New Jersey Heritage's recommendation, the Council shall determine if any part of a site should be eliminated from the inventory described in (d) above.
  - iv. Within historic districts, a municipality may regulate low and moderate income housing to the same extent it regulates all other development.
4. Active recreational lands may be excluded as follows:
- i. Municipalities may reserve three percent of their total developed and developable acreage for active municipal recreation and exclude this acreage from consideration as potential sites for low and moderate income housing. However, all sites designated for active recreation must be designated for recreational purposes in the municipal master plan. In determining developable acreage, municipalities shall calculate their total vacant and undeveloped lands and deduct from that total number the lands excluded by the Council's rules regarding historic and architecturally important sites, agricultural lands and environmentally sensitive lands. Municipalities shall also exclude from this calculation of total vacant and undeveloped lands, those owned by nonprofit organizations, counties and the State or Federal government when such lands are precluded from development at the time of substantive certification. Municipalities shall submit appropriate documentation demonstrating that such active recreational lands are precluded from development. Existing active municipal recreation areas shall be subtracted from the three percent calculation of total developed and developable acreage to determine additional land that may be reserved for active municipal recreation.
  - ii. Sites designated for active recreation must be purchased and limited to active recreational purposes within one year of substantive certification. Sites that are not purchased and limited to active recreational purposes shall, if determined necessary by the Council, be zoned to permit inclusionary development.
5. Conservation, parklands and open space lands may be excluded as follows:
- i. Any land designated on a master plan of a municipality as being dedicated or which is dedicated by easement or otherwise for purposes of conservation, parklands or open space and which is owned, leased, licensed or in any other manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education or by more than one municipality, by joint agreement pursuant

- to P.L. 1964,c.185 (N.J.S.A. 40:61-35.1 et seq.), for so long as the entity maintains such ownership, lease, license or operational control of such land.
- ii. If less than three percent of the municipality's total land area is designated for conservation, parklands or open space, the municipality may reserve up to three percent of its total land area for such purposes. However, the acquisition of such sites must be initiated by the municipality within one year of substantive certification. Sites that are not purchased and limited to conservation, parklands or open space within that time-frame, shall, if determined necessary by the Council, be zoned to permit inclusionary development.
  - iii. If sites designated for conservation, parklands or open space no longer serve those purposes and subsequently become available for residential or nonresidential development, these sites shall have an affordable housing obligation, if determined necessary by the Council.
6. Individual sites that the Council determines are not suitable for low and moderate income housing may also be eliminated from the inventory described in (d) above.

Additionally, the following factors were considered in undertaking the RDP analysis:

a. *Borough-owned Active and Passive Recreation and Open Space Sites*

Per these standards, the following analysis of Borough owned active recreation and open space/parkland was conducted to better understand the share of open space in relation to the total area of the Borough. Per N.J.A.C. 5:93-4.2(e)4.i., "Municipalities may reserve three percent of their total developed and developable acreage for active municipal recreation and exclude this acreage from consideration as potential sites for low and moderate income housing" as long "all sites designated for active recreation must be designated for recreational purposes in the municipal master plan"; and per N.J.A.C 5:93-4.2(e)4.i.-5.i. "if less than three percent of the municipality's total land area is designated for conservation, parklands or open space, the municipality may reserve up to three percent of its total land area for such purposes".

An analysis conducted in 2018 shows that the Borough has four (4) properties that serve as active recreation sites – Block 8, Lot 7 (Ninth Street Park); Block 12, Lot 6 (Sixteenth Street Park); Block 32, Lot 4 (Kenilworth Little League Baseball Field); and Block 130, Lot 1 (DiMario Park) – which total 6.22 acres in area. Additionally, there are two (2) Borough-owned passive open space parcels which are developed – Block 31, Lot 2 and Block 107, Lot 1 – which have a total area of 0.54 acres. Block 31, Lot 2 is developed with buildings associated with the Kenilworth Little League including a storage shed, which is adjacent to Block 32, Lot 4, the Kenilworth Little League Baseball Field. Block 107, Lot 1 is developed with Charles E. Vitale Jr Park, including a gazebo and seating. The Borough is 2.15 square miles (2 +/- acres), and thus the active sites represent a total of 0.45% and the passive sites represent a total of 0.04% of the land area of the Borough. Overall, these sites comprise 0.49% of the Borough, which is significantly lower than the total 6% of allowed excludable area.

b. *Consideration of Environmentally Sensitive Land and the Laws that Regulate Them*

Round 2 rules, per N.J.A.C. 5:93-4.2(e)2.ii., identify that "flood hazard areas as defined in N.J.A.C. 7:13" are applicable. Per the most up-to-date Flood Hazard Area Control Act Rules 7:13-4.1,

specific regulations regarding the treatment of all regulated water are defined, including the following:

*“(a) A riparian zone is the land and vegetation within and adjacent to a regulated water. Riparian zones exist along both sides of every regulated water and include the regulated water itself, except as provided at N.J.A.C. 7:13-2.3(c)1. The extent of a riparian zone is determined in accordance with (b) through (h) below.*

*(b) The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank.*

*(c) The width of the riparian zone is as follows:*

*1. The width of the riparian zone along any regulated water designated as a Category One water, and all upstream tributaries situated within the same HUC-14 watershed, is 300 feet;*

*2. Except for the regulated waters listed at (c)1 above, the width of the riparian zone along the following regulated waters is 150 feet:*

*i. Any trout production water and all upstream waters (including tributaries);*

*ii. Any trout maintenance water and all upstream waters (including tributaries) located within one mile of a trout maintenance water (measured along the length of the regulated water); and*

*iii. Any segment of a water flowing through an area that contains a threatened or endangered species, and/or present or documented habitat for those species, which is critically dependent on the regulated water for survival, and all upstream waters (including tributaries) located within one mile of such habitat (measured along the length of the regulated water). A list of critically dependent species is available from the Department at the website set forth at N.J.A.C. 7:13-1.3; and*

*3. For all other regulated waters not identified in (c)1 or 2 above, the width of the riparian zone is 50 feet.”*

State and Federal laws and regulations related to environmentally sensitive conditions have been updated or adopted since the inception of the Round 2 rules. These include the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.); Section 404 of the Federal Clean Water Act (33 U.S.C. §§ 1251 through 1375); Category One waterway constraints pursuant to N.J.A.C. 7:9B, 7:8, 7:13 and 7:15; flood hazard constraints as defined in N.J.A.C. 7:13. As State and Federal law, it is sensible that these same regulations would apply to vacant land to be developed with affordable housing, and thus have been applied as part of this analysis. It is interesting to note that as COAH fine-tuned its regulations in Round 3, it made many of these laws and regulations explicit - which was, at the very least, implicit in Round 2 - by excluding lands or portions of such that could not be developed because of additionally regulated encumbrances.

#### *c. Exclusion of Approved or Built Sites*

Given that the purpose of the RDP is to determine the number of affordable units that could realistically be generated through inclusionary rezonings, this report will not treat sites that have been approved for development or developed with new construction as contributing to the RDP. In particular, the Round 1 and Round 2 COAH regulations are not specific about privately-owned sites which have received approvals since the municipality’s “petition” – and in the case of the Third Round, since a Declaratory Judgement action was filed with the Court – and if these sites may be excluded as part of the Vacant Land Adjustment. However, as demonstrated by COAH’s handling

of the Borough's Round 2 petition, COAH practice is not to count a site that has been approved for development at the time that COAH staff is extrapolating the RDP for the municipality. A municipality cannot stop a landowner or developer from securing the right to develop their land, and a municipality would not create a realistic opportunity for the construction of any affordable housing by rezoning an approved site for an inclusionary project. Also, per N.J.A.C. 5:93-4.2(e)6, "Individual sites that the Council determines are not suitable for low and moderate income housing may also be eliminated from the inventory..."

More specifically, the site known as Block 124, Lot 7 located at 737 Boulevard, was identified as a vacant site in earlier iterations of the Borough Vacant Land Adjustment. However, the owner secured approval to develop its site and the site is fully developed. Therefore, the site has been excluded from the RDP.

*d. Other Sites Under Consideration*

A large number of the privately-owned vacant sites in Kenilworth have been rendered undevelopable based solely upon the fact that they are undersized lots that cannot accommodate at least five (5) dwelling units; while others have been excluded because of excessive environmental encumbrances. Additionally, various sites in the Borough have been observed to be located in proximity to the backyards of existing residences while also being landlocked and without access to a right-of-way. Block 101, Lots 26-33 and Block 101, Lots 35-40 have been excluded from the Borough's RDP calculation for this reason.

#### **IV. Vacant and "Developable" Parcels**

The vacant and "developable" properties provided in the Borough's land inventory which cannot be excluded due to the criteria specified above and per the New Jersey Fair Housing Act (N.J.S.A. 52:27D-310.1), as amended by P.L. 2024, c.2, and COAH Round 2 Substantive Rules (N.J.A.C. 5:93-4.2) are determined to have the potential for the development, and therefore are to be included in the Borough's RDP. These sites include:

1. Block 15, Lots 5.02, 5.03, & 5.04
2. Block 50, Lots 8.01 & 8.02
3. Block 146, Lots 13-18
4. Block 162, Lots 12 & 155.
5. Block 180, Lot 2

1. **Block 15, Lots 5.02, 5.03, & 5.04**  
335, 339, 343 North 18<sup>th</sup> Street



Figure 2: Aerial Map of Block 15, Lots 5.02, 5.03, & 5.04

Block 15, Lots 5.02, 5.03, and 5.04 are three (3) contiguous parcels. Lots 5.03 and 5.04 are under the same ownership; Lot 5.02 has a different owner. These sites have access from North 18<sup>th</sup> street and are surrounded by residential and recreational uses. The residences are largely made up of single-family homes. These parcels are bounded to the north by Black Brook Park. Aerial imagery shows that the sites are currently vacant and not in use.

2. **Block 50, Lots 8.01 & 8.02**  
135 & 139 North 21<sup>st</sup> Street

Block 50, Lots 8.01 and 8.02 are two (2) contiguous parcels located along North 21<sup>st</sup> Street. They are under the same ownership and have a combined acreage of 0.284 acres. The two parcels are surrounded by single-family homes. Aerial imagery shows that the sites are currently vacant and not in use.



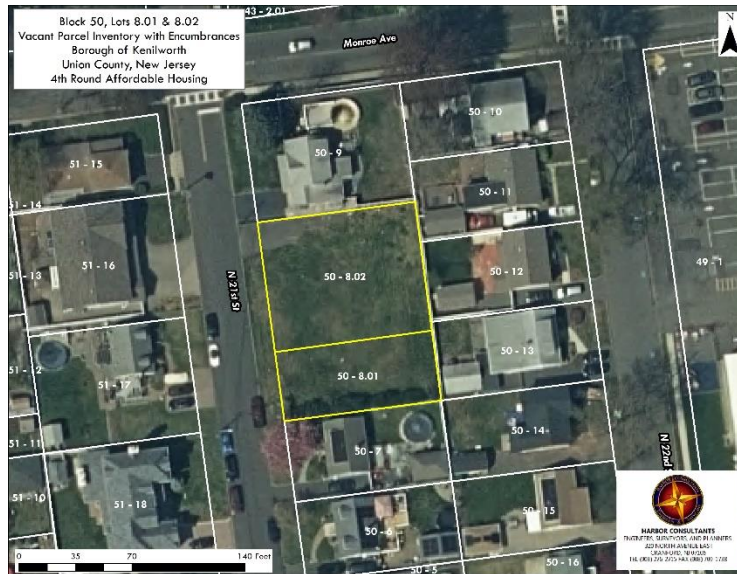


Figure 3: Aerial Map of Block 50, Lots 8.01 & 8.02

3. **Block 146, Lots 13-18**  
522, 526, 532, 534, 542, & 544 Summit Ave



Figure 4: Aerial Map of Block 146, Lots 13-18

Block 146, Lots 13, 14, 15, 16, 17, and 18 are six (6) separate contiguous parcels. All 6 parcels are owned by the Borough of Kenilworth except for one: Block 146, Lot 16, which is owned by a private party. These are vacant parcels located in an area behind existing residences, near the Borough's border with the Township of Cranford. Combined, these parcels have a total acreage of 0.903 acres. There is no direct access to these sites from Summit Ave; however, there is access from the sites from South 21<sup>st</sup> Street through Block 146, Lot 18. There are no environmental constraints on these properties and aerial imagery reflects that these parcels are vacant and have not been in use for some time.



4. **Block 162, Lots 12 & 15**  
283 South Michigan Ave & 683 Woodland Ave



Figure 5: Aerial Map of Block 162, Lots 12 & 15

Block 162, Lots 12 & 15 are two (2) separate parcels that are perpendicular to each other. Block 162, Lot 12 is owned by a private company. Block 162, Lot 15 is owned by the Borough of Kenilworth. They are both vacant and are surrounded by single-family homes. To the west of the properties is Garden State Parkway. There is no direct access to Block 162, Lot 15; however, there is access to this parcel through Block 162, Lot 12 from Michigan Ave. There are no environmental constraints on these properties and aerial imagery reflects that they are currently not in use.

5. **Block 180, Lot 2**  
157 Sumner Avenue

Block 180, Lot 2 is located at 157 Sumner Avenue and is comprised of approximately 0.60 acres, according to tax assessor data. The site is currently vacant and undeveloped and has frontage on/access from Sumner Avenue, which acts as a municipal border between Kenilworth and neighboring Roselle Park Borough to the immediate south. Lot 2 is largely surrounded by office/industrial uses on the Kenilworth side, but there are single-family residences across Sumner Avenue.

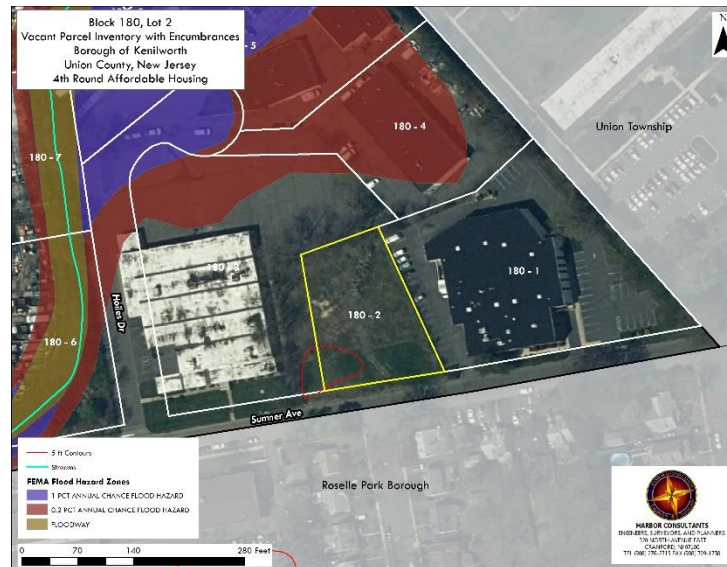


Figure 6: Aerial Map of Block 180, Lot 2

It is still undetermined if there are any other environmental constraints besides the flood plain on the property. According to the lot dimensions for this site it is estimated that a density of 10 units per acre may be able to be accommodated on the combined property, resulting in a yield of 0.60 acres x 10 units per acre = 6 total units. The affordable set-aside of 20% for this property would yield 1 unit towards the RDP.

The following map in Figure 7 (See Exhibit B) depicts the developable vacant parcels that were included as part of the Borough RDP calculation.

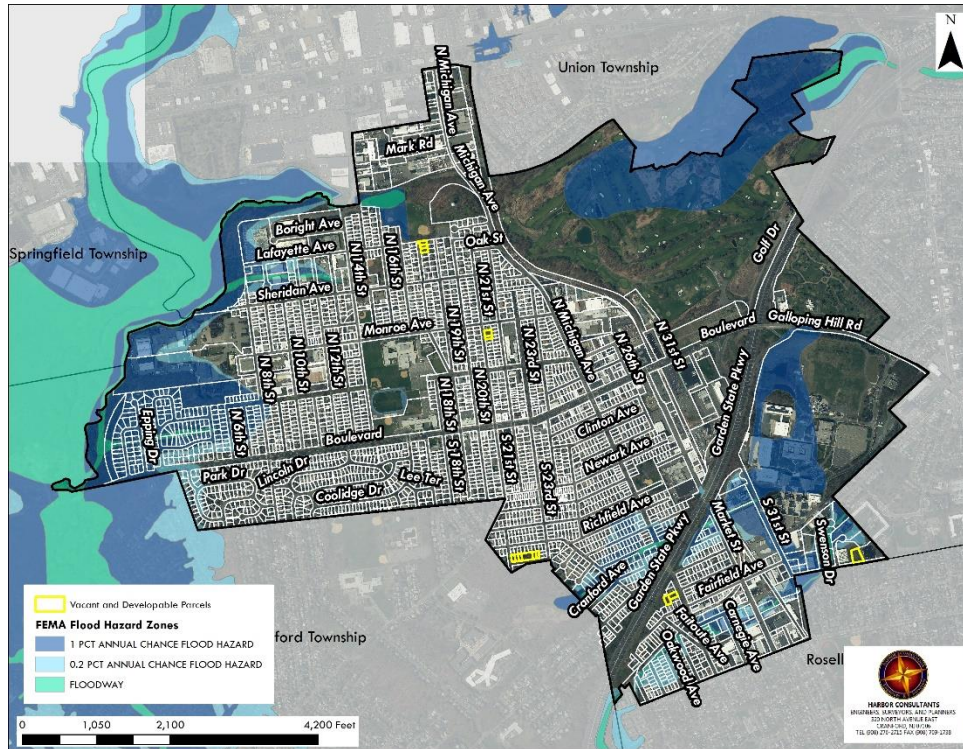


Figure 7: Map of Vacant and “Developable” Properties

Table 1 below depicts the vacant and “developable” sites contributing to the Borough’s RDP:

Table 1: Developable Parcels Found to Contribute to the Borough RDP Borough of Kenilworth							
Block	Lot	Comments/Discussion	Zone	Total Area (acres)	Unconstrained Area	Density (du/ac)	# of Affordable Units
15	5.02, 5.03, & 5.04	Block 15, Lots 5.02, 5.03, and 5.04 can be combined; vacant land with surrounding single-family homes, adjacent to Black Brook Park	R-6	0.37	0.37	10	1
50	8.01 & 8.02	Block 50, Lots 8.01 and 8.02 can be combined. Surrounded by single-family homes, no environmental constraints.	R-5	0.284	0.284	10	1
146	13-18	Block 146, Lots 13-18 are contiguous and can be combined; located behind existing residences. No access to sites from Summit Ave but access from South 21 <sup>st</sup> Street through Block 146, Lot 18. No environmental constraints.	R-5	0.903	0.903	10	2
162	12 & 15	Block 162, Lots 12 and 15 can be combined. Vacant parcel surrounded by single-family homes with Garden State Parkway to the east. No environmental constraints.	R-5A	0.43	0.43	10	1
180	2	Vacant and Undeveloped Land with access from Sumner Ave.	I	0.60	0.60	10	1

Land Contributing Toward the RDP	2.6		
Total RDP (20% Set-aside)			<b>6 units</b>

## V. Developed Sites Determined to Contribute to the Borough RDP

This report identified three categories of sites that may generate an RDP under COAH's Round 2 regulations and the Cherry Hill case: (i) vacant sites; (ii) underutilized sites; and (iii) developed sites that may nonetheless generate an RDP depending upon the facts and circumstances surrounding the site.

The following sites in Table 2 below concern this third category. While not vacant or undeveloped, the owners of the sites have indicated their desire to redevelop and the Borough has considered the sites and determined an appropriate RDP to assign to the site based upon the premise that 20% of the units on each site would be the basis for the assignment of an RDP to each site.

Table 2: Developed and Approved Properties Determined to Generate an RDP Borough of Kenilworth								
Block	Lot	Comments/Discussion	Zone	Gross Acreage	Net Developable Acreage	Density (du/ac)	Est. Total Units	RDP
183	9	Included in the 25 North 26 <sup>th</sup> St Redevelopment Plan, adopted by the Borough Planning Board by Ordinance No. 2021-07.	I	3.79	3.79	43.5*	165	25
Total RDP (20%)								<b>25</b>
* Density established as per the Redevelopment Plan adopted by Ordinance No. 2021-07.								

### Block 183, Lot 9

*25 North 26<sup>th</sup> Street*

Block 183, Lot 9 is located at 25 No. 26th St and is comprised of approximately 3.79 acres, according to tax assessor data. Lot 9 is located in the Industrial zone and abuts the Commercial zone to its direct south, and the Park zone (15C property) to the direct east. Lot 9 is an underutilized site, currently being used as an outdoor storage area for materials and equipment.

The property is largely surrounded by fully developed industrial sites in the immediate area. Per N.J.A.C. 5:93-4.2(f), "The Council shall consider the character of the area surrounding each site and the need to provide housing for low- and moderate-income households in establishing densities and set-asides for each site, or part thereof, remaining in the inventory". It is still undetermined if there are any other environmental constraints on the property. According to the lot dimensions for this site it is estimated that a density of 43.5 units per acre may be able to be accommodated on the combined property, resulting in a yield of 3.79 acres x 43.5 units per acre = 165 total units. The affordable set-aside of 15% for this property would yield 25 units towards the RDP.



This site is the subject of the 25 North 26<sup>th</sup> Street Redevelopment Plan, which was adopted by the Borough of Kenilworth Planning Board on June 9, 2021, by Ordinance No. 2021-07. The site was determined to be a non-condemnation area in need of redevelopment. The purpose of the Redevelopment Plan is for the development of inclusionary affordable housing.

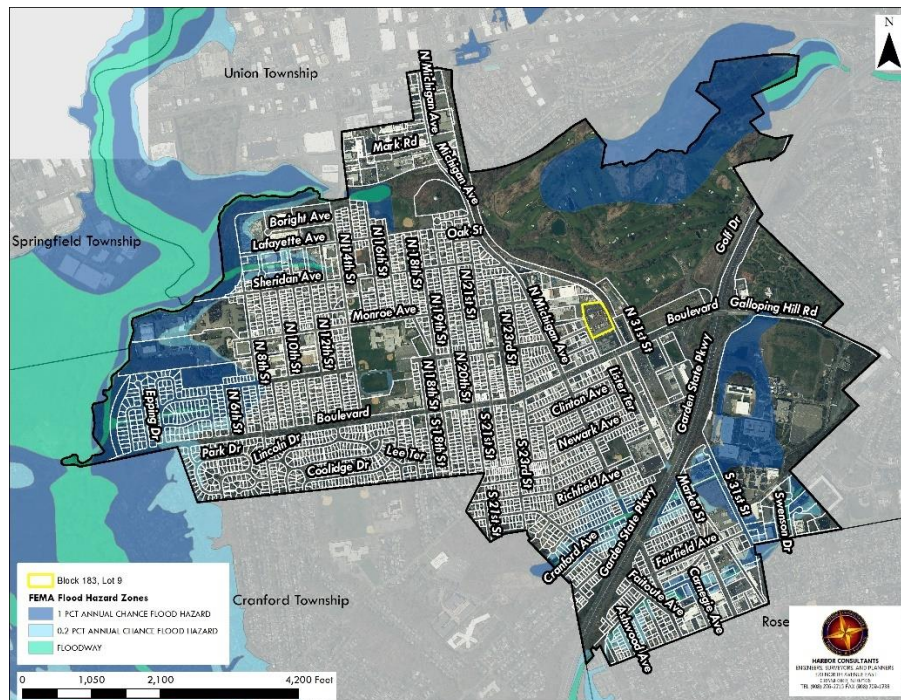


Figure 8: Map of Developed or Approved Properties Generating an RDP

## VI. “Likely to Redevelop” Properties

Per N.J.S.A. 52:27D-310.1, as amended by P.L. 2024, c.2, “Any municipality that receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a lack of vacant land shall, as part of the process of adopting and implementing its housing element and fair share plan, identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so.”

Table 3 below details the properties the Borough has identified as “likely to redevelop” during the Fourth Round which are to be counted towards the Borough’s compliance with the requirements of N.J.S.A. 52:27D-310.1.

Table 3: Sites “Likely to Redevelop” Borough of Kenilworth						
Block	Lot	Address	Owner	Gross Acreage	Net Developable Acreage	Comments/Discussion
183	9	25 North 26 <sup>th</sup> St	Kenilworth Redevelopers Urban Renew	3.79	3.79	Redevelopment plan adopted.

56	9.01	120 North 13 <sup>th</sup> St	North Holdings NY LLC	4.33	4.33	Former National Tool Site
58	4	234 North 12 <sup>th</sup> St				
59	1-3	109 North 10 <sup>th</sup> St; 50 Washington Ave; 56 Washington Ave				



Figure 9: Aerial Map of “Likely to be Redeveloped” Site (Former National Tool Site)





Figure 10: Aerial Map of “Likely to be Redeveloped” Site (Block 183, Lot 9)

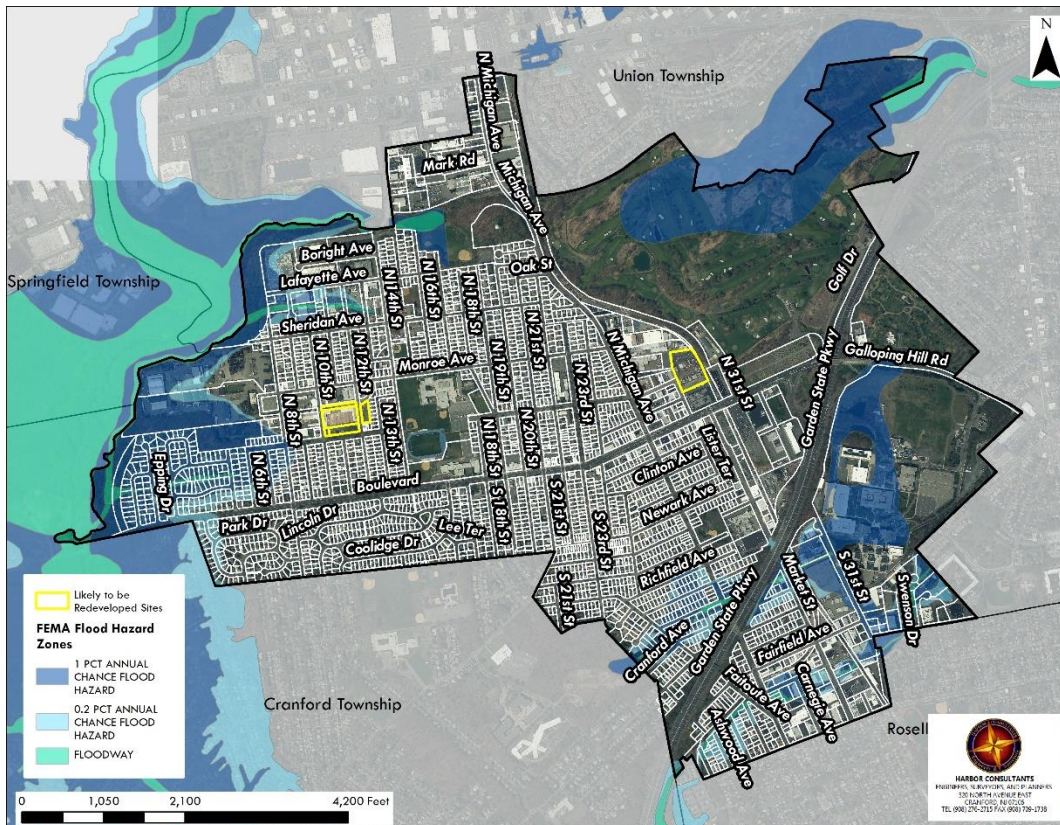


Figure 11: Borough Aerial Map of Sites “Likely to be Redeveloped”

## VII. Summary

Based on the Borough's evaluation of its vacant land inventory and analysis of realistic development opportunities per P.L. 2024, c.2 and as described above, an RDP of 31 affordable units has been calculated for the Borough.

This analysis represents a realistic number of units based on a detailed and discerned parcel analysis that neither inflates nor deflates the amount of "developable" land in Kenilworth.

Table 3 below depicts the final properties considered in the Borough RDP:

<b>Table 4: RDP Summary Borough of Kenilworth</b>					
<b>Vacant Developable Properties Contributing to the Borough's RDP</b>					
<b>Block</b>	<b>Lot</b>	<b>Comments/Discussion</b>	<b>Net Developable Area (ac)</b>	<b>Density (du/ac)</b>	<b>RDP</b>
15	5.02, 5.03, & 5.04	Block 15, Lots 5.02, 5.03, and 5.04 can be combined; vacant land with surrounding single-family homes, adjacent to Black Brook Park.	0.37	10	1
50	8.01 & 8.02	Block 50, Lots 8.01 and 8.02 can be combined. Surrounded by single-family homes, no environmental constraints.	0.284	10	1
146	13-18	Block 146, Lots 13-18 are contiguous and can be combined; located behind existing residences. No access to sites from Summit Ave but access from South 21 <sup>st</sup> Street through Block 146, Lot 18. No environmental constraints.	0.903	10	2
162	12 & 15	Block 162, Lots 12 and 15 can be combined. Vacant parcels surrounded by single-family homes with Garden State Parkway to the east. No environmental constraints.	0.43	10	1
180	2	Vacant and undeveloped land with access from Sumner Ave.	0.6	10	1
<b>Developed or Approved Properties Contributing to the Borough's RDP</b>					
<b>Block</b>	<b>Lot</b>	<b>Comments/Discussion</b>	<b>Net Developable Area</b>	<b>Density</b>	<b>RDP</b>
183	9	Included in the 25 North 26 <sup>th</sup> St Redevelopment Plan, adopted by the Borough Planning Board by Ordinance No. 2021-07.	3.79	43.5*	25
<b>Sites "Likely to be Redeveloped"</b>					
<b>Block</b>	<b>Lot</b>	<b>Comments/Discussion</b>	<b>Net Developable Area</b>	<b>Density</b>	<b>RDP</b>
183	9	Included in the 25 North 26 <sup>th</sup> St Redevelopment Plan, adopted by the Borough Planning Board by Ordinance No. 2021-07.	3.79	43.5*	25
56	9.01	Former National Tool Site	4.33	15	



58	4				
59	1-3				
RDP (20% Set-aside)					31
* Density established as per the Redevelopment Plan adopted by Ordinance No. 2021-07.					

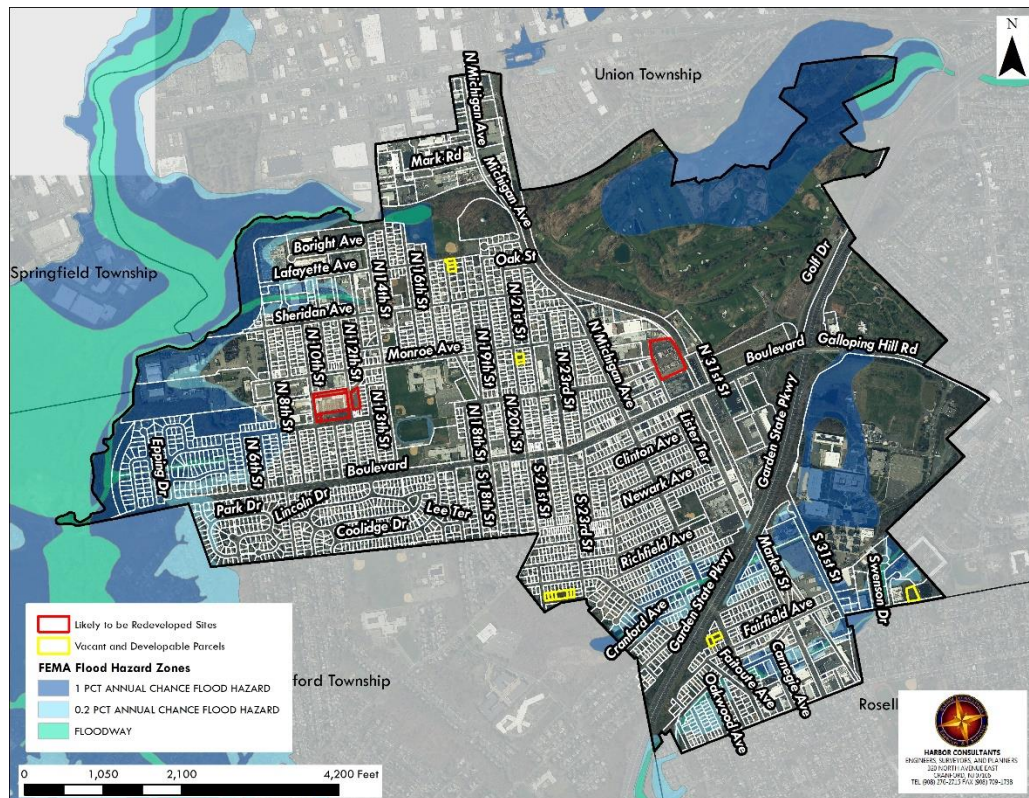


Figure 12: Map of Vacant and Developable Properties and Likely to be Redeveloped Properties

## VIII. Reference List

Borough of Kenilworth Tax Assessor (2025). “Kenilworth Class 1 Properties”.

Borough of Kenilworth Tax Assessor (2025). “Kenilworth 15C Properties”

Borough of Kenilworth Tax Assessor (2025). “Kenilworth Class 1 Properties”.

Borough of Kenilworth Tax Assessor (2025). “Kenilworth Class 15A and 15C Properties”.

N.J.A.C. 18:12-2.2 Property Classifications with Definitions. Retrieved from:  
<https://casetext.com/regulation/new-jersey-administrative-code/title-18-treasury-taxation/chapter-12-local-property-tax-general/subchapter-2-preparation-of-local-property-tax-list-and-duplicate/section-1812-22-property-classifications-with-definitions>

N.J.A.C. 7:9B Surface Water Quality Standards,  
[https://dep.nj.gov/wp-content/uploads/rules/rules/njac7\\_9b.pdf](https://dep.nj.gov/wp-content/uploads/rules/rules/njac7_9b.pdf)

N.J.A.C. 7:13 Flood Hazard Control Act Rules,  
[https://dep.nj.gov/wp-content/uploads/rules/rules/njac7\\_13.pdf](https://dep.nj.gov/wp-content/uploads/rules/rules/njac7_13.pdf)

P.L. 2024, Chapter 2,  
[https://pub.njleg.state.nj.us/Bills/2024/PL24/2\\_.PDF](https://pub.njleg.state.nj.us/Bills/2024/PL24/2_.PDF)

Substantive Rules of The New Jersey Council on Affordable Housing (2002). Chapter 93 Subchapter 4. COAH. <https://www.nj.gov/dca/divisions/lps/hss/statsandregs/593.pdf>

Fair Housing Act P.L. 2024 c2

### i. Mapping References

FEMA National Flood Hazard Layer. <http://fema.maps.arcgis.com/home/>

New Jersey Geographic Information Network (NJGIN). Municipality Boundaries of New Jersey. [https://njgin.state.nj.us/NJ\\_NJGINExplorer/jviewer.jsp?pg=DataDownloads](https://njgin.state.nj.us/NJ_NJGINExplorer/jviewer.jsp?pg=DataDownloads)

New Jersey Geographic Information Network (NJGIN). State Boundary of New Jersey. [https://njgin.state.nj.us/NJ\\_NJGINExplorer/jviewer.jsp?pg=DataDownloads](https://njgin.state.nj.us/NJ_NJGINExplorer/jviewer.jsp?pg=DataDownloads)

New Jersey Geographic Information Network (NJGIN). Union County Parcels. <https://njgin.state.nj.us/>

**IX. EXHIBITS**



Block	Lot	Qual	Class	Location	Owner	Mailing Address	Mailing City/State/Zip	Assessment	Acres
1	7	15C	15C	615 NO MICHIGAN AVE REAR	STATE OF NEW JERSEY	DEPT. OF TRANS.-CN 600	TRENTON, N J 08625	46000	0.201000005
1	11	15C	15C	495 NO MICHIGAN AVE	COUNTY OF UNION ADMIN BLDG	DEPT - PARKS & RECREATION	ELIZABETH, N J 07207	166000	1.659999967
2	8			1 640 NO MICHIGAN AVE	RT 1 MICH AVE CORP	944 SAVITT PL	UNION, N J 07083	190100	0.331999987
2	16			1 618 NO MICHIGAN AVE REAR	THREE V CO	944 SAVITT PLACE	UNION, N J 07083	111300	0.444999993
2	21			1 25 COLUMBUS AVE REAR	25 COLUMBUS AVENUE, LLC	36 EDGEBORO RD	EAST BRUNSWICK, NJ 08816	5000	0.064000003
2	22			1 25 COLUMBUS AVE	25 COLUMBUS AVENUE, LLC	36 EDGEBORO RD	EAST BRUNSWICK, NJ 08816	20700	0.057399999
3	6			1 2 MARK RD	MARK 11 ROAD LLC	2 MARK RD	KENILWORTH, NJ 07033	182500	0.726499975
4	1	15C	15C	500 NO MICHIGAN AVE	COUNTY OF UNION ADMIN BLDG	DEPT - PARKS & RECREATION	ELIZABETH, N J 07207	1869000	18.55999947
4	1.01			1 480 NO MICHIGAN AVE	ELIZABETHTOWN WATER %AMERICAN WATER	PO BOX 2738	CAMDEN, NJ 08101	522600	6.46999979
6	1	15C	15C	501 NO 14TH ST	COUNTY OF UNION ADMIN BLDG	DEPT - PARKS & RECREATION	ELIZABETH, N J 07207	7286000	36.43000031
6	1.02	15C	15C	242 NO 7TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	6000	0.043000001
7	4			1 300 NO 8TH ST REAR	TRUKOWSKI, SHELLY A	250 NO 8TH ST	KENILWORTH, N J 07033	6900	0.064999998
8	1	15C	15C	395 NO 8TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	204900	0.229599997
8	7	15C	15C	306 NO 9TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	82800	0.229599997
8	24	15C	15C	36 LAFAYETTE PL	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	4000	0.045899998
10	1			1 339 NO 12TH ST	BRENT MATERIAL CO	325 COLUMBIA TPKE,STE 308	FLORHAM PARK, NJ 07932	273700	1.840000033
11	2			1 315 NO 13TH ST	BRENT MATERIAL CO	325 COLUMBIA TPKE,STE 308	FLORHAM PARK, NJ 07932	156700	0.746100008
11	4			1 302 NO 14TH ST	BRENT MATERIAL CO	325 COLUMBIA TPKE,STE 308	FLORHAM PARK, NJ 07932	42800	0.114799999
12	5			1 301 NO 15TH ST	UNITED REALTY, LLC	315 N 14TH ST	KENILWORTH, N J 07033	7100	0.071699999
12	6	15C	15C	300 NO 16TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	322000	1.610000014
13	15			1 320 NO 17TH ST	CROWN, CLINTON J & WINIFRED M	324 NO 17TH ST	KENILWORTH, N J 07033	5700	0.057399999
14	18			1 308 NO 18TH ST	MICHALSKI, KENNETH & NANCY L	450 SHERIDAN AVE	KENILWORTH, N J 07033	5700	0.057399999
15	5.02			1 335 NO 18TH ST	JOE RIZZO BUILDERS LLC	212 NORTH 21ST ST	KENILWORTH, NJ 07033	72000	0.120499998
15	5.03			1 339 NO 18TH ST	VINCENT PAPARATTO REALTY CO, INC	295 NO MICHIGAN AVE	KENILWORTH, NJ 07033	73700	0.137700006
15	5.04			1 343 NO 18TH ST	VINCENT PAPARATTO REALTY CO, INC	295 NO MICHIGAN AVE	KENILWORTH, NJ 07033	73400	0
15	5.07			1 328 NO 19TH ST	VINCENT PAPARATTO REALTY CO, INC	295 NO MICHIGAN AVE	KENILWORTH, NJ 07033	75300	0.153099999
15	7	15F	15F	316 NO 19TH ST	MOELLER, JOHN R & MARIAN N-TRUSTEES	316 N 19TH ST	KENILWORTH, NJ 07033	212200	0.172199994
19	10	15C	15C	302 NO MICHIGAN AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ 07033	4600	0.062399998
22	7.02			1 235 NO 19TH ST	EH TRUST-BC DAVID TRUST % INFANTINO	6 MOSS ST	WESTFIELD, NJ 07090	71400	0.114799999
24.01	6			1 231 NO 8TH ST	MATHIS, OLLIE C/O WILLA, DAVIS	1628 FRONT ST	SCOTCH PLAINS, N J 07076	8000	0.080300003
24.02	2			1 290 MONROE AVE	G.M.P. PROPERTIES, LLC	292 MONROE AVE	KENILWORTH, NJ 07033	120000	0.137700006
24.03	12	15C	15C	247 NO 10TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ 07033	63500	0.068899997
27	5.01			1 356 MONROE AVE	THUNDAR PROPERTIES LLC	7 RED MAPLE LANE	KENILWORTH, NJ 07033	75000	0.114799999
30	6	15C	15C	240 NO 14TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	182700	0.2755
300	1	15C	15C	2500 ROUTE 22	STATE OF NEW JERSEY	DEPT. OF TRANS. CN 600	TRENTON, N J 08625	0	0
31	1	15C	15C	239 NO 14TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH N J 07033	319800	0.917999983
31	2	15C	15C	234 NO 15TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	70600	0.229599997
32	4	15C	15C	229 NO 14TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	411800	0
33	7	15C	15C	229 NO 15TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	5700	0.057399999
34	1	15C	15C	239 NO 15TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH N J 07033	412400	0.860000014
34	2	15C	15C	230 NO 16TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ 07033	5700	0.057399999
34	3	15C	15C	234 NO 16TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, N J 07033	70600	0.229599997
36	5			1 219 NO 16TH ST	PARDUCCI, ROBERT A & CYNTHIA	219 NO 16TH ST	KENILWORTH, N J 07033	5700	0.057399999
33	2.0101			1 203 NO 15TH ST	FDV REALTY, LLC	295 NO MICHIGAN AVE	KENILWORTH, NJ 07033	81100	0
172	7.01	15F	15F	352 SO MICHIGAN AVE	LOPEZ, NELSON & OFELIA	729 SO MICHIGAN AVE	KENILWORTH, N J 07033	172200	0
40	9			1 229 NO 18TH ST	GRUSINSKI, FRED J	227 NO 18TH ST	KENILWORTH, N J 07033	5700	0.057399999
40	17			1 204 NO 19TH ST	WOODS, GERTRUDE ESTATE - ET AL	144 NO 19TH ST	KENILWORTH, NJ 07033	53600	0.114799999
41	8			1 232 NO 20TH ST	INFANTINO, RICHARD H	6 MOSS ST	WESTFIELD, NJ 07090	71400	0.114799999
42	7.01			1 229 NO 20TH ST	RIZZO, JOSEPH SR	237 NO 20TH ST	KENILWORTH, NJ 07033	71400	0.114799999
179	8			1 SO 31ST ST - REAR	JN187CX191BX, LLC	720 BOULEVARD	KENILWORTH, NJ 07033	81300	0

47	4	15F	612 WASHINGTON AVE	TRIPODI, DOMINICK & MEGAN N	612 WASHINGTON AVE	KENILWORTH, NJ	07033	210200	0.114799999
48	15	1	120 NO 24TH ST	BENINATI, JOHN & ELEANOR	126 NO 24TH ST	KENILWORTH, NJ	07033	6800	0.068899997
49	1	15B	537 MONROE AVE	ST THERESA'S SCHOOL	537 MONROE AVE	KENILWORTH, NJ	07033	2883600	2.75
50	8.01	1	135 NO 21ST ST	VINCENT PAPARATTO REALTY CO INC	295 NORTH MICHIGAN AVE	KENILWORTH, NJ	07033	74300	0.142299995
50	8.02	1	139 NO 21ST ST	VINCENT PAPARATTO REALTY CO INC	295 NORTH MICHIGAN AVE	KENILWORTH, NJ	07033	74300	0.142299995
52	13	1	145 NO 19TH ST	GREITZ, AUSTIN & CHAVEZ-CALDERON,R	146 NO 20TH ST	KENILWORTH, NJ	07033	5400	0.057399999
53	1	15C	120 NO 19TH ST	KENILWORTH VOL FIRE DEPT.	120 NO 19TH ST	KENILWORTH, NJ	07033	197500	0.284700006
54	1	15A	425 MONROE AVE	BOARD OF EDUCATION	426 BOULEVARD AV	SPRINGFIELD, NJ	07081	12093000	21.25900078
54	12	15A	400 BOULEVARD	BOARD OF EDUCATION	426 BOULEVARD	KENILWORTH, NJ	07033	5767200	7.659999847
56	7	15F	364 FRANKLIN AVE	TRAMER, FRED & LOUISE A	364 FRANKLIN AVE	KENILWORTH, NJ	07033	181700	0.0902
56	14	1	176 WASHINGTON AVE	NORTH HOLDINGS NY LLC	51 FOREST RD, SUITE 316	MONROE, NY	10950	18400	0.091799997
56	15	1	174 WASHINGTON AVE	NORTH HOLDINGS NY LLC	51 FOREST RD, SUITE 316	MONROE, NY	10950	9200	0.045899998
56	16	1	172 WASHINGTON AVE	NORTH HOLDINGS NY LLC	51 FOREST RD, SUITE 316	MONROE, NY	10950	9200	0.045899998
56	17	1	170 WASHINGTON AVE	NORTH HOLDINGS NY LLC	51 FOREST RD, SUITE 316	MONROE, NY	10950	9200	0.045899998
58	3	1	120 NO 12TH ST	AIR SYSTEMS DEVELOPMENT CO, INC	135 N 10TH ST	KENILWORTH, NJ	07033	22200	0.206599995
58	4	1	124 NO 12TH ST	NORTH HOLDINGS NY LLC	51 FOREST RD, SUITE 316	MONROE, NY	10950	141900	0.516499996
59	3	1	156 WASHINGTON AVE	NORTH HOLDINGS NY LLC	51 FOREST RD, SUITE 316	MONROE, NY	10950	179100	0.413199991
63	9	15F	90 PEMBROOK DR	90 PEMBROOK DR CO	90 PEMBROOK DR	KENILWORTH, NJ	07033	165200	0.137700006
65	1	15C	50 BOULEVARD	COUNTY OF UNION ADMIN BLDG	DEPT - PARKS & RECREATION	ELIZABETH, NJ	07207	768700	10.25
65	2	1	100 BOULEVARD	ELIZABETHTOWN WATER %AMERICAN WATER	PO BOX 2738	CAMDEN, NJ	08101	25000	2.589999914
72	26	1	244 BOULEVARD	ANTAO, MANUEL G - ANTAO, LOUIS G	65 POTOMAC DR	BASKING RIDGE, NJ	07920	60700	0.114799999
73	26	1	14 NO 9TH ST	PAULINO, ALEX & RIGAMONTE, ROSELE	12 NO 9TH ST	KENILWORTH, NJ	07033	5700	0.057399999
74	4	1	11 NO 9TH ST	NATIELLO, FRANK	13 NO 9TH ST	KENILWORTH, NJ	07033	5700	0.057399999
76	13	1	44 NO 12TH ST	CASTILLO, JORGE A FLORES	40 NO 12TH ST	KENILWORTH, NJ	07033	5700	0.057399999
77	1	15F	340 BOULEVARD	STALLINGS, KAREN C & FRANK J	340 BOULEVARD	KENILWORTH, NJ	07033	160400	0.114799999
79	8.03	1	47 NO 18TH ST	FDV REALTY, LLC	295 N MICHIGAN AVE	KENILWORTH, NJ	07033	71400	0.114799999
80	9	15C	485 WASHINGTON AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	419300	0.230000004
82	23	15F	36 NO 22ND ST	KOERNER, HELEN A	36 NO 22ND ST	KENILWORTH, NJ	07033	178300	0.114799999
82	28	15C	526 BOULEVARD	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	648900	0.389999986
83	3	15C	548 BOULEVARD	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	667900	0
83	4	15C	11 NO 22ND ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	71400	0.114799999
83	24	1	10 NO 23RD ST	550 BOULEVARD,LLC % BENDER	1 MILLTOWN COURT	UNION, NJ	07083	50000	0.045899998
84	1.01	1	568 BOULEVARD	MAS HOLDINGS,LLC	572 BOULEVARD	KENILWORTH, NJ	07033	68600	0.102600001
84	2	1	566 BOULEVARD	MAS HOLDINGS,LLC	572 BOULEVARD	KENILWORTH, NJ	07033	67400	0.0744
88	2	1	707 JEFFERSON AVE	MO GO, LLC	701 JEFFERSON AVE	KENILWORTH, NJ	07033	33000	0.045899998
96	18	1	67 LOCUST DR	FDV REALTY, LLC	295 NO MICHIGAN AVE	KENILWORTH, NJ	07033	5000	0.0184
98	11	15F	343 BOULEVARD	JEANS, ROBERT E & LENORE J	343 BOULEVARD	KENILWORTH, NJ	07033	196100	0.114799999
99	2	15F	320 ROOSEVELT LANE	SIMS, DANIEL F & MARIA	320 ROOSEVELT LANE	KENILWORTH, NJ	07033	281400	0.114799999
100	12	15C	67 ARBOR ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	600	0.059700001
101	8	15F	331 COOLIDGE DR	SPRANGER, DAVID J & ALLISON J	331 COOLIDGE DR	KENILWORTH, NJ	07033	177400	0.128600001
101	17	1	367 COOLIDGE DR	ELSHIEKH ENTERPRISES LLC	12 VIA VITALE	KENILWORTH, NJ	07033	72800	0.128600001
101	26	15C	385 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	3200	0.031199999
101	27	15C	385 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	3200	0.0307
101	28	15C	385 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	3000	0.030099999
101	29	15C	385 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	3000	0.0297
101	30	15C	379 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	6000	0.060800001
101	31	1	375 COOLIDGE DR REAR	SQUILLARO, JOSEPH - JARASZ, AGNES	375 COOLIDGE DR	KENILWORTH, NJ	07033	5800	0.057399999
101	32	1	371 COOLIDGE DR REAR	DAVID, MICHELLE	371 COOLIDGE DR	KENILWORTH, NJ	07033	5600	0.056200001
101	33	1	367 COOLIDGE DR REAR	ELSHIEKH ENTERPRISES LLC	12 VIA VITALE	KENILWORTH, NJ	07033	5300	0.0528
37	1.02	15F	205 NO 17TH ST	RODRIGUEZ, MIKELE L & HARRISON, Q R	205 NO 17TH ST	KENILWORTH, NJ	07033	307000	0
101	35	15C	359 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	4900	0.049400002

101	36	15C	355 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	2300	0.0242
101	37	15C	355 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	2200	0.023700001
101	38	15C	351 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	2200	0.0232
101	39	15C	347 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	6500	0.064599998
101	40	15C	341 COOLIDGE DR REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	10700	0.428299993
107	1	15C	400 ROOSEVELT LANE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	3000	0.309899986
111	4	1	17 SO 17TH ST	SILVA, DENIS & LUCIA	21 S 17TH ST	KENILWORTH, NJ	07033	4500	0.045899998
113	19	15F	19 SO 19TH ST	VITALE, ARTHUR, JR & MICHELLE	19 SO 19TH ST	KENILWORTH, NJ	07033	231400	0.114799999
113	24	15F	39 SO 19TH ST	DELLI SANTI, DAVID	39 SO 19TH ST	KENILWORTH, NJ	07033	139900	0.114799999
113	31	15F	65 SO 19TH ST	BOLL, BARBARA	65 SO 19TH ST	KENILWORTH, NJ	07033	173000	0.137700006
113	32	15C	67 SO 19TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	3200	0.034400001
116	6	15C	56 SO 21ST ST REAR	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	5800	0.0092
116	12	15C	20 SO 21ST ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	511300	0.569999993
116	13	1	16 SO 21ST ST	AREKAN, INC	525 BOULEVARD	KENILWORTH, NJ	07033	78500	0.114799999
116	17	1	11 SO 22ND ST	SSSD SATYA LLC	48820 KATO RD #500B	FREMONT, CA	94538	125000	0.114799999
117	22	15C	551 BOULEVARD	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	173900	0.183699995
117	23	15C	11 SO 23RD ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	172100	0.114799999
118	20	15C	567 BOULEVARD	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	331800	0.620000005
118	24	1	25 SO 24TH ST	RESENDE,E & BRITO,I & CUNHA,M JNTS	25 SO 24TH ST	KENILWORTH, NJ	07033	2200	0.0229
119	14	15C	56 SO 24TH ST	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	400	0.0046
124	5	1	729 BOULEVARD	725 BOULEVARD,LLC C/O BENDER	ONE MILLTOWN CT	UNION, NJ	07083	40000	0.045899998
124	7	1	737 BOULEVARD	TOCCI GROUP LLC	105 EISENHOWER PKWY	ROSELAND, NJ	07068	125000	0.114799999
130	1	15C	130 SO MICHIGAN AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	814500	3.490000001
132	9	15F	170 SO MICHIGAN AVE	GARCIA, JOSE ANTONIO & FRANCES D	170 SO MICHIGAN AVE	KENILWORTH, NJ	07033	216200	0.1435
138	18	1	576 QUINTON AVE	KUSTRA, WALTER	577 PASSAIC AVE	KENILWORTH, NJ	07033	73700	0.137700006
139	18	15F	586 PASSAIC AVE	CANNADY, KIERAN	586 PASSAIC AVE	KENILWORTH, NJ	07033	120700	0.057399999
145	1	15C	521 SUMMIT AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	20000	0.200000003
146	13	15C	544 SUMMIT AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	9800	0.098700002
146	14	15C	542 SUMMIT AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	17900	0.114799999
146	15	15C	534 SUMMIT AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	34400	0.344300002
146	16	1	532 SUMMIT AVE	CAMERON, JANIS	567 BOULEVARD	KENILWORTH, NJ	07033	17900	0.114799999
146	17	15C	526 SUMMIT AVE	BORO OF KENILWORTH	529 RICHFIELD AVE	KENILWORTH, NJ	07033	17900	0.114799999
146	18	15C	522 SUMMIT AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	17900	0.114799999
96	16.01	1	63 LOCUST DR	FDV REALTY LLC	567 BOULEVARD	KENILWORTH, NJ	07033	71400	0.114799999
148	19	1	BLOOMINGDALE & ASHFORD	COLUCCI,JOSEPH-CARDINAL,KRISTEEN	295 NO MICHIGAN AVE	KENILWORTH, NJ	07033	71500	0
150	11	15C	651 RICHFIELD AVE	BORO OF KENILWORTH	ASSESSED IN CRANFORD	ASSESSED IN CRANFORD	00000	0	0
151	16	1	685 SUMMIT AVE	BORO OF KENILWORTH	567 BOULEVARD	KENILWORTH, NJ	07033	1800	0.018300001
153	2	15F	225 SO MICHIGAN AVE	CALABRESE, LISA & DUNNE, KEVIN	683 SUMMIT AVE	KENILWORTH, NJ	07033	5400	0.057399999
154	2	15C	BLOOMINGDALE AVE	CHALENSKI, ALAN R	225 SO MICHIGAN AVE	KENILWORTH, NJ	07033	142800	0.206599995
156	5	1	740 UNION AVE	RIVERA, SOPHIA L	567 BOULEVARD	KENILWORTH, NJ	07033	1100	0.0115
157	6	1	757 UNION AVE	EGGERS LIVING TRUST	744 UNION AVE	KENILWORTH, NJ	07033	7500	0.115400001
159	4	1	709 WOODLAND AVE	DIFABIO, JOHN L	751 UNION AVE	KENILWORTH, NJ	07033	6800	0.068899997
159	12	15C	739 WOODLAND AVE	BORO OF KENILWORTH	705 WOODLAND AVE	KENILWORTH, NJ	07033	5700	0.057399999
159	22	1	734 FAIRFIELD AVE	LORDEN, LLC	567 BOULEVARD	KENILWORTH, NJ	07033	5400	0.057399999
159	25	1	724 FAIRFIELD AVE	PPF SHOP, LLC	739 FAIRFIELD AVE	KENILWORTH, NJ	07033	74200	0.137700006
159	26	1	722 FAIRFIELD AVE	PPF SHOP, LLC	306 SO MICHIGAN AVE	KENILWORTH, NJ	07033	24800	0.045899998
159	28	1	712 FAIRFIELD AVE	HEIM, GUENTER & WILLI	306 SO MICHIGAN AVE	KENILWORTH, NJ	07033	74200	0.137700006
161	3	1	732 LEXINGTON AVE	COCUZZA & SONS LANDSCAPING LLC	19 BRASSER LANE	KENILWORTH, NJ	07033	62200	0.091799997
161	5	1	744 LEXINGTON AVE	VINCENT PAPARATTO REALTY CO. INC	4 GENTRY DR	WARREN, NJ	07059	165000	0.229599997
161	6	1	750 LEXINGTON AVE	VINCENT PAPARATTO REALTY CO. INC	295 N MICHIGAN AVE	KENILWORTH, NJ	07033	99000	0.137700006
161	11.02	1	752 LEXINGTON AVE REAR	VINCENT PAPARATTO REALTY CO. INC	295 N. MICHIGAN AVE	KENILWORTH, NJ	07033	99000	0.137700006
					295 N. MICHIGAN AVE	KENILWORTH, NJ	07033	27200	0.092100002

162	5	15C	656 FAIRFIELD AVE	STATE OF NEW JERSEY	TRENTON, N J	08625	62100	0.091799997
96	16.02	1	67 LOCUST DR	FDV REALTY LLC	KENILWORTH, NJ	07033	70800	0
162	12	1	283 SO MICHIGAN AVE	283 S MICHIGAN AVE KENILWORTH LLC	UNION, NJ	07083	69300	0.215200007
162	15	15C	683 WOODLAND AVE	BORO OF KENILWORTH	KENILWORTH N J	07033	21000	0.215200007
168	1	15C	318 ASHWOOD AVE	BORO OF KENILWORTH	KENILWORTH, N J	07033	25000	0.251399994
168	7	15F	351 OAKWOOD AVE	BONADIES, RONALD	KENILWORTH, NJ	07033	146700	0.114799999
169	1	15C	322 OAKWOOD AVE	BORO OF KENILWORTH	KENILWORTH, N J	07033	92300	0.195099995
169	19	15C	326 OAKWOOD AVE	BORO OF KENILWORTH	KENILWORTH, NJ	07033	5700	0.057399999
170	1.01	15C	325 FAITOUTE AVE	BORO OF KENILWORTH	KENILWORTH, NJ	07033	2600	0.0273
170	2	1	331 FAITOUTE AVE	RUBIERA, JOHANNY B & SANTOS,KELVIN	KENILWORTH, NJ	07033	4900	0.057399999
172	2	1	712 COLFAX AVE	708 COLFAX AVE,LLC	BASKING RIDGE, NJ	07920	133600	0.451599985
114	32.02	15F	75 SO 20TH ST	REMSON, AARON J & BANACH, JAIME R	KENILWORTH, NJ	07033	270300	0
172	13	15C	330 SO MICHIGAN AVE	BORO OF KENILWORTH	KENILWORTH, N J	07033	72000	0.1382
172	14	1	715 LEXINGTON AVE	725 LEXINGTON AVENUE,LLC % BENDER	UNION, NJ	07083	144000	0
175	1.02	1	220 SUMNER AVE REAR	ROSELLE GRANDE, LLC	LAKESWOOD, NJ	08701	15000	0.124399997
179	2	1	20 SO 31ST ST	LAKHANI ASSOCIATES LLC	BROOKLYN, NY	11201	300000	1.396999955
179	6.01	1	SO 31ST ST - REAR	131 SOUTH 31ST KENILWORTH LLC	BROOKLYN, NY	11218	133400	0
180	2	1	157 SUMNER AVE	PAPARATTO, VINCENT	KENILWORTH, NJ	07033	135000	0.600000024
33	2.0201	1	207 NO 15TH ST	FDV REALTY, LLC	KENILWORTH, NJ	07033	81100	0
57	8.01	1	NO 14TH ST & FRANKLIN AVE	UNKNOWN OWNER	KENILWORTH, NJ	00000	100	0
183	7	1	NO MICHIGAN AVE	SAMCO	KENILWORTH, NJ	07033	198500	0.818000019
183	9	1	25 NO 26TH ST	KENILWORTH REDEVELOPERS URBAN RENEW	LAKESWOOD, NJ	08701	1137000	3.789999962
184	3	15C	900 BOULEVARD	COUNTY OF UNION C/O COUNTY MANAGER	ELIZABETH, NJ	07207	23805100	226.2299957
184-A	1	1	209 NO MICHIGAN AVE REAR	ARGNAM CO.,LLC	KENILWORTH, NJ	07033	137700	0.917999983
300	3	15C	147 NO MICHIGAN AVE REAR	STATE OF NEW JERSEY	TRENTON, N J	08625	0	0.400599986
300	5	15C	873 BOULEVARD	STATE OF NEW JERSEY	TRENTON, N J	08625	0	1.750499964
300	6	15C	190 MARKET ST	STATE OF NEW JERSEY	TRENTON, N J	08625	0	2.066099882
300	7	15C	314 SO MICHIGAN AVE	STATE OF NEW JERSEY	TRENTON, N J	08625	0	1.249300003
300	8	15C	314 FAITOUTE AVE	STATE OF NEW JERSEY	TRENTON, N J	08625	0	0.272700012
300	9	15C	315 FAITOUTE AVE	STATE OF NEW JERSEY	TRENTON, N J	08625	0	1.122599959
300	10	15C	333 ASHWOOD AVE REAR	STATE OF NEW JERSEY	TRENTON, N J	08625	0	0.043400001
300	11	15C	494 COLFAX AVE REAR	STATE OF NEW JERSEY	TRENTON, N J	08625	0	0.413199991
300	12	15C	494 COLFAX AVE	STATE OF NEW JERSEY	TRENTON, N J	08625	0	0.642799973
301	1	15C	801 FAIRFIELD AVE	STATE OF NEW JERSEY	TRENTON, N J	08625	0	0.413199991
301	2	15C	821 FAIRFIELD AVE	STATE OF NEW JERSEY	TRENTON, N J	08625	0	1.23969996
183	1.04	1	740 FEDERAL AVE	730-740 FEDERAL, LLC	WHIPPANY, NJ	07981	187600	0



Number	Block	Lot	Property Class	Owner	Address	Lot Size	Constrained Area	Unconstrained	Comments/Exclusion Discussion	Area Contributing to the RDP	RDP Units (20% set-aside)
1	1	7	15C	STATE OF NEW JERSEY COUNTY OF UNION ADMIN BLDG	615 NO MICHIGAN AVE REAR	0.201	0.0	0.201	Sliver parcel along railroad tracks	0.0	
2	1	11	15C		495 NO MICHIGAN AVE	1.660	0.0	1.66	ROSI "Black Brook Park"	0.0	
3	2	8	1	RT 1 MICH AVE CORP	640 NO MICHIGAN AVE	0.332	0.0	0.332	Lot being used as a parking lot	0.0	
4	2	16	1	THREE V CO	618 NO MICHIGAN AVE REAR	0.445	0.0	0.445	Developed as a parking lot	0.0	
5	2	21	1	25 COLUMBUS AVENUE, LLC	25 COLUMBUS AVE REAR	0.064	0.0	0.064	Undersized	0.0	
6	2	22	1	25 COLUMBUS AVENUE, LLC	25 COLUMBUS AVE	0.057	0.0	0.057	Undersized	0.0	
7	3	6	1	MARK 11 ROAD LLC	2 MARK RD	0.726	0.326	0.4	Used as storage site for adjacent business	0.0	
8	4	1	15C	COUNTY OF UNION ADMIN BLDG	500 NO MICHIGAN AVE	18.560	4.5	14.06	ROSI "Black Brook Park"	0.0	
9	4	1.01	1	ELIZABETHTOWN WATER %AMERICAN WATER	480 NO MICHIGAN AVE	6.470	0.0	6.47	Water tower on site	0.0	
10	6	1	15C	COUNTY OF UNION ADMIN BLDG	501 NO 14TH ST	36.430	13.5	22.93	ROSI "Black Brook Park"	0.0	
11	6	1.02	15C	BORO OF KENILWORTH	242 NO 7TH ST	0.043	0.0	0.043	Undersized	0.0	
12	7	4	1	TRUKOWSKI, SHELLY A	300 NO 8TH ST REAR	0.065	0.0	0.065	Undersized	0.0	
13	8	1	15C	BORO OF KENILWORTH	395 NO 8TH ST	0.230	0.0	0.230	Garage for adjacent business	0.0	
14	8	7	15C	BORO OF KENILWORTH	306 NO 9TH ST	0.230	0.0	0.23	Municipal-owned active recreation space	0.0	
15	8	24	15C	BORO OF KENILWORTH	36 LAFAYETTE PL	0.046	0.0	0.046	Undersized	0.0	
16	10	1	1	BRENT MATERIAL CO	339 NO 12TH ST	1.840	0.75	1.09	Block 10, Lot 1 is located at 339 No. 12th St and largely has access and frontage on Lafayette Avenue. Aerial images of the site show that the site is currently used for the outdoor storage of materials and containers.	0.0	
17	11	2	1	BRENT MATERIAL CO	315 NO 13TH ST	0.746	0.15	0.6	Block 11, Lots 2 and 4 are located at 315 No. 13th St and 302 No. 14th St, respectively, and are used for outdoor storage and a contractor's yard. The site is partially encumbered with regulatory floodway and floodplain.	0.0	
18	11	4	1	BRENT MATERIAL CO	302 NO 14TH ST	0.115	0.0	0.115		0.0	
19	12	5	1	UNITED REALTY, LLC	301 NO 15TH ST	0.072	0.0	0.072	Undersized	0.0	
20	12	6	15C	BORO OF KENILWORTH	300 NO 16TH ST	1.610	0.0	1.61	Municipal-owned active recreation space	0.0	
21	13	15	1	CROWN, CLINTON J & WINIFRED M	320 NO 17TH ST	0.057	0.0	0.057	Undersized	0.0	
22	14	18	1	MICHALSKI, KENNETH & NANCY L	308 NO 18TH ST	0.057	0.0	0.057	Undersized	0.0	
23	15	5.02	1	JOE RIZZO BUILDERS LLC	335 NO 18TH ST	0.120	0.0	0.120	Block 15, Lots 5.02, 5.03, & 5.04 can be combined; vacant land with surrounding single-family homes, adjacent to Black Brook Park.	0.37	1
24	15	5.03	1	VINCENT PAPARATTO REALTY CO, INC	339 NO 18TH ST	0.138	0.0	0.138			
25	15	5.04	1	VINCENT PAPARATTO REALTY CO, INC	343 NO 18TH ST	0.000	0.0	0.112			
26	15	5.07	1	VINCENT PAPARATTO REALTY CO, INC	328 NO 19TH ST	0.153	0.0	0.153			
27	19	10	15C	BORO OF KENILWORTH	302 NO MICHIGAN AVE	0.062	0.0	0.062	Undersized	0.0	
28	22	7.02	1	EH TRUST-BC DAVID TRUST % INFANTINO	235 NO 19TH ST	0.115	0.0	0.115	Small vacant parcel surrounded by single family homes; undersized.	0.000	
29	24.01	6	1	MATHIS, OLLIE C/O WILLA DAVIS	231 NO 8TH ST	0.080	0.0	0.08	Undersized	0.0	



30	24.02	2	1	G.M.P. PROPERTIES, LLC	290 MONROE AVE	0.138	0.0	0.138	Undersized; using as parking lot for adjacent business	0.0
31	24.03	12	15C	BORO OF KENILWORTH	247 NO 10TH ST	0.069	0.0	0.069	Undersized	0.0
32	27	5.01	1	THUNDAR PROPERTIES LLC	356 MONROE AVE	0.115	0.0	0.115	Undersized; used as storage for adjacent businesses.	0.0
33	30	6	15C	BORO OF KENILWORTH	240 NO 14TH ST	0.275	0.0	0.275	Developed with garage and parking lot	0.0
34	300	1	15C	STATE OF NEW JERSEY	2500 ROUTE 22	0.000	N/A	N/A	Irregularly shaped parcel developed with railroad tracks.	0.0
35	31	1	15C	BORO OF KENILWORTH	239 NO 14TH ST	0.918	0.0	0.9	Developed with Kenilworth DPW storage yard for equipment.	0.0
36	31	2	15C	BORO OF KENILWORTH	234 NO 15TH ST	0.230	0.0	0.23	Developed with Kenilworth Little League Buildings and storage shed for adjacent site's baseball field. Municipally owned passive recreation site.	0.0
37	32	4	15C	BORO OF KENILWORTH	229 NO 14TH ST	0.000	N/A	N/A	Municipal-owned active recreation space, developed as a baseball field	0.0
38	33	2.01	1	FDV REALTY, LLC	203 NO 15TH ST	0.000	N/A	N/A	Lot currently under construction	0.0
39	33	2.02	1	FDV REALTY, LLC	207 NO 15TH ST	0.000	N/A	N/A	Lot currently under construction	0.0
40	33	7	15C	BORO OF KENILWORTH	229 NO 15TH ST	0.057	0.0	0.057	Undersized	0.0
41	34	1	15C	BORO OF KENILWORTH	239 NO 15TH ST	0.860	0.0	0.86	Developed with Kenilworth DPW building and storage yard for equipment.	0.0
42	34	2	15C	BORO OF KENILWORTH	230 NO 16TH ST	0.057	0.0	0.057	Developed with Kenilworth DPW shed; Undersized	0.0
43	34	3	15C	BORO OF KENILWORTH	234 NO 16TH ST	0.230	0.0	0.23	Narrow buffer parcel between DPW storage yard and residential uses.	0.0
44	36	5	1	PARDUCCI, ROBERT A & CYNTHIA	219 NO 16TH ST	0.057	0.0	0.057	Buffer parcel; Undersized	0.0
45	40	9	1	GRUSINSKI, FRED J	229 NO 18TH ST	0.057	0.0	0.057	Undersized	0.0
46	40	17	1	WOODS, GERTRUDE ESTATE - ET AL	204 NO 19TH ST	0.115	0.0	0.115	Vacant parcel surrounded by single-family homes; undersized.	0.000
47	41	8	1	INFANTINO, RICHARD H	232 NO 20TH ST	0.115	0.0	0.115	Vacant parcel surrounded by single-family homes	0.000
48	42	7.01	1	RIZZO, JOSEPH SR	229 NO 20TH ST	0.115	0.0	0.115	Vacant parcel surrounded by single-family homes; undersized.	0.000
49	179	8	1	JN187CX191BX, LLC	SO 31ST ST - REAR	0.000	N/A	N/A	Developed as a parking lot	0.0
50	48	15	1	BENINATI, JOHN & ELEANOR	120 NO 24TH ST	0.069	0.0	0.069	Undersized	0.0
51	50	8.01	1	VINCENT PAPPARATTO REALTY CO INC	135 NO 21ST ST	0.142	0.0	0.142	Block 50, Lots 8.01 & 8.02 can be combined. No environmental constraints, surrounded by single family homes.	0.284
52	50	8.02	1	VINCENT PAPPARATTO REALTY CO INC	139 NO 21ST ST	0.142	0.0	0.142		1
53	52	13	1	GREITZ, AUSTIN & CHAVEZ-CALDERON, R	145 NO 19TH ST	0.057	0.0	0.057	Undersized	0.0
54	53	1	15C	KENILWORTH VOL. FIRE DEPT.	120 NO 19TH ST	0.285	0.0	0.285	Developed with Kenilworth Rescue Squad	0.0
55	56	14	1	NORTH HOLDINGS NY LLC	76 WASHINGTON AVE	0.092	0.0	0.092	Silver lots located in the Industrial Zone, at intersection of North 12th St and the portion of Washington Avenue right-of-way that is not improved. Lots 14, 15, 16, and 17 are all under the same ownership.	0.0
56	56	15	1	NORTH HOLDINGS NY LLC	74 WASHINGTON AVE	0.046	0.0	0.046		0.0
57	56	16	1	NORTH HOLDINGS NY LLC	72 WASHINGTON AVE	0.046	0.0	0.046		0.0



At the time of the original application, which, Lot 17 has access to North 12th St. Even when combined, these lots amount to 0.23 acres in total, and therefore, the lots are undersized.

58	56	17	1	NORTH HOLDINGS NY LLC	70 WASHINGTON AVE	0.046	0.0	0.046	0.0
59	58	3	1	AIR SYSTEMS DEVELOPMENT CO, INC	120 NO 12TH ST	0.207	0.0	0.207	0.0
60	58	4	1	NORTH HOLDINGS NY LLC	234 NO 12TH ST	0.516	0.0	0.516	0.0
61	59	3	1	NORTH HOLDINGS NY LLC	56 WASHINGTON AVE	0.413	0.0	0.413	0.0
62	65	1	15C	COUNTY OF UNION ADMIN BLDG	50 BOULEVARD	10.250	0.0	10.25	0.0
63	65	2	1	ELIZABETHTOWN WATER %AMERICAN WATER	100 BOULEVARD	2.590	0.0	2.59	0.0
64	72	26	1	ANTAO, MANUEL G - ANTAO, LOUIS G	244 BOULEVARD	0.115	0.0	0.115	0.0
65	73	26	1	PAULINO, ALEX & RIGAMONTE, ROSELE	14 NO 9TH ST	0.057	0.0	0.057	0.0
66	74	4	1	NATIELLO, FRANK	11 NO 9TH ST	0.057	0.0	0.057	0.0
67	76	13	1	CASTILLO, JORGE A FLORES	44 NO 12TH ST	0.057	0.0	0.057	0.0
68	79	8.03	1	FDV REALTY, LLC	47 NO 18TH ST	0.115	0.0	0.115	0.000
69	80	9	15C	BORO OF KENILWORTH	485 WASHINGTON AVE	0.230	0.0	0.23	0.0
70	82	28	15C	BORO OF KENILWORTH	526 BOULEVARD	0.390	0.0	0.39	0.0
71	83	3	15C	BORO OF KENILWORTH	548 BOULEVARD	0.000	N/A	N/A	0.0
72	83	4	15C	BORO OF KENILWORTH	11 NO 22ND ST	0.115	0.0	0.115	0.0
73	83	24	1	550 BOULEVARD, LLC % BENDER	10 NO 23RD ST	0.046	0.0	0.046	0.0
74	84	1.01	1	MAS HOLDINGS, LLC	568 BOULEVARD	0.103	0.0	0.103	0.0
75	84	2	1	MAS HOLDINGS, LLC	566 BOULEVARD	0.074	0.0	0.074	0.0
76	88	2	1	MO GO, LLC	707 JEFFERSON AVE	0.046	0.0	0.046	0.0
77	96	18	1	FDV REALTY, LLC	67 LOCUST DR	0.018	0.0	0.018	0.0
78	100	12	15C	BORO OF KENILWORTH	67 ARBOR ST	0.060	0.0	0.06	0.0
79	101	17	1	ELSHIEKH ENTERPRISES LLC	367 COOLIDGE DR	0.129	0.0	0.129	0.0
80	101	26	15C	BORO OF KENILWORTH	385 COOLIDGE DR REAR	0.031	0.0	0.031	0.0
81	101	27	15C	BORO OF KENILWORTH	385 COOLIDGE DR REAR	0.031	0.0	0.031	0.0
82	101	28	15C	BORO OF KENILWORTH	385 COOLIDGE DR REAR	0.030	0.0	0.030	0.0
83	101	29	15C	BORO OF KENILWORTH	385 COOLIDGE DR REAR	0.030	0.0	0.030	0.0
84	101	30	15C	BORO OF KENILWORTH	379 COOLIDGE DR REAR	0.061	0.0	0.061	0.0
85	101	31	1	SQUILLARO, JOSEPH - JARASZ, AGNES	375 COOLIDGE DR REAR	0.057	0.0	0.057	0.0
86	101	32	1	DAVID, MICHELLE	371 COOLIDGE DR REAR	0.056	0.0	0.056	0.0
87	101	33	1	ELSHIEKH ENTERPRISES LLC	367 COOLIDGE DR REAR	0.053	0.0	0.053	0.0
88	101	35	15C	BORO OF KENILWORTH	359 COOLIDGE DR REAR	0.049	0.0	0.049	0.0
89	101	36	15C	BORO OF KENILWORTH	355 COOLIDGE DR REAR	0.024	0.0	0.024	0.0
90	101	37	15C	BORO OF KENILWORTH	355 COOLIDGE DR REAR	0.024	0.0	0.024	0.0
91	101	38	15C	BORO OF KENILWORTH	351 COOLIDGE DR REAR	0.023	0.0	0.023	0.0
92	101	39	15C	BORO OF KENILWORTH	347 COOLIDGE DR REAR	0.065	0.0	0.065	0.0
93	101	40	15C	BORO OF KENILWORTH	341 COOLIDGE DR REAR	0.428	0.0	0.428	0.0

Contiguous narrow lots along the municipal border with Cranford behind a number of residential dwellings. Most have access to a right-of-way and are landlocked, with the exception of Lot 40, which can be accessed via Arbor St.



94	107	1	15C	BORO OF KENILWORTH	400 ROOSEVELT LANE	0.310	0.0	0.31	Location of "Charles E. Vitale Jr. Park", which includes gazebo and seating. The property is municipally owned passive recreation space.	0.0
95	111	4	1	SILVA, DENIS & LUCIA	17 SO 17TH ST	0.046	0.0	0.046	Undersized	0.0
96	113	32	15C	BORO OF KENILWORTH	67 SO 19TH ST	0.034	0.0	0.034	Undersized	0.0
97	116	6	15C	BORO OF KENILWORTH	56 SO 21ST ST REAR	0.009	0.0	0.009	Undersized	0.0
98	116	12	15C	BORO OF KENILWORTH	20 SO 21ST ST	0.570	0.0	0.57	Developed as municipal surface parking lot for Kenilworth Veterans Center on adjacent parcel Block 115, Lot 25, across the street.	0.0
99	116	13	1	AREKAN, INC	16 SO 21ST ST	0.115	0.0	0.115	Developed as a parking lot	0.0
100	116	17	1	SSSD SATYA LLC	11 SO 22ND ST	0.115	0.0	0.115	Developed as a parking lot	0.0
101	117	22	15C	BORO OF KENILWORTH	551 BOULEVARD	0.184	0.0	0.184	Site developed as surface parking for the Borough Municipal Building and Court across the street on Block 118, Lot 20.	0.0
102	117	23	15C	BORO OF KENILWORTH	11 SO 23RD ST	0.115	0.0	0.115	Site developed as surface parking for the Borough Municipal Building and Court across the street on Block 118, Lot 20.	0.0
103	118	20	15C	BORO OF KENILWORTH	567 BOULEVARD	0.620	0.0	0.62	Site developed with Borough Municipal Building and Court.	0.0
104	118	24	1	RESENDE E & BRITO, J & CUNHA, J M JNTS	25 SO 24TH ST	0.023	0.0	0.023	Undersized	0.0
105	119	14	15C	BORO OF KENILWORTH	56 SO 24TH ST	0.005	0.0	0.005	Undersized	0.0
106	124	5	1	725 BOULEVARD, LLC C/O BENDER	725 BOULEVARD	0.046	0.0	0.046	Undersized	0.0
107	124	7	1	TOCCI GROUP LLC	737 BOULEVARD	0.115	0.0	0.115	Prior site plan approval on 9/11/24; undersized	0.0
108	130	1	15C	BORO OF KENILWORTH	130 SO MICHIGAN AVE	3.490	0.0	3.49	Location of "DiMario Park", which includes baseball fields and tennis courts. The property is municipally owned active recreation space.	0.0
109	138	18	1	KUSTRA, WALTER	576 QUINTON AVE	0.138	0.0	0.138	Vacant parcel surrounded by single family homes; undersized parcel.	0.000
110	145	1	15C	BORO OF KENILWORTH	521 SUMMIT AVE	0.200	0.0	0.2	Landlocked, triangular shaped parcel on municipal border with Cranford.	0.0
111	146	13	15C	BORO OF KENILWORTH	544 SUMMIT AVE	0.099	0.0	0.099	Block 146, Lots 13-18 are contiguous and can be combined; located behind existing residences. No access to sites from Summit Ave but access from South 21st St through Block 146, Lot 18. No environmental constraints.	0.903
112	146	14	15C	BORO OF KENILWORTH	542 SUMMIT AVE	0.115	0.0	0.115		
113	146	15	15C	BORO OF KENILWORTH	534 SUMMIT AVE	0.344	0.0	0.344		
114	146	16	1	CAMERON, JANIS	532 SUMMIT AVE	0.115	0.0	0.115		
115	146	17	15C	BORO OF KENILWORTH	526 SUMMIT AVE	0.115	0.0	0.115		
116	146	18	15C	BORO OF KENILWORTH	522 SUMMIT AVE	0.115	0.0	0.115		
117	96	16.01	1	FDV REALTY LLC	63 LOCUST DR	0.000	N/A	N/A	Developed with single family home	0.0
118	148	19	1	COLUCCI, JOSEPH-CARDINAL, KRISTEEN	BLOOMINGDALE & ASHFORD	0.000	N/A	N/A	No recorded lot area in tax records.	0.0
119	150	11	15C	BORO OF KENILWORTH	651 RICHFIELD AVE	0.018	0.0	0.018	Undersized	0.0
120	151	16	1	CALABRESE, LISA & DUNNE, KEVIN	685 SUMMIT AVE	0.057	0.0	0.057	Undersized	0.0
121	154	2	15C	BORO OF KENILWORTH	BLOOMINGDALE AVE	0.012	0.0	0.012	Undersized	0.0
122	156	5	1	RIVERA, SOPHIA L	740 UNION AVE	0.115	0.0	0.115	Undersized and irregularly shaped	0.0



123	157	6	1	EGGERS LIVING TRUST	757 UNION AVE	0.069	0.0	0.069	Undersized	0.0
124	159	4	1	DIFABIO, JOHN L	709 WOODLAND AVE	0.057	0.0	0.057	Undersized	0.0
125	159	12	15C	BORO OF KENILWORTH	739 WOODLAND AVE	0.057	0.0	0.057	Undersized	0.0
126	159	22	1	LORDEN, LLC	734 FAIRFIELD AVE	0.138	0.0	0.138	Developed as a parking lot	0.0
127	159	25	1	PFP SHOP, LLC	724 FAIRFIELD AVE	0.046	0.0	0.046	Lots 25 and 26 are contiguous and under the same ownership for a total area of 0.18 acres. Site is too small even after being combined and used as a parking lot for adjacent industrial uses.	0.0
128	159	26	1	PFP SHOP, LLC	722 FAIRFIELD AVE	0.138	0.0	0.138		0.0
129	159	28	1	HEIM, GUENTER & WILLI	712 FAIRFIELD AVE	0.092	0.0	0.092	Undersized	0.0
130	161	3	1	COCUZZA & SONS LANDSCAPING LLC	732 LEXINGTON AVE	0.230	0.1	0.13	Site used as storage for adjacent industrial uses; 0.2% chance annual flood hazard zone passing through middle of site.	0.0
131	161	5	1	VINCENT PAPARATTO REALTY CO, INC	744 LEXINGTON AVE	0.138	0.014	0.124	Block 161, Lots 5, 6, and 11.02 create an irregularly shaped site bounded by the railroad tracks to the north and Lexington Avenue to the south. Lot 5 is encumbered by 100 year flood plain approximately 10%, as well as 500 year flood plain approximately 40%. Lot 6 is likewise encumbered by 500 year flood plain, approximately 40% - however, this area is not permitted to be excluded and only the 100 year flood plain has been removed from the total area.	0.0
132	161	6	1	VINCENT PAPARATTO REALTY CO, INC	750 LEXINGTON AVE	0.138	0.0	0.138		0.0
133	161	11.02	1	VINCENT PAPARATTO REALTY CO, INC	752 LEXINGTON AVE REAR	0.092	0.0	0.092		0.0
134	162	5	15C	STATE OF NEW JERSEY	656 FAIRFIELD AVE	0.092	0.0	0.092	Undersized	0.0
135	96	16.02	1	FDV REALTY LLC	67 LOCUST DR	0.000	N/A	N/A	Irregularly shaped, undersized silver parcel	0.0
136	162	12	1	283 S MICHIGAN AVE KENILWORTH LLC	283 SO MICHIGAN AVE	0.215	0.0	0.215	Block 162, Lots 12 & 15 can be combined. Vacant, surrounded by single family homes with Garden State Parkway to the east. No environmental constraints.	0.43
137	162	15	15C	BORO OF KENILWORTH	683 WOODLAND AVE	0.215	0.0	0.215		1
138	168	1	15C	BORO OF KENILWORTH	318 ASHWOOD AVE	0.251	0.251	0.0	This parcel is entirely encumbered by FEMA regulatory floodway.	0.0
139	169	1	15C	BORO OF KENILWORTH	322 OAKWOOD AVE	0.195	0.195	0.0	This parcel is entirely encumbered by FEMA regulatory floodway.	0.0
140	169	19	15C	BORO OF KENILWORTH	326 OAKWOOD AVE	0.057	0.03	0.027	This parcel is encumbered by FEMA regulatory floodway, approximately 50%; Undersized	0.0
141	170	1.01	15C	BORO OF KENILWORTH	325 FAITOUTE AVE	0.027	0.027	0.000	Entirely encumbered by FEMA Regulatory Floodway; Undersized	0.0
142	170	2	1	RUBIERA, JOHANNY B & SANTOS, KELVIN	331 FAITOUTE AVE	0.057	0.0	0.057	Undersized	0.0
143	172	2	1	708 COLFAX AVE, LLC	712 COLFAX AVE	0.452	0.0	0.452	The lot is currently developed as a paved surface lot and is surrounded by office and industrial buildings on both sides (Lots 1 and 3) that utilize it as shared parking. These sites have no on-site parking on their lots, and therefore this lot functions as a crucial component for their operation.	0.0



144	172	13	15C	BORO OF KENILWORTH	330 SO MICHIGAN AVE	0.138	0.138	0.0	This parcel is entirely encumbered by FEMA regulatory floodway.	0.0
145	172	14	1	725 LEXINGTON AVENUE, LLC % BENDER	715 LEXINGTON AVE	0.620	0.62	0.0	This parcel is entirely encumbered by FEMA Flood Hazard Area - including approximately 30% regulatory floodway and 70% 100 year flood plain.	0.0
146	175	102	1	ROSELLE GRANDE, LLC	220 SUMNER AVE REAR	0.124	0.124	0.0	This parcel is entirely encumbered by FEMA Flood Hazard Area, 100 year flood plain.	0.0
147	179	2	1	LAKHANI ASSOCIATES LLC	20 SO 31ST ST	1.397	0.0	1.397	Apart of Kenilworth Inn	0.000
148	179	6.01	1	131 SOUTH 31ST KENILWORTH LLC	SO 31ST ST - REAR	0.000	N/A	N/A	Site developed as a parking lot	0.0
149	180	2	1	PAPARATTO, VINCENT	157 SUMNER AVE	0.600	0.0	0.6	Vacant and undeveloped lot with access from Sumner Avenue.	0.6
150	57	8.01	1	UNKNOWN OWNER	NO 14TH ST & FRANKLIN AVE	0.000	N/A	N/A	Undersized; buffer parcel	0.0
151	183	7	1	SAMCO	NO MICHIGAN AVE	0.818	0.0	0.818	Fully developed as an industrial site	0.0
152	183	9	1	KENILWORTH REDEVELOPERS URBAN RENEW	25 NO 26TH ST	3.790	0.0	3.79	Block 183, Lot 9 is developed as an outdoor storage area for materials and equipment. The site is included in the RDP calculation as a redevelopment site separate from this analysis, which is described in Section V of the VLA Report.	
153	184	3	15C	COUNTY OF UNION C/O COUNTY MANAGER	900 BOULEVARD	226.230	56.2	168.6	ROSI "Gallop Hill Golf"	0.0
154	184.A	1	1	ARGNAM CO., LLC	205 NO MICHIGAN AVE REAR	0.918	0.0	0.918	This parcel is a triangular and irregularly shaped. It appears that the site is used for outdoor storage and surface parking.	0.0
155	300	3	15C	STATE OF NEW JERSEY	147 NO MICHIGAN AVE REAR	0.401	0.0	0.401	Silver parcel along railroad tracks.	0.0
156	300	5	15C	STATE OF NEW JERSEY	873 BOULEVARD	1.750	0.0	1.75	Narrow parcel that includes development of a number of commercial properties along Market Street.	0.0
157	300	6	15C	STATE OF NEW JERSEY	190 MARKET ST	2.066	0.62	1.45	Developed as railroad tracks. Approximately 30% of the site is encumbered by FEMA 100 year flood plain.	0.0
158	300	7	15C	STATE OF NEW JERSEY	314 SO MICHIGAN AVE	1.249	0.0	1.249	Developed as railroad tracks.	0.0
159	300	8	15C	STATE OF NEW JERSEY	314 FAITOUTE AVE	0.273	0.0	0.273	Developed as railroad tracks.	0.0
160	300	9	15C	STATE OF NEW JERSEY	315 FAITOUTE AVE	1.123	0.112	1.010	Developed as railroad tracks. Approximately 10% of the site is encumbered by FEMA regulatory floodway.	0.0
161	300	10	15C	STATE OF NEW JERSEY	333 ASHWOOD AVE REAR	0.043	0.043	0.000	Entirely encumbered by FEMA regulatory floodway; Undersized	0.0
162	300	11	15C	STATE OF NEW JERSEY	494 COLFAX AVE REAR	0.413	0.0	0.413	Developed as railroad tracks.	0.0
163	300	12	15C	STATE OF NEW JERSEY	494 COLFAX AVE	0.643	0.032	0.61	Undeveloped site, appears to provide access to the railroad tracks property from Beechwood Avenue. Approximately 5% of the site is encumbered by FEMA regulatory floodway.	0.0
164	301	1	15C	STATE OF NEW JERSEY	801 FAIRFIELD AVE	0.413	0.0	0.413	Developed as railroad tracks.	0.0

165	301	2	15C	STATE OF NEW JERSEY	821 FAIRFIELD AVE	1.240	0.0	1.24	Developed as railroad tracks.	0.0
-----	-----	---	-----	---------------------	-------------------	-------	-----	------	-------------------------------	-----

166	183	1.04	1	730-740 FEDERAL, LLC	740 FEDERAL AVE	0.331	0.0	0.331	Block 183, Lot 1.04 was formerly occupied by an autobody shop, but it suffered a fire in 2023. The debris from the fire is still present on the site.	0.000
-----	-----	------	---	----------------------	-----------------	-------	-----	-------	---	-------

Land Contributing Toward the RDP:	2.6
RDP (20% Set-Aside)	6

= developable parcel

No. 25-67

**RESOLUTION  
KENILWORTH, NJ**

**RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF KENILWORTH  
COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE  
HOUSING OBLIGATIONS**

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

**WHEREAS**, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

**WHEREAS**, the DCA Report calculates the Borough’s Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 35 and a Prospective Need (New Construction) Obligation of 208; and

**WHEREAS**, the Amended FHA further provides that, irrespective of the DCA’s calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA’s “present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025”, a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts (“AOC”) via a directive issued on December 19, 2024; and

**WHEREAS**, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA estimate of need as described in the DCA Report; and

**WHEREAS**, Section 3 of the Amended FHA provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of the Amended FHA; and

**WHEREAS**, the Borough’s acceptance of the Fourth Round obligations calculated by the DCA are entitled to a “presumption of validity” because it complies with Sections 6 and 7 of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing (“COAH”) regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the

No. 25-67

## RESOLUTION KENILWORTH, NJ

Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

**WHEREAS**, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

**WHEREAS**, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 on December 19, 2024; and

**WHEREAS**, pursuant to Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

**WHEREAS**, the Borough seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

**WHEREAS**, in light of the above, the Mayor and Borough Council finds that it is in the best interest of the Borough to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA.

**NOW, THEREFORE, BE IT RESOLVED** on this \_\_\_\_ day of January of 2025, by the Borough Council of the Borough of Kenilworth, Union County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Borough Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 35 and the DCA Fourth Round Prospective Need (New Construction) Obligation of 208 as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:



**No. 25-67**

## RESOLUTION KENILWORTH, NJ

a) The right to adjust the Borough's fair share obligations based on a windshield survey or similar survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and

b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and

c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Borough's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the Administrator of the Court's (AOC) Directive #14-24 issued on December 19, 2024, the Borough hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Borough's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.


4. If any part(s) of this Resolution shall be deemed invalid, such part(s) shall be severed and the validity thereof shall not affect the remaining parts of this Resolution.

5. All resolutions or parts thereof inconsistent with this Resolution are hereby rescinded.

6. This Resolution shall take effect immediately, according to law.

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT
Councilman Patrick Boyle			x			
Councilman Joseph Finistrella	x		x			
Councilwoman Toni Giordano Picerno			x			
Councilman William Mauro			x			
Councilman Douglas Piper			x			
Councilman Savino Scorese		x	x			
Mayor Linda Karlovitch						
<b>ON CONSENT AGENDA</b>	Yes	x	No			

I hereby certify that the above Resolution was adopted by the Borough Council of the Borough of Kenilworth at a Meeting held on January 15, 2025.

  
 Laura Reinertsen, Borough Clerk



**PREPARED BY THE COURT:**

**IN THE MATTER OF THE  
DECLARATORY JUDGMENT  
ACTION OF THE BOROUGH  
OF KENILWORTH, UNION  
COUNTY PURSUANT TO P.L.  
2024, CHAPTER 2**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – CIVIL PART  
UNION COUNTY  
DOCKET NO. UNN-L-235-25

Civil Action

**ORDER FIXING MUNICIPAL  
OBLIGATIONS FOR “PRESENT NEED”  
AND “PROSPECTIVE NEED” FOR THE  
FOURTH ROUND HOUSING CYCLE**

**THIS MATTER**, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 16, 2025 (“DJ Complaint”) by the Petitioner, Borough of Kenilworth (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

**AND IT APPEARING**, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)*,<sup>1</sup> therein setting forth the present need and prospective need obligations of all New Jersey municipalities for the Fourth Round housing cycle (the “DCA’s Fourth Round Report”);

<sup>1</sup> See [https://nj.gov/dca/dlps/pdf/FourthRoundCalculation\\_Methodology.pdf](https://nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf)

**AND IT APPEARING** that, pursuant to the DCA's Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported as **35 (thirty-five)** affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as **208 (two-hundred-and-eight)** affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

**AND THE COURT**, having determined that no interested party has filed a challenge to the Petitioner's DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program;

**AND THE COURT**, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA's Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown:

**IT IS, THEREFORE**, on this 27<sup>th</sup> day of **MARCH, 2025**

**ORDERED AND ADJUDGED** as follows:

1. That the present need obligation of the Municipality, be, and hereby is fixed as **35 (thirty-five)** affordable units for the Fourth Round housing cycle.
2. That the prospective need obligation of the Municipality, be, and hereby is fixed as **208 (two-hundred-and-eight)** affordable units for the Fourth Round Housing cycle; and
3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025,

as provided for and in accordance with Section III.A of Directive #14-24, and without further delay; and

**IT IS FURTHER ORDERED**, that a copy of this Order shall be deemed served on the Petitioner and Petitioner's counsel upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:

*Daniel R. Lindemann*

---

**Daniel R. Lindemann, J.S.C.**

*Designated Mt. Laurel Judge—Union Vicinage*

(X) Uncontested.

**SURENIAN, EDWARDS, BUZAK & NOLAN LLC**

311 Broadway, Suite A

Point Pleasant Beach, NJ 08742

(732) 612-3100

By: Erik C. Nolan, Esq. (Attorney ID: 014032006)

*Attorneys for Declaratory Plaintiff, Borough of Kenilworth*

**IN THE MATTER OF THE  
APPLICATION OF THE BOROUGH OF  
KENILWORTH, COUNTY OF UNION,  
STATE OF NEW JERSEY**

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: UNION COUNTY**

DOCKET NO.: UNN-L-\_\_\_\_

CIVIL ACTION  
AFFORDABLE HOUSING DISPUTE  
RESOLUTION PROGRAM  
PER DIRECTIVE # 14-24

**COMPLAINT FOR DECLARATORY  
RELIEF PURSUANT TO AOC  
DIRECTIVE # 14-24**

Declaratory Plaintiff, the Borough of Kenilworth, County of Union, State of New Jersey (hereinafter, “Kenilworth” or the “Borough”), a municipal corporation of the State of New Jersey, with principal offices located at 567 Boulevard, Kenilworth, New Jersey 07033, by way of this Declaratory Judgment Action (“DJ Action”) as authorized under Directive #14-24 of the Administrative Office of the Courts (“AOC”) alleges and says:

***Background***

1. Kenilworth is a municipal corporation of the State of New Jersey.
2. The Planning Board of the Borough of Kenilworth (hereinafter, “Planning Board”) is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., (“MLUL”), and, among other duties and obligations, is responsible for adopting the Fourth Round Housing Element and Fair Share Plan (“HEFSP”) of Kenilworth’s Master Plan.

3. Through this DJ Action, Kenilworth seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Dispute Resolution Program (the “Program”) pursuant to P.L. 2024, c.2 (hereinafter, the “Act”) and the Court, pursuant to AOC Directive #14-24; (b) to have the Program and the Court approve the Borough of Kenilworth’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the Borough, attached hereto as **Exhibit 1**; (c) to have the Program and the Court approve the Borough’s HEFSP, to be adopted by the Planning Board and endorsed by the Borough Council, and issue a conditional or unconditional “Compliance Certification” pursuant to the Act or other similar declaration; (d) through the filing of this DJ Action and binding resolution, to have the Program and/or the Court confirm Kenilworth’s immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of the Fourth Round, i.e., through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the Borough receives and obtains all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

### **COUNT I**

#### **ESTABLISHMENT OF JURISDICTION UNDER P.L.2024, C. 2**

4. The Borough of Kenilworth repeats and realleges each and every allegation as set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

5. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et. seq.

6. Among other things, the Act abolished the Council on Affordable Housing (hereinafter, “COAH”), and replaced it with seven retired, on recall judges designated as the Program, and authorized the Director of the AOC (hereinafter, “Director”) to create a framework to process applications for a compliance certification.

7. On or about December 19, 2024, the Director issued Directive #14-24, which among other things, required municipalities seeking a Compliance Certification to file an action in the form of a Declaratory Judgment Complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality’s adoption of a binding resolution, as authorized under the Act, and attach a copy of said binding resolution to the DJ Action.

8. To achieve voluntary compliance without the need for exclusionary zoning litigation, the Borough adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this DJ Action as **Exhibit 1**.

9. Based on the foregoing, the Borough has established the jurisdiction of the Program and the Court in regard to this DJ Action for a Compliance Certification as set forth hereinafter.

**WHEREFORE**, the Borough of Kenilworth seeks a declaratory judgment for the following relief:

- a. Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c. Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Borough Council, including, as appropriate and applicable, (i) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;
- d. Declaring that the Borough will have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act starting the moment this Complaint is filed, as per the Act which states, “. . . a court shall not consider exclusionary zoning litigation



during the timeframe after the timely submission of a binding resolution or fair share plan and housing element of a municipality, or both, and before a challenge is submitted, or during the timeframe of a challenge that is pending resolution with the program pursuant to this subsection.”;

- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of Kenilworth for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

## **COUNT II**

### **DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED OF THE BOROUGH OF KENILWORTH**

**10.** Kenilworth repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

**11.** The Act adopted the methodology to calculate every municipality’s present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

**12.** The Act directed the Department of Community Affairs (“DCA”) to apply the methodology and to render a non-binding calculation of each municipality’s present and prospective affordable housing obligations to be contained in a report to be issued no later than October 20, 2024.

**13.** The DCA issued its report on October 18, 2024.

14. Pursuant to the October 18, 2024 report, the DCA calculated Kenilworth’s present and prospective affordable housing obligations as follows:

<b>FOURTH ROUND PRESENT NEED (REHABILITATION) OBLIGATION</b>	<b>FOURTH ROUND PROSPECTIVE NEED OBLIGATION (2025-2035)</b>
35	208

15. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.

16. Kenilworth adopted a binding resolution, a copy of which resolution is attached hereto and made a part hereof as **Exhibit 1** to this DJ Action.

17. The binding resolution maintains that Kenilworth’s Round 4 (2025-2035) Present Need (Rehabilitation) Obligation is 35 and its Prospective Need (“New Construction”) Obligation is 208.

18. Kenilworth seeks the approval of, and confirmation by, the Program and the Court of the Round 4 (2025-2035) Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as **Exhibit 1**, or the adjustment of those obligations consistent with the Act and all applicable regulations.

19. Pursuant to the binding resolution, the Borough of Kenilworth reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.

**20.** Pursuant to the binding resolution, Kenilworth specifically reserves the right to seek and obtain 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and 7) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

**WHEREFORE**, the Borough of Kenilworth seeks a declaratory judgment for the following relief:

- a.** Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b.** Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c.** Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land;

(iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d. Declaring that the Borough will have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act starting from the moment this Complaint is filed, as per the Act which states, “. . . a court shall not consider exclusionary zoning litigation during the timeframe after the timely submission of a binding resolution or fair share plan and housing element of a municipality, or both, and before a challenge is submitted, or during the timeframe of a challenge that is pending resolution with the program pursuant to this subsection.”;
- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to Kenilworth for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

### **COUNT III**

#### **APPROVAL OF BOROUGH'S HOUSING ELEMENT AND FAIR SHARE PLAN**

**21.** The Borough of Kenilworth repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

**22.** Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, ("HEFSP")) must be prepared, adopted by the Planning Board and endorsed by the municipality by June 30, 2025.

**23.** Kenilworth hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and 7) any other applicable adjustment permitted in accordance with the Act and/or applicable regulations.

**WHEREFORE,** the Borough of Kenilworth seeks a declaratory judgment for the following relief:

- a.** Declaring that Kenilworth has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set

forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

- b. Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c. Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Borough Council, including, as appropriate and applicable, (i) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;
- d. Declaring that the Borough of Kenilworth will have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act starting the moment this Complaint is filed, as per the Act which states, ". . . a court shall not consider exclusionary zoning litigation during the timeframe after the timely submission of a binding resolution or fair share plan and housing element of a municipality, or both, and

before a challenge is submitted, or during the timeframe of a challenge that is pending resolution with the program pursuant to this subsection.”;

- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of Kenilworth for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

#### **COUNT IV**

#### **CONFIRMATION OF IMMUNITY**

**24.** The Borough of Kenilworth repeats and realleges each and every allegation set forth in the previous paragraphs of this declaratory judgment complaint as if set forth herein in full.

**25.** Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

**26.** The Borough of Kenilworth has voluntarily met the deadline for the adoption and filing of its binding resolution not later than January 31, 2025, and the filing of this DJ Action in accordance with AOC Directive #14-24 not later than February 3, 2025, by adopting the binding resolution attached to this DJ Action as **Exhibit 1**, and has also committed to the adoption of its HEFSP by June 30, 2025. Therefore, as per the Act, the Borough is entitled to immunity from all



exclusionary zoning lawsuits from the moment this Complaint is filed, throughout the process moving forward, and then through June 30, 2035, once a Compliance Certification or a Judgment of Compliance and Repose is granted.


**WHEREFORE**, the Borough of Kenilworth seeks a declaratory judgment for the following relief:

- a. Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c. Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vii) any other

applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d. Declaring that the Borough will have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act starting the moment this complaint is filed, as per the Act which states, “. . . a court shall not consider exclusionary zoning litigation during the timeframe after the timely submission of a binding resolution or fair share plan and housing element of a municipality, or both, and before a challenge is submitted, or during the timeframe of a challenge that is pending resolution with the program pursuant to this subsection.”;
- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of Kenilworth for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

**SURENIAN EDWARDS BUZAK & NOLAN LLC**  
Attorneys for Declaratory Plaintiff, Borough of Kenilworth

By   
Erik C. Nolan, Esq.

Dated: January 16, 2025

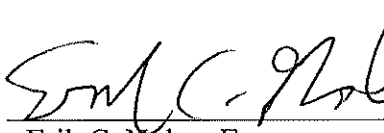
**CERTIFICATION PURSUANT TO R. 4:5-1**

Erik C. Nolan, Esq., of full age, hereby certifies as follows:

1. I am a member of the Firm of Surenian, Edwards, Buzak & Nolan LLC, attorneys for declaratory plaintiff, Borough of Kenilworth.
2. To the best of my knowledge, there is no other action pending in any court or any pending arbitration proceeding of which the matter in controversy herein is the subject and no such other action or arbitration proceeding is contemplated. To the best of my knowledge, there are no other parties who should be joined in this action.
3. The within Complaint was filed and served within the time prescribed by the Rules of Court.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**SURENIAN EDWARDS BUZAK & NOLAN LLC**  
Attorneys for Declaratory Plaintiff, Borough of Kenilworth

By   
Erik C. Nolan, Esq.

Dated: January 16, 2025

**CERTIFICATION PURSUANT TO R. 1:38-7(b)**

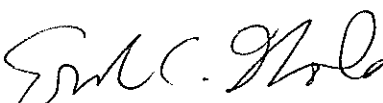
Erik C. Nolan, Esq., of full age, hereby certifies as follows:

1. I am a member of the firm of Surenian, Edwards, Buzak & Nolan LLC, attorneys for Declaratory Plaintiff, Borough of Kenilworth.

2. I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**SURENIAN EDWARDS BUZAK & NOLAN LLC**  
Attorneys for Declaratory Plaintiff, Borough of Kenilworth

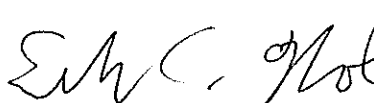
By   
Erik C. Nolan, Esq.

Dated: January 16, 2025

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, notice is hereby given that Erik C. Nolan, Esq., attorney for the Declaratory Plaintiff, Borough of Kenilworth is designated as trial counsel in the above captioned matter.

**SURENIAN EDWARDS BUZAK & NOLAN LLC**  
Attorneys for Declaratory Plaintiff, Borough of Kenilworth

By   
Erik C. Nolan, Esq.

Dated: January 16, 2025

No. 25-67

**RESOLUTION  
KENILWORTH, NJ****RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF KENILWORTH  
COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE  
HOUSING OBLIGATIONS**

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

**WHEREAS**, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

**WHEREAS**, the DCA Report calculates the Borough’s Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 35 and a Prospective Need (New Construction) Obligation of 208; and

**WHEREAS**, the Amended FHA further provides that, irrespective of the DCA’s calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA’s “present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025”, a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts (“AOC”) via a directive issued on December 19, 2024; and

**WHEREAS**, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA estimate of need as described in the DCA Report; and

**WHEREAS**, Section 3 of the Amended FHA provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of the Amended FHA; and

**WHEREAS**, the Borough’s acceptance of the Fourth Round obligations calculated by the DCA are entitled to a “presumption of validity” because it complies with Sections 6 and 7 of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing (“COAH”) regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the

No. 25-67

## RESOLUTION KENILWORTH, NJ

Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

**WHEREAS**, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

**WHEREAS**, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 on December 19, 2024; and

**WHEREAS**, pursuant to Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

**WHEREAS**, the Borough seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

**WHEREAS**, in light of the above, the Mayor and Borough Council finds that it is in the best interest of the Borough to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA.

**NOW, THEREFORE, BE IT RESOLVED** on this \_\_\_\_ day of January of 2025, by the Borough Council of the Borough of Kenilworth, Union County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Borough Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 35 and the DCA Fourth Round Prospective Need (New Construction) Obligation of 208 as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

**No. 25-67**

## RESOLUTION KENILWORTH, NJ

a) The right to adjust the Borough's fair share obligations based on a windshield survey or similar survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and

b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and

c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Borough's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the Administrator of the Court's (AOC) Directive #14-24 issued on December 19, 2024, the Borough hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Borough's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.


4. If any part(s) of this Resolution shall be deemed invalid, such part(s) shall be severed and the validity thereof shall not affect the remaining parts of this Resolution.

5. All resolutions or parts thereof inconsistent with this Resolution are hereby rescinded.

6. This Resolution shall take effect immediately, according to law.

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT
Councilman Patrick Boyle			x			
Councilman Joseph Finistrella	x		x			
Councilwoman Toni Giordano Picerno			x			
Councilman William Mauro			x			
Councilman Douglas Piper			x			
Councilman Savino Scorese		x	x			
Mayor Linda Karlovitch						
<b>ON CONSENT AGENDA</b>	Yes	x	No			

I hereby certify that the above Resolution was adopted by the Borough Council of the Borough of Kenilworth at a Meeting held on January 15, 2025.

  
 Laura Reinertsen, Borough Clerk





No. 25-67

**RESOLUTION  
KENILWORTH, NJ**

**RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF KENILWORTH  
COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE  
HOUSING OBLIGATIONS**

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

**WHEREAS**, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

**WHEREAS**, the DCA Report calculates the Borough’s Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 35 and a Prospective Need (New Construction) Obligation of 208; and

**WHEREAS**, the Amended FHA further provides that, irrespective of the DCA’s calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA’s “present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025”, a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts (“AOC”) via a directive issued on December 19, 2024; and

**WHEREAS**, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA estimate of need as described in the DCA Report; and

**WHEREAS**, Section 3 of the Amended FHA provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of the Amended FHA; and

**WHEREAS**, the Borough’s acceptance of the Fourth Round obligations calculated by the DCA are entitled to a “presumption of validity” because it complies with Sections 6 and 7 of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing (“COAH”) regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the

No. 25-67

## RESOLUTION KENILWORTH, NJ

Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

**WHEREAS**, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

**WHEREAS**, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 on December 19, 2024; and

**WHEREAS**, pursuant to Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

**WHEREAS**, the Borough seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

**WHEREAS**, in light of the above, the Mayor and Borough Council finds that it is in the best interest of the Borough to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA.

**NOW, THEREFORE, BE IT RESOLVED** on this \_\_\_\_ day of January of 2025, by the Borough Council of the Borough of Kenilworth, Union County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Borough Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 35 and the DCA Fourth Round Prospective Need (New Construction) Obligation of 208 as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

**No. 25-67**

## RESOLUTION KENILWORTH, NJ

a) The right to adjust the Borough's fair share obligations based on a windshield survey or similar survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and

b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and

c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Borough's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the Administrator of the Court's (AOC) Directive #14-24 issued on December 19, 2024, the Borough hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Borough's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.


4. If any part(s) of this Resolution shall be deemed invalid, such part(s) shall be severed and the validity thereof shall not affect the remaining parts of this Resolution.

5. All resolutions or parts thereof inconsistent with this Resolution are hereby rescinded.

6. This Resolution shall take effect immediately, according to law.

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT
Councilman Patrick Boyle			x			
Councilman Joseph Finistrella	x		x			
Councilwoman Toni Giordano Picerno			x			
Councilman William Mauro			x			
Councilman Douglas Piper			x			
Councilman Savino Scorese		x	x			
Mayor Linda Karlovitch						
<b>ON CONSENT AGENDA</b>	Yes	x	No			

I hereby certify that the above Resolution was adopted by the Borough Council of the Borough of Kenilworth at a Meeting held on January 15, 2025.

  
 Laura Reinertsen, Borough Clerk





# Civil Case Information Statement

## Case Details: UNION | Civil Part Docket# L-000235-25

**Case Caption:** IN THE MATTER OF KENILWORTH BORO  
**Case Initiation Date:** 01/16/2025  
**Attorney Name:** ERIK C NOLAN  
**Firm Name:** SURENIAN, EDWARDS, BUZAK & NOLAN LLC  
**Address:** 311 BROADWAY STE A  
 POINT PLEASANT BEACH NJ 08742  
**Phone:** 7326123100  
**Name of Party:** PLAINTIFF : Borough of Kenilworth  
**Name of Defendant's Primary Insurance Company**  
 (if known): None

**Case Type:** AFFORDABLE HOUSING  
**Document Type:** Complaint  
**Jury Demand:** NONE  
**Is this a professional malpractice case?** NO  
**Related cases pending:** NO  
**If yes, list docket numbers:**  
**Do you anticipate adding any parties (arising out of same transaction or occurrence)?** NO  
**Does this case involve claims related to COVID-19?** NO  
**Are sexual abuse claims alleged by: Borough of Kenilworth?** NO

## THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** NO

**If yes, is that relationship:**

**Does the statute governing this case provide for payment of fees by the losing party?** NO

**Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

**Please check off each applicable category:** Putative Class Action? NO Title 59? NO Consumer Fraud? NO Medical Debt Claim? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

01/16/2025  
 Dated

/s/ ERIK C NOLAN  
 Signed



## **25 North 26<sup>th</sup> Street Redevelopment Plan**

**Block 183, Lot 9**



Borough of Kenilworth  
Union County, New Jersey

March 2021

Prepared by:



**HARBOR CONSULTANTS**  
ENGINEERS, SURVEYORS, AND PLANNERS  
320 NORTH AVENUE EAST  
CRANFORD, NJ 07106  
TEL (908) 276-2715 FAX (908) 709-1738

*Project Number: 2021009.004*

The original of this report was signed and  
sealed in accordance with N.J.S.A. 45:14A-12.

---

Michael Mistretta, PP #00575900



## **BOROUGH OF KENILWORTH MAYOR AND COUNCIL**

### **Mayor**

Linda Karlovitch

### **Borough Council**

Kay Ceceri, Council President

Mark David, Councilman

Joseph Finistrella, Councilman

Gerry Laudati, Councilman

Scott Pentz, Councilman

Fred Pugliese, Councilman

Laura Reinertsen, Administrator / Borough Clerk

Harbor Consultants, Borough Engineer

### **Borough of Kenilworth Planning Board**

Rich Picerno, Chairperson

Gregg David, Vice Chair

Kathleen Moschitta, Secretary

Ellen Johns, Administrative Secretary

Darrin McMahon, Mayor's Designee

Joseph Finistrella

Larry Clementi

Frank Mazzeo

Nick Pantina

Joseph Calello

Anthony Laudati

Michael Scuderi, Alternate 1

Patrick Herbolario, Alternate 2

Louis DeMondo, Alternate 3

Anthony DeLuca, Alternate 4

Frank Capece, Esq., Borough Attorney

Louis Rago, Planning Board Attorney

### **Planning Consultant**

Harbor Consultants, Inc.

320 North Avenue East

Cranford, NJ 07016

## **TABLE OF CONTENTS**

<b>SECTION 1.</b>	<b>INTRODUCTION</b>	<b>1</b>
1.1	Statutory Basis for the Redevelopment Plan	1
1.2	Description of the Redevelopment Plan Area	2
1.2.A	History of the Site	3
1.2.B	Neighborhood	3
1.2.C	Photographs of Existing Conditions	3
1.2.D	Affordable Housing History	8
<b>SECTION 2.</b>	<b>THE PUBLIC PURPOSE</b>	<b>8</b>
2.1	Adoption of a Redevelopment Plan	8
2.2	Redevelopment Goals and Objectives	9
2.3	Relationship to the Local Goals and Objectives	10
2.3.A	Kenilworth Master Plan	10
2.3.B	Relationship to the Borough Land Use Procedures Ordinance	11
<b>SECTION 3.</b>	<b>THE REDEVELOPMENT PLAN</b>	<b>14</b>
3.1	Land Use Plan	14
3.1.A	Permitted Uses in the 25 North 26 <sup>th</sup> Street Redevelopment Area	14
3.1.B	Building, Area, and Yard Requirements	15
3.1.C	Phasing	16
3.1.D	Signage	16
3.2	Development Requirements	17
3.2.A	Parking and Traffic Circulation Standards	17
3.2.B	Project Design Standards and Conditions	18
3.2.C	Building and Architectural Design Standards and Programming	20
3.2.D	Open Space, Amenities and Landscape Buffer Requirements	22
3.2.E	Utilities	23
3.3	Provisions Related to North 26 <sup>th</sup> Street	24
3.3.A	Streetscape and Landscaping Improvements	24
3.3.B	Pedestrian Access and Circulation	24
3.4	Provisions Related to Affordable Housing	25
3.5	Green Building and Sustainability	27
3.6	Redevelopment Actions	28
3.6.A	Demolition	28
3.6.B	New Construction	28
3.6.C	Properties to be Acquired	29
3.6.D	Relocation	29
<b>SECTION 4.</b>	<b>RELATIONSHIP TO LAND USE AND ZONING ORDINANCE</b>	<b>30</b>
<b>SECTION 5.</b>	<b>RELATIONSHIP TO OTHER PLANS</b>	<b>30</b>
5.1	Plans of Adjacent Municipalities	30

5.2	Union County Master Plan	31
5.3	New Jersey State Development and Redevelopment Plan	31
<b>SECTION 6.</b>	<b>GENERAL PROVISIONS</b>	<b>33</b>
6.1	Role of the Borough of Kenilworth	33
6.2	Approvals Process	33
6.3	Variance and Design Waivers	34
6.4	Easements	34
6.5	Site Plan Review	34
6.6	Miscellaneous Provisions	36
<b>SECTION 7.</b>	<b>EXHIBITS</b>	
<b>SECTION 8.</b>	<b>APPENDIX</b>	

### Exhibits

1. Storm Sewer Map
2. ALTA/NPS Land Title Survey for Block 183, Lot 9, dated March 13, 2019, prepared by Clearpoint Services.
3. 25 N. 26<sup>th</sup> Street Redevelopment Plan Conceptual Design, entitled “25 N 26<sup>th</sup> Street,” prepared by Lessard Design, dated October 22, 2019, consisting of six (6) sheets (hereinafter referred to as the “Concept Plan”) as follows:
  - Cover Page – A002 (page 1)
  - Sheet A101 – Garage Plan (page 2)
  - Sheet A102 – Residential Plan (page 3)
  - Sheet A201 – Elevation (page 4)
  - Sheet A202 – Elevation (page 5)
  - Sheet A203 – Aerial Perspective (page 6)

### Appendix

1. Borough Council of the Borough of Kenilworth Resolution authorizing the Borough Planning Board to conduct a preliminary study to determine if the study area (Block 183, Lot 9) is an area in need of redevelopment, adopted February 26, 2020.
2. Borough of Kenilworth Planning Board Resolution recommending adoption of the Preliminary Investigation Study for (Block 183, Lot 9) with a Recommendation to the Borough Council to Proceed with the Determination of the Need of Redevelopment to Authorize the Redevelopment Plan Preparation and Adoption as prepared by Kevin O'Brien, Shamrock Enterprises Ltd., approved December 10, 2020; adopted December 17, 2020.
3. Borough Council of the Borough of Kenilworth Resolution no. 5 designating Block 183, Lot 9 a “Non-Condemnation Redevelopment Area”, adopted February 10, 2021 and authorizing the Mount Laurel Subcommittee also known as the Affordable Housing Committee (established by resolution 2017-17 on January 25, 2017) to cause a redevelopment plan to be prepared for the Study Area and to present same to Borough Council for consideration.
4. Memorandum of Understanding between the Borough of Kenilworth and Kenilworth Redevelopers Urban Renewal, LLC, signed February 27, 2020.

5. Letter from Department of Community Affairs Letter entitled “Review of Resolution 5 designating Block 183, Lot 9 as an Area in Need of Redevelopment (Non-Condemnation), dated March 16, 2020 and received March 19, 2021.

#### **Figures**

- Figure A: Aerial Map of Redevelopment Plan Area  
Figure B: Redevelopment Plan Area Shown on the Borough of Kenilworth Zone Map  
Figure C: Area of Minimal Flood Hazard – Zone X FEMA Map  
Figure 1-8: Photographs of Existing Conditions of the Redevelopment Plan Area and Surrounding Neighborhood

#### **Tables**

- Table 1: Parcels in the Redevelopment Study Area  
Table 2: Bulk Standards Permitted in the I Zone  
Table 3: Bulk Requirements for the Redevelopment Area

**PAGE LEFT INTENTIONALLY BLANK**

## **SECTION 1. INTRODUCTION**

### **1.1 Statutory Basis for the Redevelopment Plan**

On February 26, 2020, the Borough of Kenilworth Council adopted Resolution No. 8, directing the Kenilworth Borough Planning Board to conduct the necessary Preliminary Investigation, including the holding of a public hearing, to determine whether the Study Area known as Block 183, Lot 9, as shown on the Borough of Kenilworth Tax Map, commonly known as 25 North 26<sup>th</sup> Street is a Non-Condensation area in need of redevelopment, under the criteria set forth in N.J.S.A. 40A:12A-1 et seq. A copy of the Resolution adopted by the Borough Council is contained in the Appendix of this report.

On June 11, 2020, the Planning Board considered and voted to endorse Borough Council Resolution No. 8 and subsequently Kevin O'Brien, P.P., A.I.C.P., of Shamrock Enterprises, Ltd., was directed by the Planning Board to begin preparations for the study.

The Planning Board heard and discussed the Preliminary Investigation Report entitled "Planning Report Concerning the Determination of the Proposed Block 183, Lot 9 Study Area, (Commonly Known as 25 North 26<sup>th</sup> Street, Kenilworth, NJ 07333) As A Non-Condensation Area in Need of Redevelopment," dated December 10, 2020, at a properly noticed public hearing on December 10, 2020, where the public and other interested persons were given the opportunity to be heard. At the conclusion of the Public Hearing, "and in consideration of the Report and substantial and credible testimony presented" on December 10, 2020, the Kenilworth Borough Planning Board determined that the Study Area was "an area in need of redevelopment." On December 17, 2020, this determination was memorialized by a Resolution with *"Recommendation Determining that Block 183, Lot 9, is Non-Condensation Area in Need of Development, and Approving the Preliminary Investigation Study with a Recommendation to the Borough Council to Proceed with the Determination of the Need of Redevelopment and to Authorize the Redevelopment Plan, Preparation and Adoption."*

On February 10, 2021, the Borough Council adopted Resolution No. 5 for Block 183, Lot 9 as shown on the Tax Map of the Borough of Kenilworth as a "non-condensation area in need of redevelopment" (hereinafter the "Redevelopment Area") under the New Jersey Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.). The Council Resolution further states *"the Borough Council now desires to authorize and direct the Mount Laurel Subcommittee also known as the Affordable Housing Committee (established by Resolution 2017-17 on January 25, 2017) to cause a redevelopment plan to be prepared for the Study Area and to present same to Borough Council for its consideration."* This report has been prepared for the consideration of the Borough.

The Borough has received a letter from the New Jersey Department of Community Affairs (DCA) dated March 16, 2020 which states "The DCA is in receipt of the above-referenced resolution. The determination area is situated where development and redevelopment are encouraged pursuant to State law or regulation. Accordingly, pursuant to N.J.S.A. 40A:12A-6b(5)(c), the redevelopment area determination took effect after transmission to the Commissioner of DCA." A copy of the letter is in the Appendix of this report.

## 25 North 26<sup>th</sup> Street Redevelopment Plan

Borough of Kenilworth, Union County, New Jersey

### 1.2 Description of the Redevelopment Plan Area

The 25 North 26<sup>th</sup> Street Redevelopment Plan Area (hereinafter referred to as the “Redevelopment Area” or the “Plan Area”) consists of one (1) parcel identified as Block 183, Lot 9, 25 North 26<sup>th</sup> Street on the Borough of Kenilworth Tax Map, and commonly known as 25 North 26<sup>th</sup> Street. The property, which comprises the entirety of the Redevelopment Area, is approximately 165,092.4 square feet (3.79 +/- acres) of land along the east side of North 26<sup>th</sup> Street, in the northeast section of the Borough of Kenilworth Industrial Zone District, (I).

Table 1: Parcels in the 25 North 26 <sup>th</sup> Street Redevelopment Area Kenilworth, Union County, New Jersey			
Owner	Address	Block/Lot	Area
JN25NO26TH B183L9, LLC	25 North 26 <sup>th</sup> Street	183/ 9	+/- 3.79 Acres

One block to the west of the Redevelopment Area, across North Michigan Avenue, is a Medium Density Single-Family Residential Zone District, (R-5.)

Directly east of the Redevelopment Area is a former railroad right of way now owned by the State of New Jersey, followed by the Galloping Hill Golf Course. Kenilworth Boulevard, the Borough’s Business District, is located one block to the south, and the entrance to the Garden State Parkway is 0.25 miles northeast of the Redevelopment Area.



Figure A: Aerial Map of 25 North 26<sup>th</sup> Street Redevelopment Plan Area



### **1.2.A History of the Site**

The property is currently vacant and owned by JN25NO26TH B183L9, LLC, who purchased the property on October 26, 2009. There are no structures on the site; fencing and paving are the only improvements and are in poor condition. The property has been listed as vacant since at least 2003 and used for open storage of vehicles and equipment dating back to at least 1995.

“According to the Environmental Report prepared by Brockerhoff Environmental Services dated December 10, 2012; the property was being used for the storage of automobiles at the time. The owner of the property is quoted in the report as stating that the property had been used for this purpose for at least 12 years prior to the report, which is when the then owner purchased the property; for a total of approximately 20 years.

The report also identifies that a pond was previously located on the property. The pond was reportedly used by a steel fabricating facility (the Kenilworth Steel Company) located immediately south of the subject site (on what is now Lot 10 on Block 183) to dispose of processed water. Contaminants were identified in the area of the former pond area. The area was remediated and on December 22, 1999 the NJ DEP issued and Restricted No Further Action for the pond area. Sanborn Maps, taken from the Environment Report, indicating the location of the pond area for the period from 1922 to 1959 are included in Appendix VI of this Area in Need of Redevelopment Study Report. These Sanborn Maps indicate that the property has been undeveloped throughout this time period, dating back 98 years, almost a century as unimproved land<sup>1</sup>.”

### **1.2.B Neighborhood**

The Redevelopment Plan Area is located within Kenilworth’s (I) Industrial Zone District. There are several zones existing near the Redevelopment Plan Area including the BD Boulevard Downtown Zone, C Commercial Zone, AC Area Commercial Zone, R-5 Residential Zone, and P Park Zone.

The Plan Area is bounded to the west by North 26<sup>th</sup> Street, to the east by a former railroad right-of-way owned by the State of New Jersey, and to the north by Block 183, Lot 4, a one-story industrial structure. Properties west of North 26<sup>th</sup> Street and north of intersecting Federal Avenue, Block 183, Lots 1.01 through 1.04, and Lot 2, include industrial/ heavy commercial uses. South of the Plan Area, Block 183, Lot 10, is occupied by a self-storage facility, located within the C Commercial zone, and fronting on the Boulevard, the Borough’s main commercial corridor.

Galloping Hill Golf Course, located to the immediate east of the former railroad-right-of-way of the Redevelopment Plan Area, is within the P Park zone. An established residential area is located west of North Michigan Avenue.

### **1.2.C Photographs of Existing Conditions**

A field survey of the Redevelopment Plan Area was conducted to determine the existing land use and overall condition of the properties comprising the Plan Area. The photographs contained within this Report for Block 183, Lot 9 were taken on February 26, 2021.

---

<sup>1</sup> Planning Report Concerning the Determination of the Proposed Block 183-Lot 9 Study Area as a “Non-Condemnation Area in Need of Redevelopment” Page xvi -xx

## 25 North 26<sup>th</sup> Street Redevelopment Plan

Borough of Kenilworth, Union County, New Jersey

---



Figure 1. View of the site from Federal Avenue



Figure 2. Street view along North 26<sup>th</sup> Street





*Figure 3. View of proposed driveway area from across North 26<sup>th</sup> Street*



*Figure 4. View of Site Frontage along N 26<sup>th</sup> Street*



## 25 North 26<sup>th</sup> Street Redevelopment Plan

Borough of Kenilworth, Union County, New Jersey

---



Figure 5. Street view on North 26<sup>th</sup> Street opposite Redevelopment Area



Figure 6. Street view on North 26<sup>th</sup> Street border with Storage Facility adjacent to the Redevelopment Area

**Photos of Surrounding Properties**



*Figure 7. Street view toward Boulevard from North 26<sup>th</sup> Street and adjacent commercial uses.*



*Figure 8. Photograph of the Residential neighborhood west of North Michigan Avenue.*



### **1.2.D Affordable Housing History**

On February 27, 2020, The Borough of Kenilworth and Kenilworth Redevelopers Urban Renewal, LLC signed a Memorandum of Understanding (“MOU”) for the construction of a 165-unit inclusionary residential development at 25 North 26<sup>th</sup> Street. The project will have a fifteen percent (15%) set-aside for very low, low and moderate income family rental units.

Per Section 1.C of the MOU, no more than 140 market rate units are permitted. There will be 25 affordable units on site. The affordable units shall be dispersed throughout the development and shall conform with all the provisions in the MOU.

## **SECTION 2. THE PUBLIC PURPOSE**

### **2.1 Adoption of a Redevelopment Plan**

In accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-7: No redevelopment project shall be undertaken or carried out except in accordance with a redevelopment plan adopted by ordinance of the municipal governing body, upon its finding that the specifically delineated project area is located in an area in need of redevelopment or in an area in need of rehabilitation, or both, according to criteria set forth in section 5 or section 14 of P.L. 1992, c. 79 (C40A:12A-5 or 40A:12A-14), as appropriate.

The redevelopment plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

- (1) Its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.
- (2) Proposed land uses and building requirements in the project area.
- (3) Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.
- (4) An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan.
- (5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities; (b) the master plan of the County in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the “State Planning Act,” P.L. 1985, c. 398 (C.52:18A-196 et al.).
- (6) An inventory (as of the date of the adoption of the resolution finding the area to be in need of redevelopment) of all housing units affordable to low and moderate income households, as defined pursuant to N.J.S.A. 52:27D-304, that are to be removed as a result of implementation of the redevelopment plan, whether as a result of subsidies or market conditions, listed by affordability level, number of bedrooms, and tenure.

(7) A plan for the provision, through new construction or substantial rehabilitation of one comparable, affordable replacement housing unit for each affordable housing unit that has been occupied at any time within the last 18 months, that is subject to affordability controls and that is identified as to be removed as a result of implementation of the redevelopment plan.

(8) Proposed locations for public electric vehicle charging infrastructure within the project area in a manner that appropriately connects with an essential public charging network.

(9) The redevelopment plan may include the provision of affordable housing in accordance with the “Fair Housing Act,” N.J.S.A. 52:27D-301 et seq. and the housing element of the municipal master plan.

(10) The redevelopment plan shall describe its relationship to pertinent municipal development regulations as defined in the “Municipal Land Use Law,” P.L. 1975, c. 291 (C.40:55D-1 et seq.). The redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area. When the redevelopment plan supersedes any provision of the development regulations, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance. The zoning district map as amended shall indicate the redevelopment area to which the redevelopment plan applies. Notwithstanding the provisions of the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no notice beyond that required for adoption of ordinances by the municipality shall be required for the hearing on or adoption of the redevelopment plan or subsequent amendments thereof.

All provisions of a redevelopment plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan; but the municipal governing body may adopt a redevelopment plan which is inconsistent with or not designed to effectuate the master plan by affirmative vote of a majority of its full authorized membership with the reasons for so acting set forth in the redevelopment plan.

## **2.2 Redevelopment Goals and Objectives**

The Goals and Objectives of this Redevelopment Plan are as follows:

1. Redevelop a vacant site in the Borough of Kenilworth, which has been found to be an area in need of redevelopment and satisfies certain criteria of the Local Redevelopment and Housing Law, that reinvigorates the site and the surrounding neighborhood;
2. Provide for a 165-unit inclusionary, multifamily residential rental development with a twenty-five (25) unit affordable family rental set aside;
3. Provide housing with amenities that provides for realistic housing opportunities for the Borough of Kenilworth;
4. Encourage development of vacant and underutilized properties;
5. Incorporate green space, outdoor areas, and other outdoor amenities within and around the development, which include pedestrian pathways, plazas, landscaped areas, and other passive and active outdoor space;



## **25 North 26<sup>th</sup> Street Redevelopment Plan**

*Borough of Kenilworth, Union County, New Jersey*

---

6. Provide and maintain safe on-site and off-site pedestrian connections to surrounding properties to incorporate the new development into the existing community and increase connectivity to commercial uses across the Boulevard;
7. Redevelop a site near the Boulevard, where New Jersey Transit Bus Route #58 runs, to take advantage of available mass transit for future residents, employees, and visitors to the area;
8. Provide sufficient off-street parking spaces and internal vehicular circulation for residents on the site;
9. Investigate the impact of the new development on traffic conditions in the vicinity of the project site, North 26<sup>th</sup> Street, Federal Avenue, North Michigan Avenue, and the Boulevard;
10. The elimination of conditions which are detrimental to the growth, health, and safety of the surrounding community;
11. Provide an aesthetically pleasing streetscape environment for passersby and residents;
12. Incorporate green building technologies, green infrastructure, and sustainable energy systems into the site improvements and the building design to the extent practicable; and
13. Incorporate strategies to mitigate risk from climate change, including, but not limited to, incorporating green infrastructure within buffer and surface parking areas, create substantial tree canopy cover throughout site, utilize permeable pavements, provide backup generators, and provide stormwater management for all impervious areas.

### **2.3 Relationship to Local Goals and Objectives**

#### **2.3.A Borough of Kenilworth Master Plan**

The Borough of Kenilworth Master Plan was last adopted in 1996. Subsequently, two Reexamination reports were adopted, the first which was adopted in 2001; and more recently a second which was prepared by Kevin O'Brien, P.P. of Shamrock Enterprises, Ltd., and adopted February 24, 2011. The current Master Plan includes an update of the required portions of the municipal Master Plan, including the Land Use Element, and Housing Element.

This report briefly describes information related to the Redevelopment Plan Area in consideration within the Borough of Kenilworth 2011 Master Plan. To further understand the benefits and effects that redeveloping the Redevelopment Plan Area would have on the Borough of Kenilworth, this Redevelopment Plan analyzes how the redevelopment relates and adheres to the overarching Borough Master Plan.

The 2011 Land Use Element of the Borough of Kenilworth Master Plan lists the goals and objectives for the Borough, which include: "A.3. *Permit sufficient residential opportunities, in locations with access to services, to help the Borough's senior residents age in place,*" and "G.8. *Create a strategy for the preservation or disposition of vacant Borough lands.*"<sup>2</sup>

Further, the Housing Element within the plan lists several objectives including, "Although there is limited available land capacity where higher density inclusionary housing could be encouraged in the Borough, appropriate residential development should be inclusionary and provide for its share of affordable housing as directed by NJ state statute."<sup>3</sup> It is also noted that "Very little vacant land

---

<sup>2</sup> Borough of Kenilworth Master Plan, 2011, Kevin O'Brien, PP, Shamrock Enterprises, Ltd., pg 22 & 25

<sup>3</sup> *Ibid.*, pg. 49

is currently available in the Borough. Future residential growth may be infill, or replacement housing, or a possible influx of housing in commercial areas.”<sup>4</sup>

The most recent Master Plan report dated February 24, 2011 and prepared by Kevin O’Brien, P.P. of Shamrock Enterprises, Ltd., acknowledges that, for a variety of reasons, the Borough has been dealing with a declining Industrial base and thriving residential areas. While vacant land is scarce, the Borough expects an increase in the adaptive reuse of former industrial sites. Further, in 2011 the Borough adopted revised land use zones that separate the C/I Commercial Industrial District into distinct areas. The new C Commercial Zone District, which is immediately adjacent to the Redevelopment Plan Area to the south, “shall allow multifamily apartment buildings as a conditional use. Density shall be no more than 26 units per acre. Parking may be allowed in the required front yard if plantings and buffering are provided.”<sup>5</sup>

### 2.3.B Relationship to the Borough Land Use Procedures Ordinance

The Redevelopment Plan Area is located within the (I) Industrial zone, as depicted on the Borough of Kenilworth Zone Map (Figure B). The areas surrounding the Redevelopment Area to the north and west are also in the Industrial zone. To the immediate south is C Commercial Zone (storage and retail), and further south BD Boulevard Downtown District. Land to the east is P Park (Golf course).

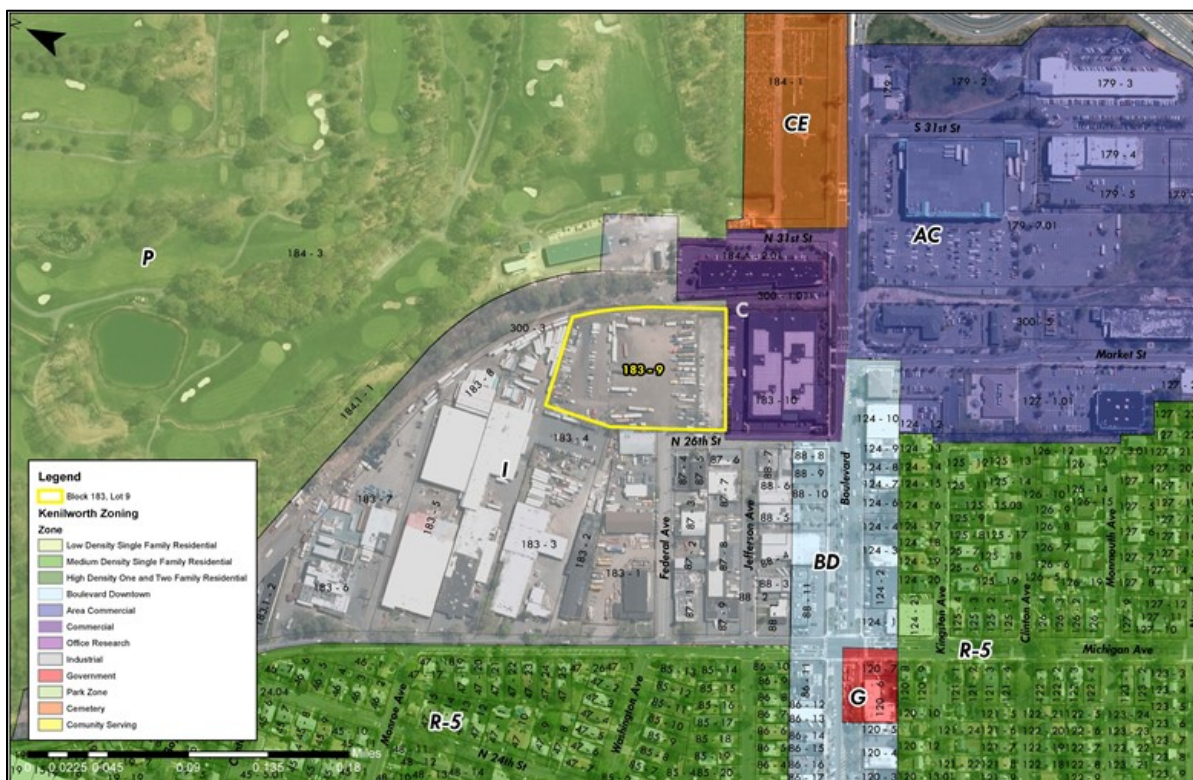


Figure B: 25 North 26<sup>th</sup> Street Redevelopment Plan Area  
Shown on the Borough of Kenilworth Zone Map

<sup>4</sup> Ibid., pg 54

<sup>5</sup> Ibid., pg. 38

## 25 North 26<sup>th</sup> Street Redevelopment Plan

Borough of Kenilworth, Union County, New Jersey

The following table outlines the permitted uses and bulk requirements of the I Zone.

<b>Table 2 – Industrial Zone District Standards Pursuant to §120-23.8 Industrial Zone District</b>	
<b>Bulk Standard</b>	<b>Permitted Uses</b>
Minimum Lot Area	20,000 square feet
Minimum Lot Frontage	100 feet
Minimum Lot Width	100 feet
Minimum Lot Depth	100 feet
Minimum Front Yard	10 feet
Minimum Corner Front Yard	15 feet
Minimum Rear Yard	10 feet
Minimum Side Yard	15 feet
Maximum Height (Principal)	3 stories; 40 feet
Maximum Building Coverage	50%
Maximum Impervious Coverage	80%
Minimum Open Space Ratio	20%
Maximum Floor Area Ratio	125%

The purpose of the Industrial Zone is to “protect and concentrate those commercial and industrial/manufacturing uses that are currently viable and those site for which industrial/commercial reuse is feasible and probable”. The zone is designed for those uses which may have vehicular or operational requirements that make them appropriate for locations adjacent to major arterial roadways and compatible land uses. The uses and regulations pursuant to Section 120-23.8 (I) Industrial Zone District are listed below.

- B. *Permitted uses.* In the I District, only the following uses shall be permitted, under the performance standards in § 120-22.14, except as provided in Subsections C and D. Principal uses which are substantially similar to the listed principal uses shall be permitted uses.
1. Activities of an industrial nature and associated office and clerical activities, provided that they do not cause a nuisance or hazard due to fire, toxic or corrosive fumes, gas, smoke, odors, flashes, or objectionable effluent.
  2. Public utility and public service activities of an industrial character.
  3. Public garages, automotive repair shops, and new motor vehicle sales and used motor vehicle sales in conjunction therewith, all fully enclosed in a building.
  4. Storage warehouses, lumber and building material sales and storage and contractor storage yards.
  5. Processing, assembling, finishing, packaging, and storing of goods and materials.
  6. Packaging and bottling establishment.
  7. Metalworking and welding activities, excluding the use of heavy machinery of a nuisance-producing character.
  8. Household appliance repairs, reupholstering and furniture repairs.
  9. Research laboratories.
  10. Animal hospitals and kennels.
  11. Automotive service stations at which motor fuel and oil are dispensed; lubrication, maintenance and minor repair services are performed; tires, batteries and other

automobile accessories are sold; and vehicles are washed, provided that they are not within 500 feet of another station, whether said station is inside or outside the Borough limits.

12. Telecommunications towers, antennas, and appurtenant facilities; all such uses shall comply with the provisions of Article 28. Clustering or grouping of multiple towers is disfavored in the Borough; co-location of antennas on existing towers is encouraged.
13. Retail establishments.
14. Personal and consumer service uses.
15. Restaurants and eating and drinking establishments.
16. Taverns.
17. Banks and financial institutions, including drive-through banks.
18. Art, music, and dance studios.
19. General, administrative, executive, and professional offices.
20. Medical offices.
21. Veterinary offices.
22. Computer and data processing centers.
23. Indoor commercial recreational facilities.
24. Child-care centers.
25. Wholesale commercial establishments.
26. Dry cleaner.
27. Fine arts schools.
28. Private schools.
29. Automobile gasoline and service stations.
30. Car wash.

**C. Accessory uses and structures.** Accessory uses and structures in the I Zone District shall be subject to the following requirements:

1. Parking and parking facilities as regulated in Article 27.
2. Signs as regulated in Article 31.
3. Antennas as regulated in Article 28.
4. Mobile storage structures are prohibited, except to the extent they are regulated by the definition of "mobile storage structures" in Article 1.
5. Outdoor seating in conjunction with a permitted restaurant or eating and drinking establishment.
6. Storage areas and buildings as accessory uses shall preferably be confined to enclosed buildings, but may be permitted in outdoor areas or compounds, provided that such an area or compound shall be screened on all sides by a solid masonry wall, solid fence, or dense evergreen planting not less than six feet in height. Such accessory storage shall not exceed 10% of the lot area and shall be so arranged at the rear of the building as to be minimally visible from a street. No unscreened outdoor storage areas shall be permitted.
7. Other accessory uses and structures customarily subordinate and incidental to permitted principal and/or permitted conditional uses.
8. Reference is made to Article 24 as it relates to accessory uses and structures in nonresidential zones.

**D. Prohibited uses and structures.** Any use or structure other than those uses or structures permitted in Subsection A, B, or C above is prohibited.

**SECTION 3. THE REDEVELOPMENT PLAN****3.1 Land Use Plan**

The Redevelopment Plan Area (Block 183, Lot 9) is to be redeveloped with a 4-story (50 foot)<sup>6</sup> multi-family inclusionary project consisting of a maximum and minimum of one hundred sixty-five (165) residential units, containing of a mix of apartment units with a fifteen percent (15%) set aside for very low-, low- and moderate-income family rental housing in one building as illustrated on the six (6) concept plans attached as exhibits to this Plan.

The nonresidential component of the Plan envisions approximately 8,054 +/- sf of interior amenity space and 29,900 +/- sf of exterior amenity space (terrace), which are further illustrated on Sheet A101 and A102 within Exhibit 3. The landscape and open space program are envisioned pursuant to the requirements set forth in Sections “3.2.D Open Space, Amenities and Buffer Requirements”, and “3.3.A Streetscape and Landscaping Improvements”. An illustrative plan of the required open space and terrace is shown on Sheet A102 entitled “Residential Plan” prepared by Lessard Design attached hereto as an Exhibit to this Plan. These interior and exterior amenity areas are approximate and subject to change as the site (civil) plan and architectural drawings are further developed.

**3.1.A Permitted Uses in the Redevelopment Plan Area****1. Permitted Principal Uses**

- a. Inclusionary Multifamily Residential development in one (1) building consisting of no more than one hundred sixty-five (165) apartment units, with at least twenty-five (25) affordable family rental apartment units.

**2. Permitted Accessory Uses**

- a. Common outdoor public or private spaces, plazas, terraces and active or passive recreation facilities that are designed to be incorporated into the development for the enjoyment of the residents of the community.
- b. Common outdoor public or private spaces, plazas, and terraces;
- c. Active and passive recreation facilities;
- d. Lobby, sales, management, leasing offices;
- e. Conference or meeting rooms, business center, child care, pet boarding, billiards, pool, game room, lounge (for tenant use only)
- f. Drop off / package delivery area, lockers and storage for mail delivery packages (tenant use only), recycling and refuse storage areas;
- g. Enclosed parking located on the first floor below residential uses, and surface parking serving multifamily residential dwellings;
- h. Surface parking to support a community center;
- i. Gardens, hardscape patio areas, landscape features;
- j. Green building techniques and green roofs;
- k. Solar canopy array or roof mounted systems; and
- l. Stormwater management/flood storage systems.

---

<sup>6</sup> Measured from final average grade elevation.

- m. Signage
- n. Generators
- o. Any accessory use or structure customary and incidental to the permitted principal use subject to and as approved by the Planning Board.
- p. Accessory uses and structures shall comply in all respects with the requirements of the principal use and structure;

### 3.1.B Building, Area, and Yard Requirements

<b>Table 3: Bulk Requirements for the Redevelopment Plan Area, Located on Block 183, Lot 9 Borough of Kenilworth, Union County, New Jersey</b>	
<u>Residential Density of the Development</u> The Redevelopment Plan shall have a maximum and a minimum permissible density of one hundred and sixty-five (165) residential units.	
<u>Bedroom Distribution</u> The Redevelopment Plan shall have a maximum permissible density of one hundred and sixty-five (165) residential units, including twenty-five (25) affordable units. The affordable units shall be comprised of no more than 20% one-bedroom units; 60% two-bedroom units; and no less than 20% three-bedroom units.	
Description	Requirement
Min. Lot Area	3.79 Acres
Min. Lot Width	400 Feet
Min. Lot Depth	260 Feet
Max. Building Height (Feet) <sup>(a)</sup>	50 Feet
Max. Building Height (Stories)	4 Stories
Max. Building Coverage	70 %
Max. Impervious Lot Coverage (%)	80 %
Minimum Open Space (hardscape + softscape)	25 %
Principal Building Setbacks	
Min. Sidewalk Width at Front of Building	6 Feet
Min. Front Yard Setback	50 Feet
Min. Side Yard Setback – Non-Golf Course Frontage	50 Feet
Min. Side Yard Setback - Golf Course Frontage	5 Feet
Parking Requirements	
Min. Number of Off-Street Parking Spaces Per Inclusionary Multifamily Development	Parking shall be provided on site pursuant to the Residential Site Improvement Standards (RSIS)
Min. Side and Rear Yard Setback of Any Parking Space, Driveway, or Aisle	5 feet
Min. Loading / Unloading Spaces	1 Off-Street loading / Unloading Space shall be provided on site. Additional pick up / drop areas to be included on site for ride share / local deliveries.
(a) Building height shall be measured from the average finished ground level elevation, excluding basements & subgrade parking). Utilitarian appurtenances such as vents, mechanical equipment and utilities may project not more than two feet above the permitted building height unless they are enclosed within parapet walls.	



## **25 North 26<sup>th</sup> Street Redevelopment Plan**

*Borough of Kenilworth, Union County, New Jersey*

---

Parapet walls may project not more than ten feet and shall be setback at least ten feet from the roof edge. Dormers, penthouses, elevator shafts may project ten feet above the permitted building height provided that any such projection is stepped back a minimum of ten feet from the edge of the roof to provide clearance for stairways or equipment in vertical shaft.

### **3.1.C Phasing**

The Redevelopment Plan has been prepared based on the entire development being constructed in one phase. Where the developer seeks to construct the Plan Area in phases, the developer shall present a phasing plan to the Borough Council for review and approval. As part of the first phase of development the developer shall construct all necessary utilities, stormwater facilities, walkways, sidewalks, roadways, and all other infrastructure, both on-site and off-site, deemed necessary by the Planning Board for the overall full build out of the Redevelopment Plan to ensure the orderly development of the entire project area.

All land areas that are not fully developed in the first phase of the development shall be graded, stabilized and maintained as lawn or landscaping with ground cover, the design and details of which shall be shown on the phasing plan to be approved by the Planning Board, and maintained and lawn or landscaped areas until that phase of the development is constructed.

### **3.1.D Signage**

1. A signage package should be submitted in the site plan application. All signs are subject to review by the Zoning Officer when not included as part of a major site plan application.
2. Signs shall be consistent with the architecture of the building and relate to the features of the building in terms of location, scale, color, lettering, materials, texture and depth. Signs should not be dominant but should be proportionate in order to complement the building and surroundings.
3. There shall be consistent sign design throughout a particular project. The design elements include style of lettering, construction material, size, and illumination.
4. One (1) monument "development name" sign and one (1) building-mounted "development name" sign per street frontage shall be permitted; which signs shall not exceed twenty (20) square feet each. The "development name" sign may be attached to the first level of the building and/or be installed as a monument sign along the street frontage, subject to Planning Board approval at the time of the site plan application.
5. All buildings and/or uses shall display the street address of the building on the front facade or front door of the building such that it is visible from the adjoining street right-of-way.
6. No electrical wiring associated with a sign shall be visible to public view.
7. Sign Lighting:
  - a. Signs may be lit from gooseneck fixtures, backlit halo, or up-lights. Internally lit signs and sign boxes are prohibited.

8. During construction, one (1) temporary sign per building indicating: the name of the project or development, general contractor, subcontractor, financing institution and public entity officials (where applicable) shall be permitted. The sign area shall not exceed fifty (50) square feet.
9. Prohibited Signage: The following signs and devices shall not be permitted within the Redevelopment Area:
  - a. Externally Illuminated box signs;
  - b. Electronic message boards – including those that have flashing or animated signs, spinners, pennants, reflective materials that sparkle or twinkle;
  - c. LED TVs in windows for advertising, rope lighting around windows.;
  - d. Roof signs, billboards, sign boards;
  - e. Posters, plastic or paper, that appear to be attached to the window with the exception of temporary signage utilized for purposes such as sales. A specific temporary sign is not permitted to be displayed for any more than a 30-day period;
  - f. Pole signs;
  - g. Free-standing signs;
  - h. Fluorescent and/or glowing paint for any signage or building within the Redevelopment Area;
  - i. Waterfall style awnings, metal awnings, or plastic awnings;
  - j. Product advertising signage of any kind.

### **3.2 Development Requirements**

#### **3.2.A Parking and Traffic Circulation Standards**

1. Traffic Study. Traffic and vehicular circulation along North 26<sup>th</sup> Street to the Boulevard, Michigan Avenue and surrounding roadways is a major concern of the Borough. As part of the preparation of the Redevelopment Plan, Developer shall prepare a traffic study acceptable to the Borough Engineer and be solely responsible for off-site traffic improvements determined to be necessary, if any, to provide acceptable levels of service for the development. The Traffic Study shall take into consideration surrounding development projects which have been approved and/or are under consideration.
2. All required off-street parking and loading spaces shall be provided on-site.
3. All ground level parking located under the building shall be partially enclosed within the building with walls that are constructed with the same building material as the main building elevations and decorative screening elements such as grating, louvers, or similar approved materials integrated to meet air quality requirements, with the exception of driveway openings. Screening materials shall be subject to Planning Board approval.
4. There shall be two (2) points of ingress and egress to the structured parking supporting the inclusionary multifamily development, contiguous with the associated surface parking, substantially consistent with plans in Exhibit 3.

## **25 North 26<sup>th</sup> Street Redevelopment Plan**

*Borough of Kenilworth, Union County, New Jersey*

---

5. The structured parking garage shall include a minimum of two (2) electric car charging stations;
6. Surface parking shall be permitted to support the inclusionary residential development but shall not be the sole source of on-site parking. The layout and circulation of the surface parking shall be subject to Borough Fire Official and Planning Board approval.
7. The minimum number of off-street parking spaces provided within the Redevelopment Plan Area shall be as described in Table 3. Tandem parking spaces may be permitted, at the Planning Board's discretion, however tandem parking shall not exceed ten percent (10%) of the total number of required off-street parking spaces and shall only be permitted when such spaces are designated for residential parking or for valet parking, and the developer has submitted a plan for such tandem parking spaces that the Planning Board deems acceptable.
8. A Traffic Circulation Plan shall be provided depicting turning radius of emergency vehicle routes through the site. No truck circulation routes shall interfere with any permitted on-street parking spaces or driveways.
9. All parking spaces, loading spaces, fire lanes, and circulation routes shall be striped and signed in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). All such striping and signage shall be depicted on the Traffic Circulation Plan;
10. A minimum of one (1) on-site loading space shall be provided per building.
11. Overnight truck parking shall be permitted within one (1) loading dock per building and only within a designated loading space provided that the loading space is suitably screened, and no truck shall remain parked in any loading space for more than forty-eight (48) hours.
12. All driveways, internal roadways, site improvements, and parking spaces located on the property shall be owned and maintained by the developer(s).
13. The developer shall apply to the Borough for Title 39 Jurisdiction.

### **3.2.B Project Design Standards and Conditions**

1. The improvements and buildings shall be constructed to the National Fire Protection Association (NFPA) 13 Codes and Standards.
2. Three (3) bedroom or greater market-rate units are prohibited.
3. Location and Area of Amenities – The inclusionary multifamily residential development shall 8,054 +/- sf of interior amenity space. The interior amenities shall include a club room, exercise and health areas, business office area, community room, storage, and similar non-residential uses. The 3,800 square foot community room shall be located on the second floor, contiguous to the Amenity Deck which faces the adjacent golf course. The location and area of amenities shall be substantially consistent with Exhibit A203 "Aerial Perspective".

4. Location and Area of Open Space- There shall be 29,900 +/- sf of exterior amenity space (terrace), as well as landscaped buffer areas of perimeter open space included in the project. Exterior amenities include an outdoor elevated terrace deck for common use by all residents, which shall have an entry way from indoor amenity areas. The terrace shall include covered gathering areas, benches and other seating, hardscape, landscaping, a dog run, barbeque pit, fireplace, and other typical outdoor features. Residences with windows located at the same elevation as the terrace shall be buffered to the best extent practicable. The open space shall be substantially consistent with the plan in Exhibit A102 "Residential Plan". All materials used in the outdoor areas shall be subject to Planning Board approval.
5. Sound/acoustic attenuation materials and/or devices shall be used for residential buildings where necessary to reduce the impact of the transit lines located behind the rear property line of the Redevelopment Plan Area.
6. The development of the Redevelopment Plan Area shall include pedestrian crosswalks to be designed and constructed by the developer, at the direction of the Borough Engineer. The pedestrian crosswalk shall not be the obligation of the Borough of Kenilworth.
7. No residential units are permitted on the first floor of the building. The first floor may be occupied by permitted non-residential uses or used as amenity space or lobby space which supports residential uses.
8. The required number of parking spaces, and stall dimensions (9' x 18') shall conform to Residential Site Improvement Standards.
9. The developer shall reconstruct and provide streetscape improvements along the Redevelopment Plan Area Right of Way (ROW) of North 26<sup>th</sup> Street, including, but not limited to, streetlights, street trees, sidewalks, crosswalks, and other features to the satisfaction of the Borough Engineer;
10. A comprehensive open space design and landscape plan, which includes the landscape/open space requirements described in this Redevelopment Plan, shall be prepared by a Licensed Landscape Architect. All areas of the project and other permissible impervious surfaces shall contain landscape plantings. The use of perennial and native species is encouraged. The plan shall encourage pedestrian connectivity within the Redevelopment Plan Area and the adjacent community;
11. All mechanical equipment, generators, HVAC equipment and similar equipment shall be acoustically buffered so that any noise generated by the equipment shall be within the applicable residential sound standards as defined by the State of New Jersey;
12. All mechanical equipment shall be screened from view, both from the street and existing or neighboring buildings. Said screening shall be constructed in a manner that is consistent with the architecture of the building, and shall utilize the same materials used in the construction of the building, so that the screening appears to be an integral part of the building. The screening shall not impair the functioning of the equipment;
13. The use of green building technologies is strongly encouraged to be incorporated into all aspects of the design. Green building (also known as green construction or sustainable

## **25 North 26<sup>th</sup> Street Redevelopment Plan**

*Borough of Kenilworth, Union County, New Jersey*

---

building) is the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life cycle.

14. Upon the demolition of any existing structure, in whole or in part, the Redevelopment Plan Area shall be properly graded and stabilized in accordance with the Soil Erosion and Sediment Control Plan unless new construction is to commence on the same site within thirty (30) days.
15. If any environmental hazards or conditions exist on the Redevelopment Area, the developer is responsible for obtaining all necessary permits and approvals from the New Jersey Department of Environmental Protection, Land Use Regulation and a Licensed Site Remediation Professional ("LSRP"), including a Remedial Action Order ("RAO") if applicable, prior to the start of any construction activities.
16. Adequate facilities shall be provided for the handling of garbage, recycling and other refuse by providing and maintaining an enclosed and screened area within the buildings, within which all garbage, recycling and refuse containers shall be stored, subject to Planning Board approval.
17. Lighting Requirements
  - a. Light Fixture Mounting Height: 20' maximum
  - b. Light Type: Light-Emitting Diode (LED)
  - c. Minimum Horizontal Light Level (parking lot): 0.2 fc
  - d. Minimum Horizontal Light Level (sidewalks): 0.5 fc
  - e. Minimum Parking Lot Average Light Level: 1.0 fc
  - f. The illumination levels (fc) at the ingress & egress driveways may exceed the maximum levels subject to the Planning Board Engineer approval at the time of the site plan application.
  - g. Lighting Design:
    - i. All lighting from fixtures shall be cut off at property lines.
    - ii. Sky glow effects are prohibited.
    - iii. The applicant shall provide a manufacturer's computer print-out and/or specifications publication of the proposed average maintained foot-candles on the site.
    - iv. A lighting plan depicting the point by point footcandles at the surface shall be submitted at the time of site plan application.

### **3.2.C Building and Architectural Design Standards and Programming**

1. Architectural Building Elevation: Concept Plan Sheet A201 and A202 represent the typical architectural building elevation for the building to be constructed within the Redevelopment Plan Area. These building elevations shall be typical for all four sides of the buildings to be constructed within the Redevelopment Plan Area. All building elevations are required to be built to the same building construction standards and aesthetics, using the same building materials. The use of vinyl siding and EFIS are prohibited.

2. The maximum height of the residential building shall be three (3) stories of residential units above a maximum of one (1) level of parking for a total of four (4) stories.
3. Design Standards.
  - a. The intention of this Redevelopment Plan is that the façades of all buildings will be constructed and designed with high quality materials such as Hardie cement board and Azek subject to the review and approval of the Planning Board at the time of site plan approval to ensure that the architectural design provides for a visually interesting and aesthetically pleasing building façade on all building elevations. More contemporary materials such as glass curtain walls, composite metal panel systems, precast concrete, vegetated walls and other similar high quality building materials may also be incorporated in the design of the building as accent materials only, especially at the upper levels of the building subject to the review and approval of the Planning Board. EIFS (Exterior Insulating Finishing Systems), and other similar façade materials may not be used within the Redevelopment Plan Area. Similarly, jumbo brick and concrete block of any type are not permitted as façade materials within the Redevelopment Plan Area.
  - b. Building façades shall be articulated with a mix of materials, window treatments, and protrusions as shown on Sheets A002, A201, A202, and A203 of the Concept Plan, which are subject to the review and approval of the Planning Board at the time of site plan approval to ensure that the architectural design provides for a visually interesting and aesthetically pleasing building façade on all building elevations.
  - c. Buildings shall be designed to be attractive and inviting when viewed from all vehicular and pedestrian pathways within the Redevelopment Plan Area and from vantage points outside of the Plan Area.
  - d. Fenestration: Sheet A002 “Cover Page”, and A203 “Aerial Perspective” of the Concept Plan represent the level of architectural details required for buildings within the Redevelopment Plan Area. All colors, materials, and architectural features associated with fenestration shall be subject to Planning Board Approval at the time of site plan approval. For the avoidance of doubt, parking garage screening shall be partially enclosed (i.e., partial open-air structures) and shall be constructed primarily with the same building materials as the main portion of the building.
  - e. Hierarchical collection of distinctive light fixtures shall be located on buildings to provide necessary light levels for safe circulation and gathering activities.
  - f. Building mass shall be varied per as shown Sheet A002 “Cover Page”, and A203 “Aerial Perspective” of the Concept Plan to create recessed areas to break up the mass of the building.
4. Bedroom Distribution:
  - a. Market Rate Units: the bedroom distribution for the market rate units shall be comprised of ninety-six (96) one-bedroom units and forty-four (44) two-bedroom units. Three bedroom or greater market rate units are prohibited.
  - b. Affordable Units: the bedroom distribution for the twenty-five (25) affordable family rental units shall be as follows:
    - i. One-bedrooms: Five (5) units



- ii. Two-bedrooms: Fifteen (15) units
  - iii. Three-bedrooms: Five (5) units
- c. The affordable units shall be dispersed and integrated throughout the residential building.

### **3.2.D Open Space, Amenities and Landscape Buffer Requirements**

1. At the time of site plan approval, the developer shall provide a detailed outline of the uses for the indoor and outdoor amenity areas in addition to including these areas on submitted site plans. Size and use of amenity spaces are subject to Planning Board approval as well as the materials used for the outdoor amenity areas. These Open Space and Amenity Areas shall be substantially consistent with Sheet A102 “Residential Plan” and Sheet A202 “Aerial Perspective” of the Concept Plan, Exhibit 3 of this report.
2. Any portion of the Redevelopment Plan Area that is not used for buildings or parking coverage will be used for outdoor open and/or green space to be maintained by the developer and/or successor association as depicted on Sheet A002 and A203 of the Concept Plan. These areas will be designed to provide:
  - a. Amenities to the residents of the Redevelopment Plan Area, (which includes low intensity open air recreation and open space), as noted in section 3.2.B.4.
  - b. Pedestrian circulation system and a contiguous pedestrian open space network extending along the site’s frontage along North 26<sup>th</sup> Street that links to neighboring uses.
  - c. The developer shall prepare a landscape and open space plan for review by the Planning Board – specifically addressing and demonstrating how each of the objectives is achieved.
3. The development of the Redevelopment Plan Area may include, but is not limited to, the following amenities to support the residential units: a hotel style lobby, a club room, exercise and health area, game room, shared office space with printers/copiers, cinema, lounge, community kitchen and coffee bar, makerspace and similar non-residential uses designed to support the residential uses. Such amenities may be disbursed throughout building.
4. Courtyards and above grade terraces shall be attractively and uniformly designed with decorative pavement, plantings, furniture, and lighting.
5. Industrial Use Perimeter Buffer: A landscaped buffer zone of fifty (50) feet is required on all sides of the Property, except the side adjacent to the golf course along the eastern property line and the side containing the surface parking along the boundary of Lot 10. Dense screen planting that is a minimum twenty-five feet (25’) feet deep shall be provided along the property’s boundary contiguous to Lots 1, 2, & 4 as depicted on the attached Survey in order to screen the adjacent uses from the residential property. Lower level screen plantings shall also be incorporated into streetscape improvements provided along North 26<sup>th</sup> Street frontage.

6. Industrial Use Perimeter Buffer: Where surface parking is proposed within the required buffer zone along the property's boundary with Lot 10, a six foot (6') tall board on board fence may be utilized for screening purposes in lieu of buffer plantings. .
7. Shade trees shall be a minimum of three (3) inch caliper, balled, and burlapped, and provided at a ratio of one shade tree per twelve (12) parking spaces.
8. All islands in the parking area shall be landscaped with species that are resistant to urban environments, and drought tolerant.
9. The redeveloper shall be responsible for the replacement of any landscape material that dies or is damaged. The replacement shall be made no later than the next appropriate planting season for such material.

### **3.2.E Utilities**

1. All new electric, telephone, television, cable, gas, and other utility service lines servicing the buildings shall be installed underground, to the extent such underground service is commercially reasonable, available, and permitted by the applicable utilities companies, and in all events shall be installed in accordance with the prevailing standards and practices of the respective utility or other companies providing such services.
2. All utility connection permits, and road opening permits shall be obtained from the respective utility authority prior to the start of construction. All municipal roadways damaged by the construction related to the development of the Redevelopment Plan Area shall be restored and/or repaved as directed by the Borough of Kenilworth Engineer.
3. The Developer shall be responsible for the mapping, design, permitting and construction of the potential relocation of an existing storm sewer which may bisect the property. The Borough shall cooperate with the Developer and agree to realign the Borough easement along the relocated route of the storm sewer subject to the Borough Engineer's review and approval.
4. The Project shall include stormwater/flood management systems which include, but are not limited to, flood storage, stormwater detention basins, basin overflow areas, culverts etc., shall be designed and constructed to the appropriate standards.
5. The developer shall be responsible for the construction of all on-site and off-site improvements determined to be required by the engineering studies and investigations, subject to review and approval by the Board Engineer. The Developer shall identify any existing Borough owned utility lines which are located on the property and, if determined to be necessary by the Borough Engineer, reconstruct and/or realign any existing Borough owned utility lines at the Developer's sole cost to the satisfaction of the Borough Engineer. Any existing or proposed utility lines that are owned or maintained by the Borough shall be provided with a utility easement to be dedicated to the Borough.

### **3.3 Provisions Related to North 26<sup>th</sup> Street Improvements.**

#### **3.3.A Streetscape and Landscaping Improvements**

1. The proposed uses in this Redevelopment Plan include residential uses which will generate pedestrian traffic and should therefore support safe and appropriate pedestrian infrastructure. To create a pleasant pedestrian environment and provide safe connectivity for pedestrians, the development of the Redevelopment Plan Area shall also include streetscape improvements along the east side of North 26<sup>th</sup> Street along the entire street frontage of Block 183, Lot 9.
2. A Streetscape and Landscaping Improvements Plan shall be submitted for review and approval by the Kenilworth Planning Board. The Streetscape Improvement Plan shall be prepared by a Licensed Landscape Architect and shall include detailed construction drawings for all on site landscaping, common areas, recreation areas, and all street frontage improvements, including but not limited to street trees, curbing, lighting, walkways, benches, bicycle racks, trash/recycling receptacles, signage and other street furniture as directed by the Kenilworth Planning Board.
3. An illustrative plan of the required open space, and terrace is depicted on A002, A102, and A203 of the Concept Plan.
4. The site is near the Boulevard and commercial district. Circulation is an important part of this plan. It is envisioned that adequate bike parking and infrastructure will be provided to reduce the number of vehicle trips.

#### **3.3.B Pedestrian Access and Circulation**

1. Pedestrian Crosswalk- Kenilworth Boulevard (County Road 509) is classified as an urban principal arterial road by the New Jersey Department of Transportation. Existing crosswalks are located at the intersections of North Michigan Avenue and the Boulevard and Market Street and the Boulevard for future residents of the Redevelopment Area to safely cross the Boulevard and for the development to be safely incorporated into the existing surrounding commercial uses.
2. The plan shall encourage pedestrian connectivity within the Redevelopment Plan Area and the adjacent community and facilitate access to the nearby NJ Transit bus station.
3. Bicycle Parking. Bicycle parking is required at one bicycle parking space for every 15 vehicle parking spaces.

**3.4 Provisions Related to Affordable Housing**

1. **Affordable Housing Set-Aside:** The developer shall have the obligation to deed restrict fifteen percent (15%) of the residential units in the inclusionary development as very low-, low- and moderate-income affordable family rental units, which will be a total of twenty-five (25) affordable units. All such affordable units shall comply with the Fair Housing Act ("FHA"), Uniform Housing Affordability Controls ("UHAC") regulations, applicable Council on Affordable Housing ("COAH") regulations, and all other applicable laws.
2. **Deed Restriction:** the developer shall execute and record a Deed Restriction for the affordable units before the first Certificate of Occupancy is issued for the inclusionary development. The Deed Restriction will be recorded in the Union County Clerk's office.
3. **Deed Restriction Period:** the developer shall have an obligation to deed restrict the affordable family rental units in the inclusionary development as very low, low or moderate income affordable family rental units for a period of at least thirty (30) years from the date of the initial occupancy of each affordable unit (the "Deed-Restriction Period") until the Borough of Kenilworth takes action to either extend or release the controls on affordability, so that the Borough may count each affordable unit against its obligation to provide affordable family rental housing. The Parties agree that the affordability controls shall not expire until such time at least thirty (30) years from the date of initial occupancy, that the Borough takes action to either extend or release the controls on affordability, and if the Borough chooses to release the affordability controls, said controls shall continue in effect until the date on which the individual affordable rental unit shall become vacant, provided that the occupant household continues to earn a gross annual income of less than 80 percent of the applicable median income. See N.J.A.C. 5:80-26.11(b). If, at any time after the release of the affordability controls by the Borough, a rental household's income is found to exceed 80 percent of the regional median income, the rental rate restriction shall expire and the later of either the next scheduled lease renewal or sixty (60) days. The term family rental in this Redevelopment Plan means rental units that are not age restricted.
4. **Income Distribution Requirements:** Thirteen percent (13%), or four (4) units, of the total number of the affordable rental units must be very low-income units, thirty-seven percent (37%), or nine (9) units, of the total number of affordable rental units must be low-income units, and the remaining fifty percent (50%), or twelve (12) units, must be moderate-income rental units.
5. **Bedroom Mix:** Pursuant to N.J.A.C. 5:80-26.3(b), (1) the number of efficiency and one-bedroom units is no greater than 20 percent of the total low- and moderate-income units, (2) at least 30 percent of all low-and moderate-income units are two-bedroom units, and (3) at least 20 percent of all low-and moderate-income units are three-bedroom units. The bedroom distribution of the affordable rental units in the inclusionary development shall be as follows:
  - a. One-bedrooms: Five (5) units
  - b. Two-bedrooms: Fifteen (15) units
  - c. Three-bedrooms: Five (5) units
6. **Other Affordable Housing Unit Requirements:** the developer will also comply with all the other requirements of Uniform Housing Affordability Controls ("UHAC") and the Borough's

## **25 North 26<sup>th</sup> Street Redevelopment Plan**

*Borough of Kenilworth, Union County, New Jersey*

---

Affordable Housing Ordinance, including, but not limited to, (1) affirmative marketing requirements, (2) candidate qualification screening requirements, (3) integrating the affordable units amongst the market rate units, and (4) unit phasing requirements. The developer shall disperse the affordable units within the proposed residential building on the property and shall provide the exact location of each affordable unit at the time of site plan application.

7. **Administrative Agent:** the developer shall contract with a qualified and experienced third-party administrative agent, which may be the Borough's administrative agent (the "Administrative Agent") for the administration of the affordable units and shall have the obligation to pay all costs associated with properly deed restricting the affordable units in accordance with this Agreement for the Deed-Restriction Period. The developer and its Administrative Agent shall work with the Borough and the Borough's Administrative Agent, should the developer's and the Borough's Administrative Agent not be one in the same, regarding any affordable housing monitoring requirements imposed by COAH or the Court. The developer shall provide, within thirty (30) days after written notice, detailed information reasonably requested by the Borough or the Borough's administrative agent, should the developer's and the Borough's Administrative Agent not be one and the same, concerning the developer's compliance with UHAC, the Borough's Affordable Housing Ordinance, all applicable Court orders, and other applicable laws.
8. **Veteran's Residency Preference:** Section 311j. of the FHA allows for a municipality to enter into an agreement with a developer to provide a preference for affordable housing to very low, low and moderate income veterans who served in time of war or other emergency as defined in Section I of P.L.1963, c. 171 (C.54:4-8.10), of up to fifty percent (50%) of the affordable units in a particular project. N.J.S.A. 52:27D-311j. Said veterans residency preference will apply to twelve (12) of the twenty-five (25) family rental affordable units in this Project. The Developer's Administrative Agent will work with the Borough's Administrative Agent, should the Developer's and the Borough's Administrative Agent not be one and the same, to establish an applicant selection process for the twenty-five (25) family rental affordable units and a separate process to ensure that for twelve (12) of the affordable family rental units, applicants who are veterans who served in time of war or other emergency, and who apply within 90 days of the initial marketing period shall receive preference for one of the affordable units in the project until twelve (12) of the affordable family rental units are occupied. After the first 90 days of the initial 120-day marketing period, if any of those units subject to the preference remain available, then applicants from the general public shall be considered for occupancy. Following the initial 120-day marketing period, previously qualified applicants and future qualified applicants who are veterans who served in time of war or other emergency, shall be placed on a special waiting list as well as the general waiting list. The veterans on the special waiting list shall be given preference for affordable units, as the units become available, whenever the number of preference-occupied units in the Project falls below twelve (12) occupied affordable family rental units. The veteran's preference on the twelve (12) affordable family rental units in the project shall not affect the Borough's ability to receive affordable housing credits for said units.

### **3.5 Green Building and Sustainability**

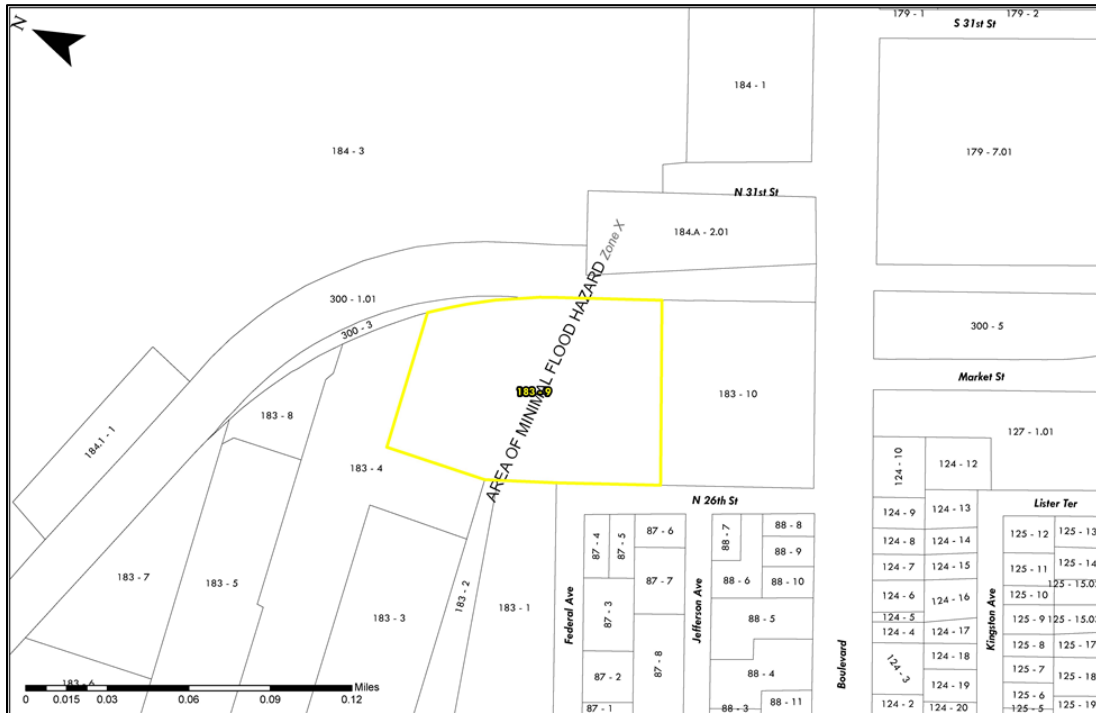
The use of green building technologies is strongly encouraged to be incorporated into all aspects of the project design. Green building (also known as green construction or sustainable building) is the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life-cycle: from siting to design, construction, operation, maintenance, renovation, and demolition. Development in the Redevelopment Plan Area is encouraged to incorporate where feasible, building technologies and practices that promote sustainability and LEED initiatives of U.S. Green Buildings Council. Green building design offers the advantages of reduced energy and operating costs while at the same time using less materials. Building design should consider incorporating the following:

1. Solar panels, green roofs, storm water recharging systems and solar powered lighting are some methods that could be used to increase resource efficiency.
2. Implement green roof planting on flat roofing of multi-story buildings or light color for roof surfaces.
3. The use of high efficiency fixtures can reduce energy consumption.
4. Specify building products with recycled content and that are manufactured regionally.
5. Specify ENERGY STAR appliances to help reduce energy consumption.
6. Operable windows should be provided for all residential and non-residential spaces.

The Redevelopment Plan Area is located within Zone X, an area of minimal flood hazard according to FEMA. Figure C. Stormwater management strategies to mitigate risk from future flooding due to climate change should be considered.

Senate Bill number 2607 requires that a land use plan element include a consideration for “environmental effects and extreme weather-related events associated with climate change.... and contain measures to mitigate reasonably anticipated natural hazards...and provide strategies and design standards that may be implemented to reduced or avoid risks associated with natural hazards.” While Kenilworth has not updated their Land Use Plan to reflect these new standards, project design will consider the resilience of this project.





*Figure C: Area of Minimal Flood Hazard - Zone X  
 Shown on the FEMA Map*

### **3.6 Redevelopment Actions**

#### **3.6.A Demolition**

The development of the Redevelopment Plan Area will involve the demolition of the existing remaining improvements on the property. As a part of the demolition all remains from the foundations of prior structures, if any, need to be removed. It is the responsibility of the developer to remove all debris, including crushed concrete and garbage from the Plan Area, regardless of whether the debris was on the properties prior to the start date of construction. The reuse of crushed concrete or other materials may be acceptable and shall be addressed as part of the site plan approval, subject to the developer receiving the proper permits and approvals from NJDEP. The developer shall defend and indemnify the Borough for its use and/or proper disposal if removed from the Plan Area, of all existing and remaining improvements and other materials, including soils, on the site.

#### **3.6.B New Construction**

The Redevelopment Plan will involve the new construction of one (1) inclusionary residential building which will contain a total of one-hundred and sixty-five (165) units, a wrapped parking garage, first and second floor amenities, and other accessory amenities within the building structure, along with all related roadways, pedestrian pathways, open space improvements, on-site surface parking, and off-tract, and streetscape improvements along any frontage as further described in this redevelopment plan.

**3.6.C Properties to be Acquired**

This Redevelopment Plan will not involve the taking of any privately or publicly owned property.

**3.6.D Relocation**

No residents nor businesses will need to be relocated as part of this redevelopment plan. Therefore, there is no need for a resident or workplace relocation assistance program ("WRAP").

**SECTION 4. RELATIONSHIP TO LAND USE AND ZONING ORDINANCE**

This Redevelopment Plan shall supersede all provisions of the Zoning and Development Regulations of the Borough of Kenilworth regulating development in the Redevelopment Plan Area. Final adoption of this Redevelopment Plan by the Borough Council shall be considered an amendment of the Borough of Kenilworth Zoning Map.

The zoning district map in the zoning ordinances of the Borough shall be amended to include the boundaries described in this Redevelopment Plan and the provisions therein. All the provisions of this Redevelopment Plan shall supersede the applicable development regulations of the Borough's ordinances, as and where indicated, for the Redevelopment Area. In the event of any inconsistencies between the provisions of this Redevelopment Plan and any prior ordinance of the Borough of Kenilworth, the provisions herein shall govern.

**SECTION 5. RELATIONSHIP TO OTHER PLANS****5.1 Plans of Adjacent Municipalities****5.1.A Township of Union**

The Township of Union borders the Borough along the north and east boundary. The Redevelopment Plan Area abuts Galloping Hill Park Golf Course, which extends into Union as well. The Plan Area is approximately 1.0 mile from the Union boundary. However, since this Redevelopment Plan is located within 0.5 mile of the Garden State Parkway access ramps, which should disperse traffic proximate to Union, and will not be adversely affected by this Redevelopment Plan.

**5.1.B Borough of Roselle Park**

The Borough of Roselle Park is located southeast of the Borough of Kenilworth and connected by Galloping Hill Road. Zoning along the border of the municipality, along Colfax Avenue and Sumner Avenue, is for R-5 single-family residential uses, and I industrial. Since this Redevelopment Area is in the northeastern portion of the Borough of Kenilworth, it can be concluded that this Redevelopment Plan will not affect the Borough of Roselle Park.

**5.1.C Township of Cranford**

Cranford Township is located south and west of the Borough of Kenilworth with residential and park lands adjoining residential, park and school land in the neighboring Township. Since this Redevelopment Area is in the northeastern portion of the Borough of Kenilworth, it can be concluded that this Redevelopment Plan will not affect the Township of Cranford.

**5.1.D Township of Springfield**

Springfield Township is located west of the Borough of Kenilworth along Borough districts that are zoned for public open space. Since this Redevelopment Area is in the northeastern portion of the Borough of Kenilworth, it can be concluded that this Redevelopment Plan will not affect the Township of Springfield.

## **5.2 Union County Master Plan**

“The Union County Master Plan has a variety of planning goals and objectives designed to address major issues and influences that impact Union County’s housing, land use, transportation/circulation and economic development. The County goals and objectives recognize the interrelationships of related policies of municipalities, regional agencies and the State regarding the future development of Union County.”<sup>7</sup>

The Union County Master Plan sets guidelines for the municipalities of Union County and aims to spur economic growth through commercial, residential and transportation development. The Union County Master Plan promotes development and redevelopment consistent with surrounding areas while revitalizing “older suburban areas through...commercial adaptive reuse...upgrading of community infrastructure and upgrading transportation and transit facilities.”<sup>8</sup>

This Redevelopment Plan is consistent with the Union County Master Plan, in that it aims to promote redevelopment of vacant and blighted city lots through beautification and planning efforts.

## **5.3 New Jersey State Development and Redevelopment Plan**

All the properties in the Redevelopment Plan Area are mapped within the Metropolitan Planning Area PA I as depicted on the New Jersey State Development and Redevelopment Plan. “In the Metropolitan Planning Area, the State Plan’s intention is to provide for much of the state’s future redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older communities; redesign areas of sprawl; protect the character of existing stable communities.”<sup>9</sup>

In 2001, the New Jersey State Planning Commission adopted The New Jersey State Development and Redevelopment Plan. A Final Draft of the State Development and Redevelopment Plan was reissued in 2010. The State Planning Act contains three key provisions that mandate the approaches the Plan must use in achieving State Planning Goals. The Plan must encourage development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services or facilities and to discourage development where it may impair or destroy natural resources or environmental qualities; reduce sprawl; and promote development and redevelopment in a manner consistent with sound planning and where infrastructure can be provided at private expense or with reasonable expenditures of public funds. (N.J.S.A. 52:18A-196. et seq.).

The general redevelopment plan strategy is to achieve all the State Planning Goals by coordinating public and private actions to guide future growth into compact, ecologically designed forms of development and redevelopment, and to protect the Environs, consistent with the Statewide Policies and the State Plan Policy Map.

The New Jersey State Plan Policy Map integrates the two critical spatial concepts of the State Plan—Planning Areas, and Center and Environs—and provides the framework for implementing the Goals and Statewide Policies. Each Planning Area has specific intentions and Policy Objectives that guide the application of the Statewide Policies. The Policy Objectives ensure that the Planning Areas guide the development of location of Centers and protect the Environs. Applying the

---

<sup>7</sup> Union County Master Plan. June 1998, 1-2

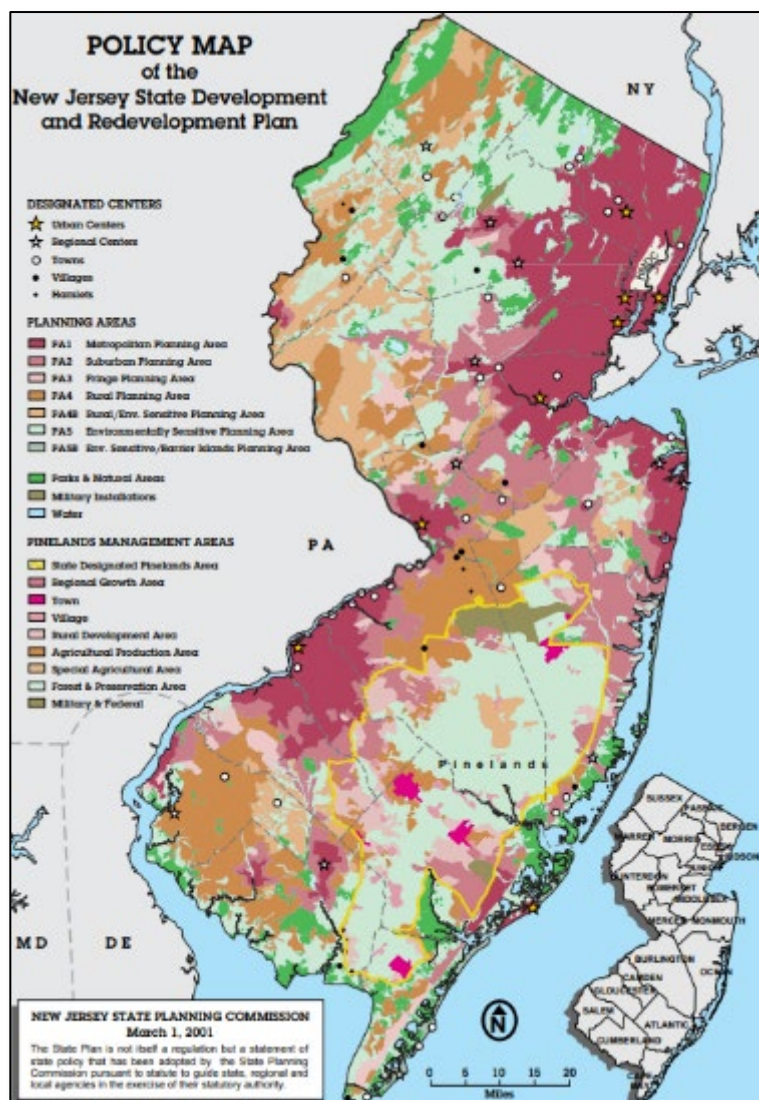
<sup>8</sup> Union County Master Plan: June 1998, 1-3 – 1-4.

<sup>9</sup> State Development and Redevelopment Plan, New Jersey State Planning Commission, adopted March 1, 2001, page 190.

## 25 North 26<sup>th</sup> Street Redevelopment Plan

Borough of Kenilworth, Union County, New Jersey

Statewide Policies through the State Plan Policy Map will achieve the goals of the State Planning Act.



According to the New Jersey State Development and Redevelopment Plan, the DH-24 Zone Redevelopment Area is in the Metropolitan Planning Area, PA1. PA1 provides for much of the state's future redevelopment: revitalize cities and towns; promote growth in compact forms; stabilize older suburbs; redesign areas of sprawl; and protect the character of existing stable communities. As the name implies, the communities in this Planning Area often have strong ties to, or are influenced by, major metropolitan centers — the New York/Newark/Jersey City metropolitan region in the northeastern counties. The investment in passenger rail service in the Metropolitan Planning Area is represented by over 130 stations on eleven (11) heavy rail lines, two (2) rapid transit lines, two (2) light rail lines, and one (1) subway line.

Over the years, both the public and private sectors have made enormous investments in building and maintain a wide range of facilities and services to support these communities. The massive

public investment is reflected in thousands of miles of streets, trade schools and colleges, libraries, theaters, office buildings, parks and plazas, transit terminals and airports. Most of these communities are fully developed, or almost fully developed, with little vacant land available for new development. Much of the change in land uses, therefore, will take the form of redevelopment. These communities have many things in common: mature settlement patterns resulting in a diminished supply of vacant land; infrastructure systems that generally are beyond or approaching their reasonable life expectancy; the need to rehabilitate housing to meet ever changing market standards; the recognition that redevelopment is, or will be the not-too-distant future, the predominant form of growth; and a growing realization of the need to regionalize an increasing number of services and systems in light of growing fiscal restraints. In addition, the wide and often affordable choice of housing in proximity to New York and Philadelphia has attracted significant

immigration, resulting in noticeable changes in demographic characteristics over time. This Redevelopment Plan is consistent with and will reinforce the goals and objectives of the State Development and Redevelopment Plan.

## **SECTION 6. GENERAL PROVISIONS**

### **6.1 Role of the Borough of Kenilworth**

#### **6.1.A. Redeveloper Selection**

To assure that the vision of the 25 North 26<sup>th</sup> Street Redevelopment Plan project will be successfully implemented in an effective comprehensive and timely way and to promptly achieve the public purpose goals of the Redevelopment Plan, the Borough Council, would first need to designate a Redeveloper of this Plan. The Redeveloper would then be required to execute a Redevelopment Agreement satisfactory to and authorized by the Borough Council.

#### **6.1.B PILOT Agreement**

The Borough Council may approve a long-term tax exemption pursuant to the Long-Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., for a redevelopment project on property designated as Block 183, Lot 9 on the Borough tax maps.

### **6.2 Approvals Process**

This Redevelopment Plan changes the process by which approvals for the development of land are typically granted. For a typical development application, a property owner submits plans and an application to the Planning Board or Zoning Board of Adjustment, and the board schedules a hearing on the application. However, in order to comply with this Redevelopment Plan and to streamline the review process, the following procedure will be followed:

#### **6.2.A Borough Council Review**

The Borough Council acting as the Redevelopment Entity shall review the Proposed Project within the redevelopment area to ensure that such project is consistent with the Redevelopment Plan and the MOU. Such review shall occur prior to the submission of the redevelopment project to the Planning Board. As part of its review, the Borough Council may require the redeveloper(s) to submit the proposed site plan applications to the Borough Council or to a subcommittee organized by the Borough Council prior to the submission of such applications to the Planning Board. Such Subcommittee may include members of the Borough Council and any other members and/or professionals as determined necessary and appropriate by the Borough Council. Such Subcommittee shall make its recommendations to the Mayor and Council.

In undertaking its review, the Borough Council shall determine whether the proposal is consistent with this Redevelopment Plan and relevant redevelopment agreement(s). In addition, the review may address the site and building design elements of the project to ensure that the project adequately addresses the goals and objectives of this Plan.



## **25 North 26<sup>th</sup> Street Redevelopment Plan**

*Borough of Kenilworth, Union County, New Jersey*

---

### **6.2.B Planning Board Review Process**

All development applications shall be submitted to the Kenilworth Planning Board through the normal site plan and subdivision procedures as outlined in N.J.S.A. 40:55D-1 et seq. The Planning Board shall deem any application for redevelopment for any property subject to this Redevelopment Plan incomplete if the applicant has not been designated by the Borough Council as a redeveloper(s) and the project plan has not been reviewed and approved by the Borough Council. Additionally, the Planning Board shall deem any application for redevelopment for any property subject to this Redevelopment Plan incomplete if the applicant has not received approval from the Borough Council or any committee that it may designate for such purpose, stating that the application is consistent with the Redevelopment Plan and Redevelopment Agreement.

### **6.3 Variances & Design Waivers**

Any deviation from a permitted use standard, which would typically result in a “d” variance pursuant to N.J.S.A. 40:55D-70d, shall be addressed as an amendment to this Plan. Neither the Planning Board nor the Board of Adjustment shall have authority to allow deviations which would result in a “d” variance. The Planning Board shall have power to grant relief from other bulk and dimensional requirements of this Redevelopment Plan, and the Kenilworth Land Development Code if applicable, to the same extent as the Board may grant relief from bulk and dimensional requirements pursuant to the N.J.S.A. 40:55D-70c and the power to grant waivers from the standards of the Redevelopment Plan, and the Kenilworth Land Development Code if applicable, to the same extent as the Board may grant relief from subdivision and site plan regulations pursuant to N.J.S.A. 40:55D-51.

### **6.4 Easements**

Each Party shall grant to the other the temporary and permanent easements which are necessary for access and for the proper functioning of utility and drainage systems, for access and parking, and for roadway access, and as are otherwise necessary to facilitate construction and operation of the Redevelopment Project as contemplated by the Approvals. No Building shall be constructed over a public easement in the Redevelopment Area without prior written approval of the Borough Council.

It is specifically noted that it may be necessary to enter into an easement agreement with the Borough of Kenilworth to obtain access to the relocated storm sewer within the Redevelopment Plan Area.

### **6.5 Site Plan Review**

#### **6.5.A Site Plan and Subdivision Review**

Prior to commencement of construction, site plans for the construction and/or rehabilitation of improvements within the Redevelopment Plan Area, prepared in accordance with the requirements of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), shall be submitted by the applicants for review and approval by the Borough Planning Board.

**6.5.B Approvals by Other Agencies**

The developer shall be required to provide the Borough with copies of all permit applications made to federal, state and county agencies upon filing such applications, as will be required by the Redeveloper's Agreement to be executed between the redeveloper and the Borough.

**6.5.C Certificate of Completion and Compliance**

Upon the inspection, verification, and approval by the Borough Council that the redevelopment of the Redevelopment Plan Area, or portion thereof, has been completed, a Certificate of Completion and Compliance will be issued to the redeveloper and such area will be deemed no longer in need of redevelopment.

**6.5.D Severability**

The provisions of this Redevelopment Plan are subject to approval by Ordinance. If a Court of competent jurisdiction finds any word, phrase, clause, section, or provision of this Redevelopment Plan to be invalid, illegal, or unconstitutional, the word, phrase, clause, section, or provision shall be deemed severable, and the remainder of the Redevelopment Plan and implementing Ordinance shall remain in full force and effect.

**6.5.E Adverse Influences**

No use or reuse shall be permitted which, when conducted under proper and adequate conditions and safeguards, will produce corrosive, toxic or noxious fumes, glare, electromagnetic disturbance, radiation, smoke, cinders, odors, dust or waste, undue noise or vibration, or other objectionable features so as to be detrimental to the public health, safety or general welfare.

**6.5.F Non-Discrimination Provisions**

No covenant, lease, conveyance, or other instrument shall be affected or executed by the Borough Council or by a developer or any of his successors or assignees, whereby land within the Redevelopment Plan Area is restricted by the Borough Council, or the developer, upon the basis of race, creed, color, or national origin in the sale, lease, use or occupancy thereof. Appropriate covenants, running with the land forever, will prohibit such restrictions and shall be included in the disposition instruments. There shall be no restrictions of occupancy or use of any part of the Redevelopment Plan Area on the basis of age, race, creed, color, or national origin, ancestry, martial status, affectional or sexual orientation, gender identity or expression, disability, or sex in the sale, lease or occupancy thereof.

**6.5.G Infrastructure and Public Improvements**

The developer, at the developer's sole cost and expense, shall provide all necessary engineering studies for, and construct or install all on- and off-site municipal infrastructure improvements and capacity enhancements or upgrades required in connection with the provision of water, sanitary sewer, and stormwater sewer service to the Redevelopment Plan Area, in addition to all required tie-in or connection fees. The redeveloper shall also be responsible for providing, at the developer's cost and expense, all sidewalks, curbs, streetscape improvements (street trees and other

## **25 North 26<sup>th</sup> Street Redevelopment Plan**

---

*Borough of Kenilworth, Union County, New Jersey*

landscaping), street lighting, and on- and off-site traffic controls and road improvements for the Plan Area or required as a result of the impacts of the project.

### **6.5.H Duration of the Plan**

The provisions of this Redevelopment Plan specifying the redevelopment of the Redevelopment Plan Area and the requirements and restrictions with respect thereto shall be in effect for a period of 30 years from the date of approval of this plan by the Borough Council.

### **6.5.I Procedure for Amending the Approved Plan**

This Redevelopment Plan may be amended from time to time upon compliance with the requirements of state law.

## **6.6. Miscellaneous Provisions**

1. All the provisions of the Redevelopment Plan shall supersede the applicable development regulations of the Borough's ordinances, as and where indicated, for the Redevelopment Plan Area.
2. If any article, section, subsection, sentence, clause or phrase of this Redevelopment Plan is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.
3. In the event of any inconsistencies between the provisions of this Redevelopment Plan and any prior ordinance of the Borough of Kenilworth, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Kenilworth are hereby ratified and confirmed, except where inconsistent with the terms hereof.
4. Throughout this Redevelopment Plan, a distinction is made between "shall" and "should." "Shall" means that a developer is required to comply with the specific regulation, without deviation. "Should" means that a developer is encouraged to comply but is not required to do so.

**SECTION 7: EXHIBITS**

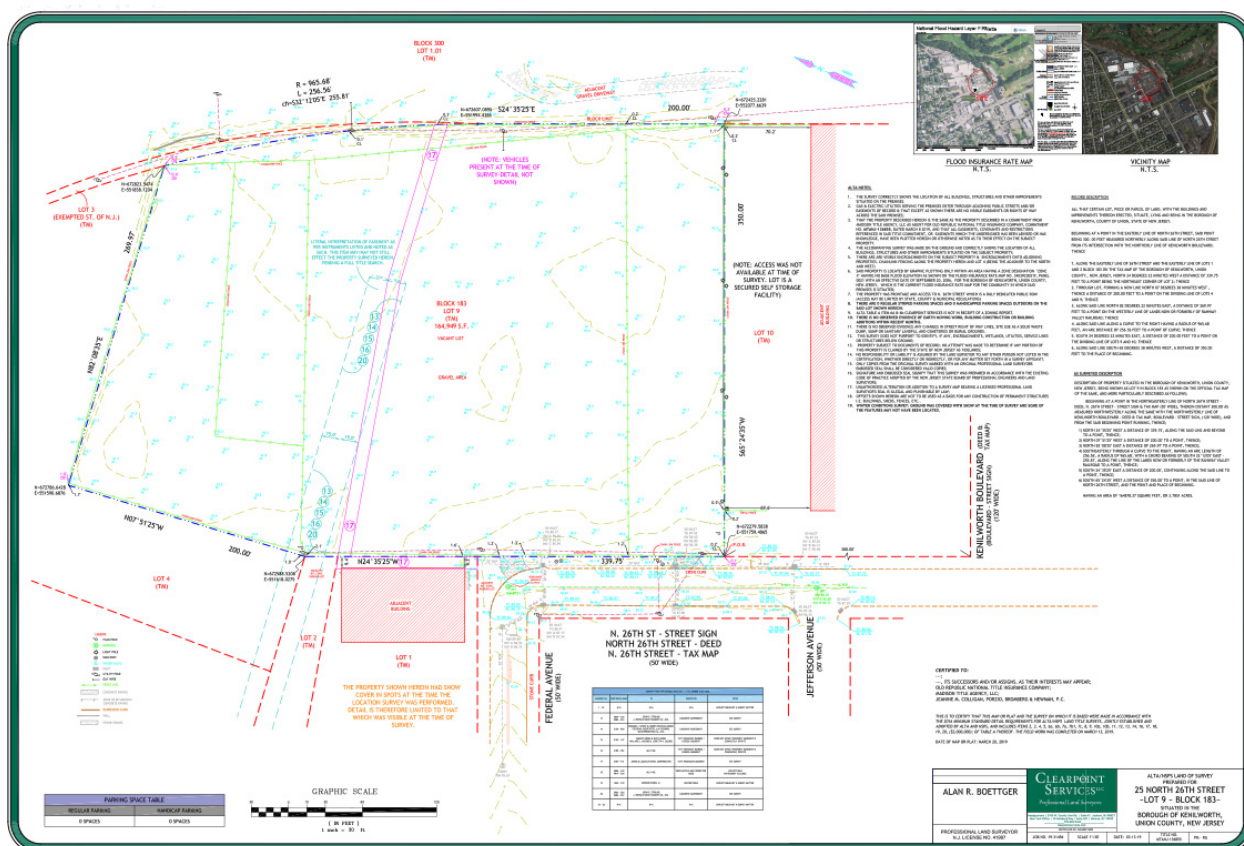
**PAGE LEFT INTENTIONALLY BLANK**

**Exhibit 1.** – Storm Sewer Map

**Exhibit 2.** – ALTA/NPS Land Title Survey for Block 182, Lot 9



*Borough of Kenilworth, Union County, New Jersey*



**Exhibit 3. - 25 N 26<sup>th</sup> Redevelopment Plan Conceptual Design**  
dated October 22, 2019

**SECTION 8: APPENDIX**

**PAGE INTENTIONALLY LEFT BLANK**

**Appendix 1. – Borough of Kenilworth Council Resolution**

Adopted February 26, 2020

**Appendix 2. – Borough of Kenilworth Planning Board Resolution**  
Adopted December 17, 2020

**Appendix 3.- Borough of Kenilworth Council Resolution No.5**

Adopted February 10, 2021



**Appendix 4. – Memorandum of Understanding (“MOU”) between the Borough of Kenilworth and Kenilworth Redevelopers Urban Renewal, LLC,**

Signed February 27, 2020.

**Appendix 5.**

Department of Community Affairs letter



MEMO TO: Mayor and Council

MEMO FROM: Rich Picerno, Chairman  
Kathleen Moschitta, Secretary

DATE: May 14, 2021

RE: Ordinance No. 2021-07

The Planning Board reviewed Ordinance 2021-07 titled **ORDINANCE ADOPTING THE 25 NORTH 26<sup>th</sup> STREET REDEVELOPMENT PLAN DATED MARCH, 2021 FOR THE ELINEATED REDEVELOPMENT AREA CONSISTING OF BLOCK 183, LOT 9 FOR THE DEVELOPMENT OF INCLUSIONARY AFFORDABLE HOUSING** at its meeting on May 13, 2021.

The Board's review was conducted under the authority of the Municipal Land Use Law in NJSA 40:55D-62.a, which requires that every zoning ordinance must "either be substantially consistent with the land use plan element and the housing plan element of the master plan or designed to effectuate such plan element."

The Planning Board of the Borough of Kenilworth finds that the proposed ordinance No. 2021-06 is substantially consistent with the master plan and recommends its passage by the Borough Council.

	MOVED	SECONDED	AYES	NAYES	ABSTAIN	ABSENT	
Linda Karlovitch/Darrin McMahon			x				<p>I hereby certify that the above Resolution was adopted by the Planning Board of the Borough of Kenilworth at a Meeting held on May 13, 2021.</p> <p>Kathleen Moschitta, Planning Board Secretary</p> <p>Rich Picerno Planning Board Chairman</p>
Rich Picerno						x	
Gregg David			x				
Joseph Finistrelia				x			
Larry Clementi		x	x				
Nick Pantina						x	
Frank Mazzeo			x				
Anthony Laudati	x		x				
Joseph Calelo			x				
Mike Scuderi			x				
Patrick Herbolario						x	
Louis DeMondo			x				
Anthony Deluca	x						

**ORDINANCE NO. 2021-07**  
**ORDINANCE ADOPTING THE 25 NORTH 26<sup>th</sup> STREET REDEVELOPMENT PLAN**  
**DATED MARCH, 2021 FOR THE DELINEATED REDEVELOPMENT AREA**  
**CONSISTING OF BLOCK 183, LOT 9 FOR THE DEVELOPMENT OF INCLUSIONARY**  
**AFFORDABLE HOUSING**

**WHEREAS**, pursuant to N.J.S.A. 40A:12A-6, on February 26, 2020, pursuant to Resolution No. 8, the governing body of the Borough of Kenilworth (the "Borough") authorized and requested the Planning Board to undertake a preliminary investigation (the "Investigation") to determine whether the privately owned property Block 183, Lot 9 (the "Area of Investigation"), constitutes an area in need of redevelopment for non-condemnation purposes according to the criteria set forth under the Local Redevelopment and Housing Law ("LRHL"), specifically N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-3; and

**WHEREAS**, consistent with the requirements set forth in N.J.S.A. 40A:12A-6, the Planning Board specified and gave notice that on June 11, 2020 a hearing would be held for the purpose of hearing persons who are interested in or would be affected by a determination that the properties in the Area of Investigation constitute an area in need of redevelopment as that term is defined under the LRHL for non-condemnation purposes; and

**WHEREAS**, Kevin O'Brien, PP, AICP, Shamrock Enterprises, Ltd. publicly presented a Preliminary Investigation Report entitled "Planning Report Concerning the Determination of the Proposed Block 183, Lot 9 Study Area As a Non-Condensation Area in Need of Redevelopment" for the designated Area of Investigation, including Block 183, Lot 9, dated December 10, 2020 (the "Investigation Report"); and

**WHEREAS**, on December 17, 2020, the Planning Board unanimously recommended that the governing body of the Borough designate the Area of Investigation, including Block 183, Lot 9, as a non-condemnation area in need of redevelopment due to the substantial evidence that the Area of Investigation meets the criteria enumerated in the Investigation Report, pursuant to N.J.S.A. 40A:12A-5; and

**WHEREAS**, on February 10, 2021, pursuant to Resolution No. 5, the Borough's governing body agreed with the Planning Board's findings that the properties within the Area of Investigation, including Block 183, Lot 9, met numerous criteria under N.J.S.A. 40A:12A-5, and therefore, determined and declared the properties as being in need of redevelopment for non-condemnation purposes; and

**WHEREAS**, at the direction of the Borough's governing body, Michael J. Mistretta, PP, LLA of Harbor Consultants Inc., has prepared a Redevelopment Plan entitled the "25 North 26<sup>th</sup> Street Redevelopment Plan" ("the Redevelopment Plan") dated March 2021 covering Block 183, Lot 9 to be in need of redevelopment for non-condemnation purposes; and

**WHEREAS**, the Redevelopment Plan requires the development of a minimum of 25 or no less than 15% of the total number of residential units in the project as on-site, family rental units for affordable to very low, low and moderate income households as defined under N.J.A.C. 5:93-1 et seq.; and

**ORDINANCE NO. 2021-07**  
**ORDINANCE ADOPTING THE 25 NORTH 26<sup>th</sup> STREET REDEVELOPMENT PLAN**  
**DATED MARCH, 2021 FOR THE DELINEATED REDEVELOPMENT AREA**  
**CONSISTING OF BLOCK 183, LOT 9 FOR THE DEVELOPMENT OF INCLUSIONARY**  
**AFFORDABLE HOUSING**

**WHEREAS**, the Redevelopment Plan also requires the affordable units to be subject to the Fair Housing Act ("FHA"), the Uniform Housing Affordability Controls ("UHAC") regulations (N.J.A.C. 5:80-26.1 et seq.), applicable Council on Affordable Housing ("COAH") regulations, and all applicable laws regarding the construction, phasing, administration, and affirmative marketing of affordable units; and

**WHEREAS**, based on the foregoing conditions, the Borough's governing body wishes to adopt the 25 North 26<sup>th</sup> Street Redevelopment Plan for the Area of Investigation consisting only of Block 183, Lot 9, which has been established as an area in need of redevelopment for non-condemnation purposes; and

**WHEREAS**, after reviewing the Redevelopment Plan the Borough Council has determined that the Redevelopment Plan is substantially consistent with the Borough's Master Plan and/or is designed to effectuate the Borough's Master Plan; and,

**WHEREAS**, a copy of the Redevelopment Plan shall be referred to the Borough Planning Board for a report regarding its recommendations concerning same prior to final adoption of this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey, as follows:

**SECTION 1.** The aforementioned recitals are incorporated herein as though fully set forth at length.

**SECTION 2.** The Planning Board of the Borough of Kenilworth has reviewed the Redevelopment Plan and provided its recommendations pursuant to the provisions of N.J.S.A. 40A:12A-7(e).

**SECTION 3. The Redevelopment Plan.** The 25 North 26<sup>th</sup> Street Redevelopment Plan prepared by Michael J. Mistretta, PP, LLA of Harbor Consultants attached hereto and made part hereof as **Exhibit A**, as filed in the Office of the Borough Clerk, is hereby approved and adopted pursuant to N.J.S.A. 40A:12A-1 et seq., and shall supersede the current zoning applied to Block 183, Lot 9 and be enacted as an amendment to the Borough's Zoning Map.

**SECTION 4. Severability.** If any section, subsection or paragraph of this ordinance be declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section subchapter or paragraph shall to the extent that is not held unconstitutional, invalid or inoperative remain in full force and effect and shall not affect the remainder of this ordinance.

**SECTION 5. Repealer.** All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

**ORDINANCE NO. 2021-07**  
**ORDINANCE ADOPTING THE 25 NORTH 26<sup>th</sup> STREET REDEVELOPMENT PLAN**  
**DATED MARCH, 2021 FOR THE DELINEATED REDEVELOPMENT AREA**  
**CONSISTING OF BLOCK 183, LOT 9 FOR THE DEVELOPMENT OF INCLUSIONARY**  
**AFFORDABLE HOUSING**

**SECTION 6.** A copy of this Ordinance and the Redevelopment Plan shall be available for public inspection at the office of the Borough Clerk during regular business hours.

**SECTION 7. Effective Date.** This ordinance shall take effect immediately after final adoption and approval pursuant to law.

\_\_\_\_\_  
Linda Karlovitch, Mayor

INTRODUCTION						COUNCILPERSON	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				KAY CECERI		X	X			
	X	X				MARK DAVID	X		X			
			X			JOSEPH FINISTRELLA				X		
X		X				GERRY LAUDATI			X			
			X			SCOTT PENTZ				X		
			X			FRED PUGLIESE				X		
		X				MAYOR KARLOVITCH			X			
Introduced: April 28, 2021				I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.								
Final Adoption: June 9, 2021												
_____ Laura Reinertsen, Borough Clerk												

**AN ORDINANCE TO AMEND CHAPTER 120 (LAND USE) IN PART 5 (AFFORDABLE HOUSING) OF THE CODE OF THE BOROUGH OF KENILWORTH TO CREATE A NEW CHAPTER 36 NAMED “AFFORDABLE HOUSING REQUIREMENTS”**

**WHEREAS, the Borough of Kenilworth is to submit a Fourth Round Housing Plan with the amended affordable housing bill per bill A4/S50 establishing new guidelines for determining and regulating the affordable housing obligations of New Jersey municipalities for the fourth 10-year round as mandated by the Mount Laurel Doctrine and New Jersey Fair Housing Act.**

**WHEREAS, in support of the Borough’s Fourth Round affordable housing plan, necessary ordinances are to be prepared to guide the development of affordable housing within the Borough and to be in compliance the state’s amended affordable housing bill per bill A4/S50, and all applicable and current Uniform Housing Affordability Housing Controls (UHAC).**

**WHEREAS, certain further amendments to the Affordable Housing Ordinance are required to be in compliance with the amended affordable housing bill per bill A4/S50 establishing new guidelines for determining and regulating the affordable housing obligations of New Jersey municipalities for the fourth 10-year round as mandated by the Mount Laurel Doctrine and New Jersey Fair Housing Act; and**

**NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Kenilworth as follows:**

**ARTICLE 36 AFFORDABLE HOUSING REQUIREMENTS**

**§ 120-36.1 Filing of Reports.**

The Borough of Kenilworth shall file such annual monitoring reports as may be directed by the Court regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan. The report shall be filed with the Union County Superior Court and shall be available to the public at the Kenilworth Municipal Building, Borough Clerk's Office, 567 Boulevard, Kenilworth, New Jersey 07033.

**§ 120-36.2 Definitions.**

The following terms when used in this article shall have the meanings given in this section:  
ACT — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT — The entity designated by the Borough to administer affordable units in accordance with this article, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

AFFIRMATIVE MARKETING — A regional marketing strategy designed to attract buyers and/ or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE — The average percentage of median income at which new



restricted units in an affordable housing development are affordable to low- and moderate-income households.

**AFFORDABLE** — A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT** — A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation.

**AFFORDABLE HOUSING PROGRAM(S)** — Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE UNIT** — A housing unit proposed or created pursuant to the Act and approved for crediting by the court and/or funded through an affordable housing trust fund.

**AGE-RESTRICTED UNIT** — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80% of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the United States Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C.

**AGENCY** — The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

**ALTERNATIVE LIVING ARRANGEMENT** — A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

**ASSISTED LIVING RESIDENCE** — A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**CERTIFIED HOUSEHOLD** — A household that has been certified by an administrative agent as a low-income household or moderate-income household.

**COAH** — The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DCA — The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT — A housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load-bearing structural systems.

DEVELOPER — Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

INCLUSIONARY DEVELOPMENT — A development containing both affordable units and market-rate units. This term includes, but is not limited to: new construction, the conversion of a nonresidential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50% or less of the median household income.

LOW-INCOME UNIT — A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM — The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load-bearing structural systems.

MARKET-RATE UNIT — Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME — The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the court.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

MODERATE-INCOME UNIT — A restricted unit that is affordable to a moderate-income household.

NONEXEMPT SALE — Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary and the transfer of ownership by court order.

**RANDOM SELECTION PROCESS** — A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

**REGIONAL ASSET LIMIT** — The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

**REHABILITATION** — The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

**RENT** — The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

**RESTRICTED UNIT** — A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

**UHAC** — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26 et seq.

**VERY-LOW-INCOME HOUSEHOLD** — A household with a total gross annual household income equal to 30% or less of the median household income for the applicable housing region.

**VERY-LOW-INCOME UNIT** — A restricted unit that is affordable to a very-low-income household.

**WEATHERIZATION** — Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

#### § 120-36.3 Applicability

The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Kenilworth pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan, including those that are funded through low-income tax credits.

#### § 120-36.4 Alternative living arrangements.

A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

(1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the court;

(2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

B. With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the court.

C. The service provider for the alternative living arrangement shall act as the administrative agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 120-36.5 Phasing schedule for inclusionary zoning.

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed and Moderate-Income Units Completed	Minimum Percentage of Low-
25	0
25+1	10
50	50
75	75
90	100

§ 120-36.6 New construction.

A. Low/moderate split and bedroom distribution of affordable housing units.

(1) The set-aside requirement shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13% of all affordable rental units in any development shall be affordable to very-low-income households. The very-low-income units shall be counted as part of the required number of low-income units within the development.

(2) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.

(3) Affordable developments that are not age restricted shall be structured in conjunction with realistic market demands such that:

(a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;

(b) At least 30% of all low- and moderate-income units shall be two-bedroom units;

(c) At least 20% of all low- and moderate-income units shall be three-bedroom units; and

(d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

(4) Affordable developments that are age restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility requirements.

(1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7, and the following.

(2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

(a) An adaptable toilet and bathing facility on the first floor; and

(b) An adaptable kitchen on the first floor; and

(c) An interior accessible route of travel on the first floor; and

(d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

(e) If not all of the foregoing requirements in Subsection B(2)(a) through (d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsection B(2)(a) through (d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

(f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.), and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Kenilworth has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

[1] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

[2] To this end, the builder of restricted units shall deposit funds within the Borough of Kenilworth's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

[3] The funds deposited under Subsection B(2)(f)[2] above shall be used by

the Borough of Kenilworth for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

[4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Kenilworth for the conversion of adaptable to accessible entrances.

[5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

(g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

C. Design.

(1) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

(2) In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum rents and sales prices.

(1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.

(2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.

(3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very-low-income households, earning 30% or less of the regional median household income.

(4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income

ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

(5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- (a) A studio shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household;
- (c) A two-bedroom unit shall be affordable to a three-person household;
- (d) A three-bedroom unit shall be affordable to a four-and-one-half-person household; and
- (e) A four-bedroom unit shall be affordable to a six-person household.

(6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- (a) A studio shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household; and
- (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

(7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowners' association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant-paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(9) 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.



(10) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

E. Multifamily developments not anticipated in fair share plan. This section does not affect the requirements for the production of affordable housing on sites that are zoned for inclusionary development as part of the Fair Share Plan, for which the affordable housing set-aside requirements have been established by the zoning regulations. In all other cases, a mandatory set-aside requirement of 20% (if the affordable units will be for sale) and 20% (if the affordable units will be for rent) shall be imposed on any townhouse, garden apartment or other multifamily residential development or on multifamily units in a mixed use development, created through any Borough or Board action involving a rezoning, use variance, density variance, redevelopment plan or rehabilitation plan permitting development or redevelopment that provides an incentive in the form of an increase in the density on a site, provided the new density is at least twice the previously permitted density and results in the construction or creation of five or more new dwelling units over the number of dwelling units previously permitted to be built. This requirement does not give any developer the right to any such rezoning, redevelopment plan or rehabilitation plan, variance or other relief, or establish any obligation on the part of the Borough of Kenilworth to grant such rezoning, redevelopment or rehabilitation plan approval, variance or other relief. All affordable units created by this mechanism shall be family affordable housing units (i.e., non-age-restricted) and shall comply with all other requirements of the Borough's Affordable Housing Ordinance, including the requirement that at least 50% of the affordable units be affordable to low-income households and that at least 13% of the affordable units shall be affordable to very-low-income households (earning 30% or less of the regional median household income by household size), which very-low-income requirement shall be included as part of the low-income housing requirement; the remaining affordable units may be moderate-income units.

F. Rounding, payments in lieu. For any multifamily units or multifamily units in mixed use developments in the, if the calculation of the total number of affordable units required to be provided yields a fraction that is less than 0.5% of a whole unit, then the developer shall have the option of either making a payment in lieu of the fraction of one unit or providing one additional unit. If the calculation of the total number of affordable units required yields a fraction that is greater than 0.5, the obligation shall be rounded up to the next whole unit. The option of making a payment in lieu or providing an additional whole unit shall not apply to any parameter other than the total number of affordable units required to be provided. The provisions of this Subsection F shall not apply to the production of affordable housing on sites that are zoned for inclusionary development as part of the Fair Share Plan.

G. Calculation of payments in lieu. For any payment in lieu of a fraction of an affordable unit authorized by § 106-175F above, the payment for the fraction of the affordable unit shall be prorated based upon the subsidy required/payment in lieu amount originally set forth for COAH Region 2 in N.J.A.C. 5:97-6.4(c), which is \$148,633, unless the developer can demonstrate to the reasonable satisfaction of the Borough of Kenilworth that the payment amount, using the methodology set forth in N.J.A.C. 5:97-6.4(c), should be a different amount. All payments in lieu of constructing fractions of affordable units shall be placed in the Borough's affordable housing trust fund and shall be used for the creation of additional affordable housing units, subject to the regulations and restrictions pertaining to same.

H. Mandatory set-aside. Any townhouse, garden apartment or other multi-family residential development, containing five or more dwelling units shall comply with the following:

(1) A minimum of 20% of the total number of units in a rental development shall be set- aside as affordable housing units with half being affordable to low-income households and 13% shall be affordable to very-low-income households. If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5%, then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of such affordable units yields a fractional unit of greater than 0.5, it shall count as one additional unit.

(2) A minimum of 20% of the total number of units in a for-sale development shall be set- aside as affordable housing units. If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5, then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of such affordable units yields a fractional unit of greater than 0.5, it shall count as one additional unit.

I. No subdivision permitted. The subdivision of properties proposed for multifamily residential developments or mixed use developments that will include multifamily housing and are thus required to provide an affordable housing set-aside is prohibited as a means to circumvent the mandatory set-aside requirement in § 120-36.6.

#### § 120-36.7 Utilities.

A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

#### § 120-36.8 Occupancy Standards.

In referring certified households to specific restricted units, the administrative agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

#### § 120-36.9 Control periods for restricted ownership units and enforcement mechanisms.

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this article for a period of at least 30 years, until Kenilworth takes action to release the unit from such requirements. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for a period of at least 30 years.

B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the restrictions set forth in this article, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

E. The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 120-36.10 Price restrictions for restricted ownership units, homeowners' association fees and resale prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

A. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.

B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowners' association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

D. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ 120-36.11 Buyer income eligibility

A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with

a gross household income less than 80% of median income.

B. Notwithstanding the foregoing, however, the administrative agent may, upon approval by the Borough Council, and subject to the court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the administrative agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the administrative agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

D. The administrative agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowners' association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

#### § 120-36.12 Limitations on indebtedness secured by ownership unit; subordination.

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the administrative agent for a determination in writing that the proposed indebtedness complies with the provisions of this section, and the administrative agent shall issue such determination prior to the owner incurring such indebtedness.

B. With the exception of first purchase money mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).

#### § 120-36.13 Capital improvements to ownership units.

A. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten-year, straight-line depreciation, has

been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 120-36.14 Control periods for restricted rental units.

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article for a period of at least 40 years, until Kenilworth takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for a period of at least 30 years.

B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Union. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.

C. A restricted rental unit shall remain subject to the affordability controls of this article despite the occurrence of any of the following events:

- (1) Sublease or assignment of the lease of the unit;
- (2) Sale or other voluntary transfer of the ownership of the unit; or

D. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 120-36.15 Rent restrictions for rental units; leases.

A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent.

B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.

C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this article.

D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 5% of the total number of dwelling units are restricted rental units in compliance with this article.

§ 120-36.16 Tenant income eligibility.

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

- (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
- (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
- (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.

B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
- (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- (3) The household is currently in substandard or overcrowded living conditions;
- (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
- (5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection B(1) through (5) above with the administrative agent, who shall counsel the household on budgeting.

#### § 120-36.17 Municipal Housing Liaison.

A. The Borough of Kenilworth shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted administrative agent. Kenilworth shall adopt an ordinance creating the position of Municipal Housing Liaison. Kenilworth shall adopt a resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee. The Municipal Housing Liaison shall be approved by the court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before



assuming the duties of Municipal Housing Liaison.

B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Kenilworth, including the following responsibilities which may not be contracted out to the administrative agent:

- (1) Serving as Kenilworth's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
- (2) Monitoring the status of all restricted units in Kenilworth's Fair Share Plan;
- (3) Compiling, verifying and submitting annual monitoring reports as may be required by the court;
- (4) Coordinating meetings with affordable housing providers and administrative agents, as needed; and
- (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

C. Subject to the approval of the court, the Borough of Kenilworth shall designate one or more administrative agent(s) to administer newly constructed affordable units in accordance with UHAC. An operating manual for each affordable housing program shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of the court. The operating manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the administrative agent(s). The Municipal Housing Liaison shall supervise the contracting administrative agent(s).

#### § 120-36.18 Administrative agent.

The administrative agent shall be an independent entity serving under contract to and reporting to the municipality. The fees of the administrative agent shall be paid by the owners of the affordable units for which the services of the administrative agent are required. The administrative agent shall perform the duties and responsibilities of an administrative agent as set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 5:80-26.16 and 5:80-26.18 thereof, which includes:

A. Affirmative marketing:

- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Kenilworth and the provisions of N.J.A.C. 5:80-26.15; and
- (2) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

B. Household certification:



- (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate- income unit;
- (3) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Kenilworth when referring households for certification to affordable units.

C. Affordability controls:

- (1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Union County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
- (4) Communicating with lenders regarding foreclosures; and
- (5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and rentals:

- (1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
- (2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.

E. Processing requests from unit owners:

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this article;
- (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air-conditioning systems;
- (3) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

- (1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent;
- (3) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent or other charges can be made;
- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
- (6) Creating and publishing a written operating manual for each affordable housing program administered by the administrative agent, to be approved by the Borough Council and the court, setting forth procedures for administering the affordability controls.

G. Additional responsibilities:

- (1) The administrative agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (2) The administrative agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the court.

- (3) The administrative agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§ 120-36.19 Affirmative marketing requirements.

A. The Borough of Kenilworth shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 2 and is required to be followed throughout the period of restriction. The Borough shall add to the list of the 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, the Supportive Housing Association of New Jersey, and the New Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies, provide direct notice to those organizations of all available affordable housing units, along with copies of affordable housing application forms. The Borough shall require any other entities, including developers or persons or companies, retained to do affirmative marketing, to comply with this section.

C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2, comprised of Essex, Morris, Union and Warren Counties.

D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The administrative agent designated by the Borough of Kenilworth shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

E. In implementing the Affirmative Marketing Plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/ tenant law.

F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the administrative agent shall consider the use of language translations where appropriate.

G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county

within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 120-36.20 Enforcement of affordable housing regulations.

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

(1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is adjudged by the court to have violated any provision of the regulations governing affordable housing units, the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the court:

(a) A fine of not more than \$500 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

(b) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Kenilworth Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

(2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.

(a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount

necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

(b) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two- year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

(c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

(d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

(e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

(f) The owner shall remain fully obligated, responsible and liable for complying

with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

§ 120-36.21 Appeals.

Appeals from all decisions of an administrative agent appointed pursuant to this article shall be filed in writing with the court.

§ 120-36.22 Monitoring and reporting requirements

A. The Borough shall 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.

B. The Borough shall 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.

C. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its 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.

D. For the review of very-low-income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of March 28, 2020, and every third year thereafter, the Borough 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.

**SECTION 2.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

**SECTION 3.** If any portion of this ordinance shall be determined to be invalid, such determination shall not affect the validity of the remaining portions of said ordinance.

**SECTION 4.** This ordinance shall take effect upon final passage and publication in accordance with law and upon filing with the Union County Planning Board.



## **BOROUGH OF KENILWORTH FOURTH ROUND AFFORDABLE HOUSING TRUST FUND SPENDING PLAN**

### **I. INTRODUCTION**

The Borough of Kenilworth's affordable housing trust fund was first established through the adoption of the Borough's Development Fee Ordinance by Ord. No. 2016-08 5 on March 28, 2016 which formally created a dedicated revenue source for affordable housing in the Borough.

The Borough has prepared this Spending Plan for the Fourth Round period in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and the Fair Housing Act (N.J.S.A. 52:27D-301). This Spending Plan is submitted to the Superior Court of New Jersey for approval as an appendix to the Borough's Fourth Round Housing Element and Fair Share Plan.

Per the Borough's affordable housing trust fund bank statement ending in December 2024, the Borough had a balance of \$202,751 in its affordable housing trust fund. 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 at PNC Banks, for the purposes of affordable housing. These funds shall be spent in accordance with N.J.S.A. 52:27D-329.2 as described in the sections that follow.

### **1. REVENUES FOR CERTIFICATION PERIOD**

To calculate a projection of revenue anticipated through the Fourth Round period (July 1, 2025 - June 30, 2035), the Borough has considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. Projects which have had fees imposed upon them per Redevelopment Agreements.
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

(c) Other funding sources:

The funds listed as "Other Income" in Table 1 of this Spending Plan include reimbursements from overpayments of administrative expenses and/or reconciliations of errors within the trust fund account ledger.

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund based on an annual percentage yield (APY) of 2.16%.<sup>1</sup>

## 2. REVENUE PROJECTION

One of the primary sources of revenue for the Borough's affordable housing trust fund is through development fees. Development fees are issued as a percentage of the equalized assessed value for residential and non-residential development, with this percentage differing based on the type of development. The collected payments of residential and non-residential development fees are then deposited into the Borough's affordable housing trust fund and are to be used and expensed in accordance with N.J.S.A. 52:27D-329.2.

Per § 120-35.4.A of the Kenilworth Borough Code, residential development fees are issued as follows:

(1) *Residential development fees shall be 1% of the equalized assessed value for residential development within the OR Zone District, which is not exempt from the provisions of this article as set forth below, provided no increase in density is permitted.*

(2) *If a "D" variance is granted by the Borough of Kenilworth Planning Board pursuant to N.J.S.A. 40:55D-70d(5), the additional residential units realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6% rather than the development fee of 1%. However, if the zoning on a site has changed during the two-year period preceding the filing of the "D" variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two years preceding the filing with the Borough of Kenilworth Planning Board of the "D" variance application.*

Per § 120.35.4.B of the Kenilworth Borough Code, non-residential development fees are issued as follows:

(1) *Nonresidential development fees shall be 2.5% of the equalized assessed value for nonresidential development within all zone districts, which is not exempt from the provisions of this subsection as set forth in this article.*

(2) *If a "D" variance is granted by the Borough of Kenilworth Planning Board, pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area ration (FAR) realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6% rather than the development fee of 2.5%. However, if the zoning on a site has changed during the two-year period preceding the filing of the "D" variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two years preceding the filing with the Borough of Kenilworth Planning Board of the "D" variance application.*

---

<sup>1</sup> 2.16% is the current APY as per the Borough's Affordable Housing Trust Fund December 31, 2024, bank statement with PNC Bank.

Given that this Spending Plan has been prepared at the start of the ten-year Fourth Round period, and assuming the variability of development trends over the next decade, the projection of revenue in the Borough's affordable housing trust fund during the Fourth Round is simplified by combining the income from residential development fees, non-residential development fees, and fees from Redevelopment Agreements over the last five years to calculate an annual development fee income average. This annual development fee income average is then redistributed over the forthcoming ten-year Fourth Round period.

Per the Borough's Affordable Housing Monitoring System (AHMS), which is used to report the Borough's trust fund transactions to the DCA, over the five-year period of December, 31 2019 to December 31, 2024, the Borough collected approximately \$83,650 in residential development fees, non-residential development fees, and payments in lieu..<sup>2</sup> Therefore, on average, the Borough collected approximately \$16,730 per year, or approximately \$1,394 per month, from development fees and fees from Redevelopment Agreements. Based on a conservative assumption that development occurs at a similar rate over the next decade, a total of \$167,300 in revenue from development fees and fees from Redevelopment Agreements is expected to be collected from July 1, 2025 to June 30, 2035.

Additionally, based on an annual percentage yield of 2.16%, the Borough may receive approximately \$36,088 in revenue collected from interest over the Fourth Round.

Therefore, for the period of July 1, 2025 through June 30, 2035, the Borough of Kenilworth estimates to collect a total revenue of \$167,300 from development fees and Redevelopment Agreement fees, and approximately \$36,088 in account interest on existing funds (assuming a 2.16% APY). These revenue sources sum to a total of approximately \$203,388 in potential affordable housing trust fund account revenue during the Fourth Round.

Spending Plan

TABLE 1: PROJECTED REVENUES AFFORDABILITY HOUSING TRUST FUND JULY 1, 2025 – JUNE 30, 2035 KENILWORTH, UNION COUNTY, NEW JERSEY													
SOURCE OF FUNDS	REVENUES PRIOR TO START OF FOURTH ROUND	PROJECTED REVENUES – AFFORDABLE HOUSING TRUST FUND – JULY 1, 2025 THROUGH JUNE 30, 2035											
	REVENUES AS OF DEC 31, 2024	JUL 1, 2025 – DEC 31, 2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	JAN 1 - JUNE 30 2035	FOURTH ROUND TOTAL REVENUE
1) Income from Residential Development Fees, Non-Residential Development Fees, and Redevelopment Agreement Fees	\$202,751	\$8,365	\$16,730	\$16,730	\$16,730	\$16,730	\$16,730	\$16,730	\$16,730	\$16,730	\$16,730	\$8,365	\$167,300
2) Payments in Lieu of Construction	—	—	—	—	—	—	—	—	—	—	—	—	—
3) Other Income (a)	—	—	—	—	—	—	—	—	—	—	—	—	—
4) Interest on Existing	\$4,099	\$1,804	\$3,608	\$3,608	\$3,608	\$3,608	\$3,608	\$3,608	\$3,608	\$3,608	\$3,608	\$1,804	\$36,088 (c)
Total	\$206,850 (b)	\$10,169	\$20,388	\$20,388	\$20,388	\$20,388	\$20,388	\$20,388	\$20,388	\$20,388	\$20,388	\$10,169	\$203,388
(a) "Other Income" includes reimbursements from overpayments of administrative expenses and/or reconciliations of errors within the trust fund account ledger.													
(b) As of December 31, 2024, the Borough has a balance of \$202,751 in it's affordable housing trust fund account with PNC bank.													
(c) Interest over the ten-year Fourth Round period is calculated based on a projected revenue of \$167,300 contributions, and an APY of 2.16%.													

### 3. 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 Borough of Kenilworth:

(a) Collection of Development Fee revenues:

Collection of development fee revenues shall be consistent with the Borough of Kenilworth's Development Fee Ordinance for both residential and non-residential developments in accordance with P.L. 2024, c.2 and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

Pursuant to a development approval by the Board having jurisdiction, the Borough Clerk will notify the construction official of the approval. At the time of construction permit application, the construction official will notify the tax assessor and request an initial calculation of the equalized assessed value (EAV) of the proposed development and the resulting fee to be posted. One-half of the fee will be due at the time of issuance of the first building permit. For non-residential development only, the developer will be provided a copy of Form N – RDF "State of New Jersey Non-Residential Development Certification/Exemption". This form will be used by the tax assessor to verify exemptions and to prepare estimated and final assessments.

At the time of request for the final inspection, the construction official will notify the tax assessor and request confirmation of, or modification of, the initial (EAV) as the case may be. The final (EAV) will be provided to the developer within ten (10) days of the request for final inspection. Payment of the fee will then become a condition of issuance of the certificate of occupancy.

### 4. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Fourth Round Projects**

i. **Rehabilitation Projects (N.J.S.A. 52:27D-329.2)**

The Borough will participate in the Union County Home Improvement Program until the rehabilitation obligation has been fully satisfied. In the case that the County program is ever abandoned or loses its funding, the Borough shall amend the Spending Plan to fund a municipal rehabilitation program to be created and administered by an experienced Administrative Agent of the Borough's choosing. Alternatively, in the event that the County program sufficiently addresses the Borough's rehabilitation obligation, the Borough reserves the right to amend the Spending Plan to allocate funds to other affordable housing activities.

ii. **Costs Associated with the New Construction of Affordable Units (N.J.S.A. 52:27D-329.2)**

The Borough will dedicate funding towards the new construction of affordable units during the Fourth Round period for projects set forth in the Borough's 2025 HEFSP or projects proposed while the Fourth Round progresses. Funds for the construction of new affordable units will be allocated on a project-by-project basis as a project realistically moves forward. Additional funding towards the project(s) will likely be sought through and be the subject of a 9-percent NJHMFA tax credit application or other funding source.

**Total Fourth Round Projects Expenditure:**

**\$101,694**

(b) **Affordability Assistance (N.J.S.A. 52:27D-329.2)**

The Borough of Kenilworth is required to spend a minimum of 30 percent of development fee revenue to render units more affordable and at least one-third of that amount must be dedicated to very-low income households or to create very-low income units (i.e. households earning less than 30 percent of the regional median income). The actual affordability assistance minimums are calculated on an ongoing basis based on actual revenues.

<b>TABLE 2: PROJECTED MINIMUM AFFORDABILITY ASSISTANCE REQUIREMENTS KENILWORTH, UNION COUNTY, NEW JERSEY</b>		
Development fees and fees from Redevelopment Agreements projected through the Fourth Round (7/1/2025 - 6/30/2035)		\$167,300
Interest projected through the Fourth Round (7/1/2025 - 6/30/2035)	+	\$36,088
<b>Total</b>	=	<b>\$203,388</b>
<b>PROJECTED MINIMUM FOURTH ROUND AFFORDABILITY ASSISTANCE REQUIREMENT (7/1/2025 - 6/30/2035)</b>	x 0.30 =	<b>\$61,016</b>
<b>PROJECTED MINIMUM FOURTH ROUND VERY LOW-INCOME AFFORDABILITY ASSISTANCE REQUIREMENT (7/1/2025 - 6/30/2035)</b>	÷ 3 =	<b>\$20,388</b>

The Borough will dedicate at least \$61,016 from its municipal affordable housing trust fund to render units more affordable. Of this amount, \$20,388 will be utilized to encourage private sector provision of very low-income units through the offering of a subsidy for the development of said units. The Borough reserves the right to use even more of its affordability assistance funds to help subsidize low and/or very low-income units. In addition, the Borough will utilize such funds for any emergency repairs of older affordable units in the Borough, should that be necessary.

The Borough will dedicate Affordability Assistance funding from the affordable housing trust fund to render the units constructed in municipally sponsored 100% affordable projects to be more affordable; to provide a first month's rent and program for rental units; and to provide a down payment assistance program for for-sale units, as follows.

- i. Creation of very low-income units in municipally sponsored 100% affordable projects;
- ii. Supportive/Special Needs Assistance Direct Subsidy to create new units within the Borough with a 30-year deed restriction requirement;
- iii. Additional affordability assistance:
  - a. Rental Units:
    - i. One or two month's rent assistance program;
    - ii. Reimbursement for qualified moving expenses, up to \$1,000;
  - b. For-Sale Units:
    - i. Down payment assistance up to \$15,000 per unit;
    - ii. Emergency Repairs.

An Affordability Assistance Manual will be prepared by the Borough's Administrative Agent, CGP&H.

**Total Affordability Assistance Expenditures:**

**\$61,016**

(c) **Administrative Expenses (N.J.S.A. 52:27D-329.2)**

The Borough of Kenilworth may use development fee revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and statutory affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis based on actual revenues.

<b>TABLE 3: PROJECTED MAXIMUM ADMINISTRATIVE EXPENSE REQUIREMENTS KENILWORTH, UNION COUNTY, NEW JERSEY</b>		
Development fees and fees from Redevelopment Agreements projected through the Fourth Round (7/1/2025 - 6/30/2035)		\$167,300
Interest projected through the Fourth Round (7/1/2025 - 6/30/2035)	+	\$36,088
<b>Total</b>	=	<b>\$203,388</b>
<b>PROJECTED FOURTH ROUND MAXIMUM ADMINISTRATIVE EXPENDITURES (7/1/2025 - 6/30/2035)</b>	x 0.20 =	<b>\$40,677</b>

The Borough projects that no more than \$40,677 will be available from the affordable housing trust fund to be used for administrative purposes during the



Fourth Round (July 1, 2025 – June 30, 2035). However, administrative expenses are limited to 20% of what is actually collected; therefore, the projected 20% cap of \$40,677 may only be expended in a total amount equaling 20% or less of the total revenue from development fees, Redevelopment Agreement fees, and interest at the time of expense.

Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- 1) Personnel wages, salaries, and benefits for administering affordable housing activities;
- 2) Consulting fees for the preparation of Housing Element/Fair Share Plans, assisting other affordable housing activities including, but not limited to, professional planner and professional engineer consultant fees;
- 3) Fees for other consulting activity as may be found necessary supportive of affordable housing provision, including office supplies;
- 4) Legal fees; and
- 3) Fees for the administration of Affordability Assistance programs by qualified entities retained by the Borough of Kenilworth.

**Total Administrative Expenditure:**

**\$40,677**

## 5. EXPENDITURE SCHEDULE

Upon approval by the Court, the Borough acknowledges that the expenditures of funds contemplated herein shall constitute the “commitment” for expenditure required pursuant to N.J.S.A. 52:27D-329.2, with the ten-year time period contemplated therein commencing 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).

Where applicable, the funding schedule below parallels the proposed strategies presented thus far by the Borough, and is summarized as follows.

**TABLE 4: PROJECTED EXPENDITURE SCHEDULE AFFORDABLE HOUSING TRUST FUND JULY 1, 2025 – JUNE 30, 2035  
KENILWORTH, UNION COUNTY, NEW JERSEY**

PROGRAM	NUMBER OF UNITS PROJECTED	PROJECTED EXPENDITURE SCHEDULE – AFFORDABLE HOUSING TRUST FUND – JULY 1, 2025 THROUGH JUNE 30, 2035											
		JULY 1 2025 – DEC 31 2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	JUNE 30, 2035	FOURTH ROUND TOTAL EXPENDITURES (a)
Fourth Round Projects	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	\$101,694
Affordability Assistance		TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	\$61,016
Administration		TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	\$40,677
<b>Total</b>	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	\$203,388

(a) Expenditures are not shown on an annual basis for the purposes of this expenditure schedule due to the fact that the timing and amount of expenditures, and consequently the change in trust fund balance, will impact the amount of interest collected on the account. Given that the 30% minimum affordability assistance expenditure requirement and 20% maximum administrative expenditure requirement are based on actual revenue, the expenditure schedule has been simplified to show total expenditures over the Fourth Round period to avoid misrepresentation of the availability of funds to be expended on an annual basis. This Spending Plan shall be subject to future amendment to represent the actual funds collected and expended throughout the progression of the Fourth Round.

## 6. EXCESS OR SHORTFALL OF FUNDS

The Borough of Kenilworth acknowledges that the actual revenue collected may be less than what is projected in this Spending Plan for a variety of reasons, including, but not limited to: (a) a moratorium on collection of development fees may be imposed by law; and (b) the actual amount of development in the Borough may be less than what is anticipated. Should there be a shortfall of funds, the Borough agrees that in no event shall it utilize more than 20% of the revenue collected from development fees, Redevelopment Agreement fees, and interest for administration.

The Borough intends to expend all current and future revenues toward the mechanisms, as described in this Spending Plan. In the event of an excess of funds, these would be dedicated toward supplementing any programs or projects within the regulatory limits as described herein. The Borough reserves the right to use the remainder first toward emerging mechanisms and for additional assistance where needed to support mechanisms included in the Borough's Housing Element and Fair Share Plan as needed, in accordance with the requirements set forth in P.L. 2024, c.2. Should there be a surplus beyond emerging mechanisms, et. al., the Borough reserves the right to use the remainder toward the next round of affordable housing, which will be addressed by an adopted Spending Plan in a timeframe that will satisfy the requirements of N.J.S.A 52:27D-329.2. The Borough reserves the right to submit an updated Spending Plan to reflect any change in circumstance of the mechanisms and funds detailed herein.

## II. SUMMARY

The Borough of Kenilworth intends to spend Affordable Housing Trust Fund revenues pursuant to N.J.S.A. 52:27D-329.2 and consistent with the housing programs outlined in the Housing Element and Fair Share Plan that evolves from the Borough's ongoing compliance efforts.

The Borough recognizes that the projections in this Spending Plan are generated from a baseline assumption that development over the last five years will continue at a similar rate over the ten-year Fourth Round period, and the Borough therefore reserves the right to amend the contents of this Spending Plan to reflect a change in the Borough's development climate, Fourth Round HEFSP, Development Fee Ordinance, and/or any circumstance impacting the projections detailed herein.

Regarding the Fourth Round period, the Borough projects approximately \$206,388 to be collected from development fees, Redevelopment Agreement fees, and interest on existing funds from July 1, 2025 through June 30, 2035. Of this projected \$203,388 to be collected during the Fourth Round, the Borough shall dedicate a minimum of 30% (or \$61,016) to render units more affordable and no more than 20% (or \$40,677) to cover administrative costs. The remainder (\$101,694) is intended to be used toward Fourth Round projects (which includes both rehabilitation projects and new construction of affordable units), which will be allocated on a project-by-project basis as the specificity of these projects becomes more apparent over the Fourth Round period. The Borough anticipates that the balance of revenues collected less expenses from July 1, 2025 to June 30, 2035 will be as close to zero dollars (\$0) as possible whereas any excess funds would be dedicated toward supplementing any programs or projects within the limits as described herein, toward emerging mechanisms pursuant to N.J.S.A. 52:27D-329.2, or reserved toward compliance with the next round of affordable housing in accordance with the Fair Housing Act.

**TABLE 5: FOURTH ROUND SPENDING PLAN SUMMARY  
KENILWORTH, UNION COUNTY, NEW JERSEY**

<b>PROJECTED REVENUE 7/1/2025 – 6/30/2035</b>	
Development fees and Redevelopment Agreement Fees	+ \$167,300
Interest on existing funds	+ \$36,088
<b>TOTAL PROJECTED REVENUE 7/1/2025 – 6/30/2035</b>	<b>= \$203,388</b>
<b>PROJECTED EXPENDITURES 7/1/2025 – 6/30/2035</b>	
Funds towards Fourth Round Projects (new construction/rehabilitation)	- \$101,694
Affordability assistance	- \$61,016
Administration	- \$40,677
<b>TOTAL PROJECTED EXPENDITURES 7/1/2025 – 6/30/2035</b>	<b>= \$203,388</b>
<b>REMAINING BALANCE</b>	<b>= \$0</b>

Trust Fund Summary by Date

Municipality: UNION - KENILWORTH BORO (2008)  
Plan Version: 4.0 PENDING

LAURA REINERTSEN

LOGOUT

HOME

Reports

- Plan Summary
- Project
- Contact
- Trust Fund
- Spending Plan
- Documents
- Fair Share Obligation

Municipality	UNION - KENILWORTH BORO		
From Date	12/31/2019	To Date	12/31/2024
TRUST FUND SUMMARY			
Total Income	\$83,650.06		
Total Expenditures	\$0.00		
Balance in Account	\$0.00		
Income		Amount	
BARRIER FREE ESCROW		\$0.00	
DEVELOPMENT FEES		\$15,004.88	
INTEREST EARNED		\$6,850.82	
OTHER INCOME		\$0.00	
PAYMENTS IN LIEU OF CONSTRUCTION		\$61,794.36	
Expenditures		Amount	
ADMINISTRATIVE COSTS		\$0.00	
AFFORDABILITY ASSISTANCE		\$0.00	
BARRIER FREE CONVERSIONS		\$0.00	
HOUSING ACTIVITY		\$0.00	

## **BOROUGH OF KENILWORTH**

### **ORDINANCE NO. 2025-XXX**

#### **AN ORDINANCE AMENDING CHAPTER 120, ENTITLED “LAND USE” OF THE BOROUGH OF KENILWORTH ORDINANCE TO AMEND AN INCLUSIONARY OVERLAY ZONE DISTRICT FOR CERTAIN PROPERTIES IN THE BOROUGH OF KENILWORTH NORTH MICHIGAN AVENUE AREA IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE BOROUGH OF KENILWORTH**

**WHEREAS**, the Borough of Kenilworth Planning Board adopted the Fourth Round Housing Element and Fair Share Housing Plan of the Borough of Kenilworth Master Plan, dated June 2025 on TBD.

**WHEREAS**, the Fourth Round Housing Element and Fair Share Plan included various mechanisms to address the Borough’s unmet need, including the use of overlay zones;

**WHEREAS**, one of these mechanisms was included under the section “Satisfaction of Fourth Round Unmet Need”, and states, “As part of the Light Industrial area in Kenilworth slowly changing over time and to create future opportunities for affordable housing, the Borough will enact an amendment to the zoning code for the area located along the entire North Michigan Avenue Corridor.”;

**WHEREAS**, the Kenilworth Borough Council has since recommended that the Borough include the following properties within the overlay area:

- Block 183, Lots 1-8, 10;
- Block 184.A, Lot 1;
- Block 87, Lots 1-9;
- Block 88, Lots 1-11; and
- Block 124, Lots 1-10.

A map depicting the North Michigan Avenue Overlay Area has been included as Exhibit A in this Agreement”;

**WHEREAS**, the set-aside requirements as stated in the Borough’s Fourth Round Housing Element and Fair Share Plan include:

“The Overlay Rezoned Area includes a total of approximately 26.5 acres of unconstrained land, which are proposed to be developed for inclusionary affordable housing at an average of 20 units per acre, which would yield approximately 530 total units, including a 20% set-aside of 106 affordable units.”

**WHEREAS**, it was determined in order to create future opportunities for affordable housing, *The Revised General Ordinances of the Borough of Kenilworth*, shall be amended to create the North Michigan Avenue Area Overlay Zone, with a development density of 20 units an acre with a 20% affordable housing set aside, as a mechanism to address the Borough’s unmet obligation need in accordance with N.J.A.C. 5:93-4.2(h);

**WHEREAS**, as per the requirements as set forth in the amendments to the Fair Housing Act, known as Bill A4/S50 (“FHA Amendments”), signed into law on March 20, 2024, the Borough of Kenilworth is to prepare and adopt a Fourth Round Fair Share Plan and Housing Element to be filed with the Department of Community Affairs (DCA) by June 30, 2025.

**WHEREAS**, Similarly to the Third Round, the Amended FHA grants municipalities the ability to adjust their prospective need obligations for the Fourth Round based on a lack of vacant land. The process for preparing a vacant land adjustment (“VLA”) for the Fourth Round follows the methodology established in the Municipal Adjustments Subchapter of COAH’s Prior Round Substantive Rules (N.J.A.C. 5:93-4.2), with some minor differences as specified in the Amended FHA and explained further in this report. The application of the methodology for vacant land adjustments from COAH’s Prior Round Substantive Rules in the Fourth Round is affirmed by language in N.J.S.A. 52:27D-311.m.: “All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L.2024, c.2 (C.52:27D-304.1 et al.), or binding court decisions.”

**WHEREAS**, as part of the Borough’s Fourth Round Fair Share Plan, the Borough will prepare a Vacant Land Adjustment, whereas the municipality can satisfy its prospective need obligation through a combination of a realistic development potential (“RDP”) calculation (which is lower than the Borough’s prospective need) and unmet need mechanisms addressing the remaining credit deficit from the municipality’s prospective need;

**WHEREAS**, to provide for the realistic opportunity for affordable housing through unmet need zoning mechanisms, the Borough is to create the North Michigan Avenue Area Overlay Zone, with a development density of 20 units an acre with a 20% affordable housing set aside as a mechanism to address the Borough’s unmet obligation need in accordance with N.J.A.C. 5:93-4.2(h);

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Kenilworth, Union County, New Jersey as follows:

Section 1. Chapter 120 entitled “Land Use” of *The Revised General Ordinances of the Borough of Kenilworth*, as heretofore supplemented and amended, is hereby supplemented and amended by the addition of paragraph 120-21.1.a to Subsection 120-21.1 entitled “Designation of zoning districts” to include the North Michigan Avenue Area Overlay Zone:

The properties in the North Michigan Avenue Area Overlay Zone I are known as:

Block 183, Lots 1-8, 10;



Block 184.A, Lot 1;  
Block 87, Lots 1-9;  
Block 88, Lots 1-11; and

Block 124, Lots 1-10 are hereby designated as the “North Michigan Avenue Area Overlay Zone” in accordance with the provisions of the Housing Element and Fair Share Plan.

Section 2. Chapter 120, entitled “Land Use,” of *The Revised General Ordinances of the Borough of Kenilworth*, is hereby amended to amend Section 120-23.8 to permit and govern the North Michigan Avenue Overlay Zone within a portion of the I – Industrial Zone District in addition to the underlying uses permitted in these zones. The amended Section 120-23.8 shall read and be enumerated as follows:

### **120-23.8 – North Michigan Avenue Area Overlay Zone**

**A. Intent and Purpose:**

1. The intent and purpose of the North Michigan Avenue Area Overlay Zone is to address the Borough’s unmet affordable housing obligation, in conformance with the Fourth Round affordable housing requirements as set forth by Bill A4/S50 (P.L. 2024, c.2), to comply with the Borough’s constitutional obligation with respect to affordable housing under the Mount Laurel doctrine.

**B. Applicability:** The North Michigan Avenue Area Overlay Zone shall be applied to the following properties and as mapped on Exhibit A. Any discrepancies between the properties listed under Section 1 or Section 120-23.8 and Exhibit A, Exhibit A shall take precedence. The Official Zoning Map of the Borough of Kenilworth is hereby amended in accordance with the foregoing and is incorporated by reference.

<b>Block</b>	<b>Lot</b>	<b>Address</b>	<b>Zone</b>
183	1	111 NO MICHIGAN AVE	I
183	2	121 NO MICHIGAN AVE	I
183	3	135 NO MICHIGAN AVE	I
183	4	147 NO MICHIGAN AVE	I
183	5	175 NO MICHIGAN AVE	I
183	6	209 NO MICHIGAN AVE	I
183	7	NO MICHIGAN AVE	I
183	8	175 NO MICHIGAN AVE REAR	I
183	10	800 BOULEVARD	I
184.A	1	209 NO MICHIGAN AVE REAR	I
87	1	64 FEDERAL AVE	I
87	2	88 FEDERAL AVE	I
87	3	725 FEDERAL AVE	I
87	4	26 NO 26 <sup>th</sup> ST	I
87	5	22 NO 26 <sup>th</sup> ST	I
87	6	752 JEFFERSON AVE	I
87	7	730 JEFFERSON AVE	I

87	8	716 JEFFERSON AVE	I
87	9	23 NO MICHIGAN AVE	I
88	1	701 JEFFERSON AVE	I
88	2	707 JEFFERSON AVE	I
88	3	713 JEFFERSON AVE	I
88	4	720 BOULEVARD	I
88	6	730 BOULEVARD	I
88	7	16 NO 26 <sup>th</sup> ST	I
88	8	740 BOULEVARD	I
88	9	734 BOULEVARD	I
88	10	728 BOULEVARD	I
88	11	700 BOULEVARD	I
124	1	705 BOULEVARD	I
124	2	717 BOULEVARD	I
124	3	721 BOULEVARD	I
124	4	725 BOULEVARD	I
124	5	729 BOULEVARD	I
124	6	731 BOULEVARD	I
124	7	737 BOULEVARD	I
124	8	741 BOULEVARD	I
124	9	745 BOULEVARD	I
124	10	753 BOULEVARD	I

C. Permitted Primary Uses:

1. Mixed Use Structures combining retail business establishments or personal service establishments on the ground floor or upper floors and containing a nonresidential use that is enumerated and permitted pursuant to Section 120-23.8 (I Zone) of the Borough of Kenilworth Ordinances for all properties located in the I Industrial Zone District with inclusionary apartments on the upper floors. Residential dwelling units are prohibited on the first floor.
2. Mixed-Use Structures combining business and professional office uses on the ground floor or upper floors containing a nonresidential use that is enumerated and permitted pursuant to Section. 120-23.8 I Industrial Zone of the Borough of Kenilworth Ordinances for all properties located in the I Industrial Zone District with inclusionary apartments on the upper floors. Residential dwelling units are prohibited on the first floor.
3. Multi-family apartments. Residential units are prohibited on the first floor.
4. The underlying zoning for all properties in the North Michigan Avenue Area in accordance with Chapter 120 Land Use shall remain in place.

D. Permitted Secondary Uses:

1. Secondary uses enumerated in Section 120-23.8 (I Zone) shall be permitted on all properties located in the I Zone.
2. Uses associated with multi-family residential apartment uses and mixed-use developments as follows:
  - a) Structured multi-level parking garages provided that any structured parking is enclosed with the same building materials and finishes used for the main portion of the mixed-use or multi-family residential building.
  - b) Amenities ancillary to multi-family residential and mixed-use developments, such as lobbies, fitness centers, storage areas for the residents of the multi-family buildings, and common area meeting rooms for the residents of the building.

E. Height, Area, and Bulk Requirements for Mixed Use and Multi-Family Apartment Buildings

	Item	I Zone District
(a)	Max. Density	20 DU/acre
(b)	Min. Lot Area	5,000 sq. ft.
(c)	Min. Lot Width	50 feet
	Min. Lot Frontage	50 feet
(d)	Min. Lot Depth	100 feet
(e)	Max. Building Coverage	80%
(f)	Max. Impervious Lot Coverage	90%
(g)	Max. Buildings Height	3 Stories & 38
(j)	Min. Front Yard Setback for buildings 3 stories or less	10 Feet
(l)	Min. Side Yard Setback – one side (for buildings 3 stories or less)	5 Feet
(m)	Min. Side Yard Setback - both sides	15 Feet
(p)	Min. Side Yard Setback – Corner Lot	10 feet
(q)	Rear Yard Setback	30 feet

F. Multi-Family and Mixed-Use Residential Design Requirements

1. Residential (apartment) uses or offices may occupy the second or third floor (or the fourth floor where permitted) of a building. Separate and discreet entrances for each use shall be provided to the street level. There shall be no mixed uses (apartments and offices or commercial uses) on any floor.
2. Three bedroom or greater market rate apartment dwelling units are prohibited.
3. The minimum gross square footage of the commercial floor area on the ground or first floor of any mixed-use building shall be no less than twenty percent (20%) of the gross floor area of the largest floor of the building on any level. The commercial space and its primary entrance shall be oriented to and located along the street frontage of the property.
4. Wherever a multifamily apartment building or mixed-use building is on a lot which abuts a residence zone, a ten (10) foot wide landscaped buffer area shall be provided adjacent to the residential use or zone boundary in a manner approved by the approving authority. Such buffer area shall be suitably planted and maintained with landscaping materials of such species and sizes so as to preclude any detrimental effect upon the adjacent residence zone.

G. Open Space and Amenity Requirements:

1. Common Open Space shall be defined as, “Land that is part of a development that is designed and intended for the common use and enjoyment of the residents of the development, their visitors and the public and that may include such complementary structures and improvements as are necessary and appropriate for the development. Examples of such complementary structures and improvements include passive recreational facilities and/or open spaces, including walkways, courtyards, terraces, plazas, alleys, gazebos, fountains, sitting areas, gardens, pocket parks and other similar uses and structures clearly incidental and supportive of the residents and visitors of the development.”
2. Common Open Space area as defined under Section 120-23.8.G.1 that is a minimum of 10% of the gross lot area shall be provided for all mixed-use or residential projects that are three stories or greater. The following projects are exempt from these Common Open Space Requirements:
  - a) Any project that does not have a residential use is exempt from the Common Open Space and amenity requirements.
  - b) Common Open Space as defined under Section 120-23.8.G.1 shall not be required for any development that is located on a property that is less than 0.40 acre (15,246 sf).

- c) Common Open Space as defined under Section 120-23.8.G.1 shall not be required for any development containing four (4) or fewer residential dwelling units.
- 3. Common Open Space areas shall be provided on the property and shall be predominantly located in the front yard, however may extend into any yard or setback area. The Common Open Space shall be safely and properly connected to the public sidewalk and shall be barrier free.
- 4. Common Open Space areas shall be improved and maintained by the property owner or association in perpetuity with provisions to be included in a developer's agreement or board resolution.
- 5. In all mixed-use developments, the Common Open Space shall be designed as an extension of the commercial use and the streetscape.
- 6. Amenity Space. A multi-family or mixed use development containing ten (10) or more total residential units shall dedicate a minimum of fifteen percent (15%) of the gross floor area of the largest floor on any level for residential amenities including but not limited to club rooms, multi-purpose rooms, and lobbies with seating areas. The amenities may be located on any building level provided that the amenities are accessible to all residents of the project. Such amenities shall be in addition to required commercial space for mixed use developments.

H. Parking Regulations:

- 1. Off-street parking spaces shall be permitted in a floor constructed below grade or on the ground floor of a building provided that such parking spaces are enclosed in a garage and not visible from the street or neighboring properties. Additional structured parking shall be permitted on the second story provided that the structured parking is located in the rear of the building with residential units or commercial spaces fronting on the street.
- 2. Structured parking garages shall be constructed with the same type of building materials and finishes as the main portion of the building.
- 3. Tandem parking is prohibited.
- 4. All required parking spaces shall be provided on-site.
- 5. Minimum required off-street parking spaces:
  - a) The minimum number of off-street parking spaces shall comply with the Residential Site Improvement Standards (RSIS) for all residential uses and the applicable Borough Ordinances for all non-residential uses.

I. Design Standards:

1. All building elevations are constructed with the same architectural style and incorporate upscale building materials on all building elevations. The use of vinyl siding and EIFS shall be prohibited.
- 2.
3. The Developer shall incorporate Green Design Standards as defined in this ordinance into the project subject to review and approval by the Planning Board.
4. All dwelling units shall be constructed to the standards as outlined in the National Fire Protection Association (NFPA) 13 fire protection codes.

J. Affordable Housing Requirements:

All projects which consist of five (5) or more new residential units shall comply with the requirements of the Borough Affordable Housing Ordinance No. 2016-08, and any additional or supplemental State or Federal regulations.

1. For projects which consist of five (5) or more new residential units, no fewer than 20 percent (20%) of for-sale units or 20 percent (20%) of for rental units constructed shall be set aside as units affordable to very low, low, and moderate income households.
2. Income Distribution: The income distribution for the affordable units in each project shall be as follows: no more than fifty percent (50%) may be moderate income units, at least thirty-seven percent (37%) shall be low income units and at least thirteen percent (13%) shall be very low-income units.
3. Bedroom mix: At least twenty percent (20%) of the affordable units in each project shall be three-bedroom units; no more than twenty percent (20%) of the affordable units in each project shall be efficiency and one-bedroom units; at least thirty percent (30%) of the affordable units in each project shall be two-bedroom units; the balance may be two or three bedroom units; at the discretion of the developer.
4. The developer shall have an obligation to deed restrict the affordable units as very low, low-, or moderate-income affordable units for a period of at least forty (40) years, until such time and under conditions as the Borough elects to release the deed restriction, so that the Borough may count the affordable units against its affordable housing obligation. The deed restrictions shall be recorded with the County Clerk, and a copy of the recorded deed shall be forwarded to the Borough Municipal Housing Liaison and Administrative Agent. Any sale of the property or units shall not affect the length or terms of the deed restriction.
5. All affordable units shall comply with the bedroom distribution requirements, income distribution requirements, pricing requirements, integration of affordable unit requirements, affirmative marketing requirements, candidate qualification and

screening requirements and deed restriction requirements of the Borough's Affordable Housing Ordinance and UHAC rules.

6. The developer/owner of the Affordable Units shall contract with an experienced and duly qualified administrative agent for the administration of the Affordable Units. The developer's/owner's administrative agent may either be the Borough Administrative Agent or shall report to the Borough Administrative Agent, and the developer/owner shall have the obligation to pay all costs associated with affirmatively marketing and deed restricting the Affordable Units, income qualifying residents, and maintaining compliance with the affordability controls on the Affordable Units in accordance with this Section and the Borough's Affordable Housing Ordinance for the entirety of the Deed-Restriction Period. The developer/owner and its Administrative Agent to enable the Borough to comply with the affordable housing monitoring requirements of the Court.



## **BOROUGH OF KENILWORTH**

### **ORDINANCE NO. 2025-XXX**

#### **AN ORDINANCE AMENDING CHAPTER 120, ENTITLED “LAND USE” OF THE BOROUGH OF KENILWORTH ORDINANCE TO AMEND AN INCLUSIONARY OVERLAY ZONE DISTRICT FOR CERTAIN PROPERTIES IN THE BOROUGH OF KENILWORTH MARKET STREET AREA IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE BOROUGH OF KENILWORTH**

**WHEREAS**, the Borough of Kenilworth Planning Board adopted the Fourth Round Housing Element and Fair Share Housing Plan of the Borough of Kenilworth Master Plan, dated June 2025 on TBD.

**WHEREAS**, the Fourth Round Housing Element and Fair Share Plan included various mechanisms to address the Borough’s unmet need, including the use of overlay zones;

**WHEREAS**, one of these mechanisms was included under the section “Satisfaction of Fourth Round Unmet Need”, and states, “The Area Commercial (AC) and Light Industrial (I) zone districts along Market Street have a number of existing commercial businesses on various sized parcels, surrounded by residential districts to the west and other non-residential districts to the east. To create future opportunities for affordable housing, the Borough will enact an amendment to the zoning code for the area located along the Market Street Corridor.”;

**WHEREAS**, the Kenilworth Borough Council has since recommended that the Borough include the following properties within the overlay area:

- Block 128, Lot 1;
- Block 131, Lots 1, 2, and 3;
- Block 130, Lots 2 and 3;
- Block 179, Lot 6;
- Block 156, Lots 1, 2, 3, 4, and 5;
- Block 177, Lots 1, 2, 3, 4, and 5.

A map depicting the Market Street Overlay Area has been included as Exhibit A in this Agreement;

**WHEREAS**, the set-aside requirements as stated in the Borough’s Fourth Round Housing Element and Fair Share Plan include:

“The Overlay Rezoned Area includes a total of approximately 12.48 acres of unconstrained land, which are proposed to be developed for inclusionary affordable at an average of 18

units per acre because of the irregular shape of the sites, which would yield approximately 225 total units with a 20% set-aside of 45 affordable units.”

**WHEREAS**, it was determined in order to create future opportunities for affordable housing, *The Revised General Ordinances of the Borough of Kenilworth*, shall be amended to create the Market Street Overlay Zone, with a development density of 18 units an acre with a 20% affordable housing set aside, as a mechanism to address the Borough’s unmet obligation need in accordance with N.J.A.C. 5:93-4.2(h);

**WHEREAS**, as per the requirements as set forth in the amendments to the Fair Housing Act, known as Bill A4/S50 (“FHA Amendments”), signed into law on March 20, 2024, the Borough of Kenilworth is to prepare and adopt a Fourth Round Fair Share Plan and Housing Element to be filed with the Department of Community Affairs (DCA) by June 30, 2025.

**WHEREAS**, Similarly to the Third Round, the Amended FHA grants municipalities the ability to adjust their prospective need obligations for the Fourth Round based on a lack of vacant land. The process for preparing a vacant land adjustment (“VLA”) for the Fourth Round follows the methodology established in the Municipal Adjustments Subchapter of COAH’s Prior Round Substantive Rules (N.J.A.C. 5:93-4.2), with some minor differences as specified in the Amended FHA and explained further in this report. The application of the methodology for vacant land adjustments from COAH’s Prior Round Substantive Rules in the Fourth Round is affirmed by language in N.J.S.A. 52:27D-311.m.: “All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L.2024, c.2 (C.52:27D-304.1 et al.), or binding court decisions.”

**WHEREAS**, as part of the Borough’s Fourth Round Fair Share Plan, the Borough will prepare a Vacant Land Adjustment, whereas the municipality can satisfy its prospective need obligation through a combination of a realistic development potential (“RDP”) calculation (which is lower than the Borough’s prospective need) and unmet need mechanisms addressing the remaining credit deficit from the municipality’s prospective need;

**WHEREAS**, to provide for the realistic opportunity for affordable housing through unmet need zoning mechanisms, the Borough is to create the Market Street Overlay Zone, with a development density of 18 units an acre with a 20% affordable housing set aside as a mechanism to address the Borough’s unmet obligation need in accordance with N.J.A.C. 5:93-4.2(h);

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Kenilworth, Union County, New Jersey as follows:

Section 1. Chapter 120 entitled “Land Use” of *The Revised General Ordinances of the Borough of Kenilworth*, as heretofore supplemented and amended, is hereby supplemented and amended by the addition of paragraph 120-21.1.b to Subsection 120-21.1 entitled “Designation of zoning districts” to include the Market Street Overlay Zone:

The properties in the Market Street Overlay Zone are known as:

Block 128, Lot 1;  
Block 131, Lots 1, 2, and 3;  
Block 130, Lots 2 and 3;  
Block 179, Lot 6;  
Block 156, Lots 1, 2, 3, 4, and 5; and

Block 177, Lots 1, 2, 3, 4, and 5 are hereby designated as the “Market Street Overlay Zone” in accordance with the provisions of the Housing Element and Fair Share Plan.

Section 2. Chapter 120, entitled “Land Use,” of *The Revised General Ordinances of the Borough of Kenilworth*, is hereby amended to amend Section 120-23.8 to permit and govern the Market Street Overlay Zone within a portion of the I – Industrial Zone District, the AC – Area Commercial Zone District, and the R-5 – Medium Density Single-Family Residential Zone District, in addition to the underlying uses permitted in these zones. The amended Section 120-23.8 shall read and be enumerated as follows:

### **120-23.8 – Market Street Overlay Zone**

A. Intent and Purpose:

1. The intent and purpose of the Market Street Overlay Zone is to address the Borough’s unmet affordable housing obligation, in conformance with the Fourth Round affordable housing requirements as set forth by Bill A4/S50 (P.L. 2024, c.2), to comply with the Borough’s constitutional obligation with respect to affordable housing under the Mount Laurel doctrine.

- B. Applicability: The Market Street Overlay Zone shall be applied to the following properties and as mapped on Exhibit A. Any discrepancies between the properties listed under Section 1 or Section 120-23.8 and Exhibit A, Exhibit A shall take precedence. The Official Zoning Map of the Borough of Kenilworth is hereby amended in accordance with the foregoing and is incorporated by reference.

<b>Block</b>	<b>Lot</b>	<b>Address</b>	<b>Zone</b>
128	1	20 MARKET ST	AC
131	1	120 MARKET ST	AC
131	2	128 MARKET ST	AC
131	3	130 MARKET ST	AC
130	2	121 MARKET ST	AC
130	3	125 MARKET ST	AC
179	6	10 MARKET ST	AC
156	1	139 MARKET ST	R-5/I
156	2	752 UNION AVE	R-5
156	3	746 UNION AVE	R-5
156	4	744 UNION AVE	R-5
156	5	740 UNION AVE	R-5

177	1	132 MARKET ST	I
177	2	136-140 MARKET ST	I
177	3	144 MARKET ST	I
177	4	160 MARKET ST	I
177	5	180 MARKET ST	I

C. Permitted Primary Uses:

1. Mixed Use Structures combining retail business establishments or personal service establishments on the ground floor or upper floors and containing a nonresidential use that is enumerated and permitted pursuant to Section 120-23.8 (I Zone) of the Borough of Kenilworth Ordinances for all properties located in the I Industrial Zone, Section 120-23.5 (AC Zone) for all properties located in the AC Area Commercial Zone, and Section 120-23.2 (R-5 Zone) for all properties located in the R-5 Medium Density Single-Family Residential Zone District, with inclusionary apartments on the upper floors. Residential dwelling units are prohibited on the first floor.
2. Mixed Use Structures combining business and professional office uses on the ground floor or upper floors containing a nonresidential use that is enumerated and permitted pursuant to Section 120-23.8 (I Zone) of the Borough of Kenilworth Ordinances for all properties located in the I Industrial Zone District, Section 120-23.5 (AC Zone) for all properties located in the AC Area Commercial Zone District, and Section 120-23.2 (R-5 Zone) for all properties located in the R-5 Medium Density Single-Family Residential Zone District, with inclusionary apartments on the upper floors. Residential dwelling units are prohibited on the first floor.
3. Multi-family apartments. Residential units are prohibited on the first floor.
4. The underlying zoning for all properties in the Market Street Area in accordance with Chapter 120 Land Use shall remain in place.

D. Permitted Secondary Uses:

1. Secondary uses enumerated in Section 120-23.8 (I Zone) shall be permitted on all properties located in the I Zone.
2. Secondary uses enumerated in Section 120-23.5 (AC Zone) shall be permitted on all properties located in the AC Zone.
3. Secondary uses enumerated in Section 120-23.2 (R-5 Zone) shall be permitted on all properties located in the I Zone.
4. Uses associated with multi-family residential apartment uses and mixed-use developments as follows:

- a) Structured multi-level parking garages provided that any structured parking is enclosed with the same building materials and finishes used for the main portion of the mixed-use or multi-family residential building.
- b) Amenities ancillary to multi-family residential and mixed-use developments, such as lobbies, fitness centers, storage areas for the residents of the multi-family buildings, and common area meeting rooms for the residents of the building.

E. Height, Area, and Bulk Requirements for Mixed Use and Multi-Family Apartment Buildings

	Item	I Zone District	AC Zone District	R-5 Zone District
(a)	Max. Density	18 DU/acre	18 DU/acre	18 DU/acre
(b)	Min. Lot Area	5,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.
(c)	Min. Lot Width	50 feet	50 feet	50 feet
	Min. Lot Frontage	50 feet	50 feet	50 feet
(d)	Min. Lot Depth	100 feet	100 feet	100 feet
(e)	Max. Building Coverage	80%	80%	80%
(f)	Max. Impervious Lot Coverage	90%	90%	90%
(g)	Max. Buildings Height	3 Stories & 38	3 Stories & 38	3 Stories & 38
(j)	Min. Front Yard Setback for buildings 3 stories or less	10 Feet	10 Feet	10 Feet
(l)	Min. Side Yard Setback – one side (for buildings 3 stories or less)	5 Feet	5 Feet	5 Feet
(m)	Min. Side Yard Setback - both sides	15 Feet	15 Feet	15 Feet
(p)	Min. Side Yard Setback – Corner Lot	10 feet	10 feet	10 feet
(q)	Rear Yard Setback	30 feet	30 feet	30 feet

F. Multi-Family and Mixed-Use Residential Design Requirements

1. Residential (apartment) uses or offices may occupy the second or third floor (or the fourth floor where permitted) of a building. Separate and discreet entrances

for each use shall be provided to the street level. There shall be no mixed uses (apartments and offices or commercial uses) on any floor.

2. Three bedroom or greater market rate apartment dwelling units are prohibited.
3. The minimum gross square footage of the commercial floor area on the ground or first floor of any mixed-use building shall be no less than twenty percent (20%) of the gross floor area of the largest floor of the building on any level. The commercial space and its primary entrance shall be oriented to and located along the street frontage of the property.
4. Wherever a multifamily apartment building or mixed-use building is on a lot which abuts a residence zone, a ten (10) foot wide landscaped buffer area shall be provided adjacent to the residential use or zone boundary in a manner approved by the approving authority. Such buffer area shall be suitably planted and maintained with landscaping materials of such species and sizes so as to preclude any detrimental effect upon the adjacent residence zone.

G. Open Space and Amenity Requirements:

1. Common Open Space shall be defined as, “Land that is part of a development that is designed and intended for the common use and enjoyment of the residents of the development, their visitors and the public and that may include such complementary structures and improvements as are necessary and appropriate for the development. Examples of such complementary structures and improvements include passive recreational facilities and/or open spaces, including walkways, courtyards, terraces, plazas, alleys, gazebos, fountains, sitting areas, gardens, pocket parks and other similar uses and structures clearly incidental and supportive of the residents and visitors of the development.”
2. Common Open Space area as defined under Section 120-23.8.G.1 that is a minimum of 10% of the gross lot area shall be provided for all mixed-use or residential projects that are three stories or greater. The following projects are exempt from these Common Open Space Requirements:
  - a) Any project that does not have a residential use is exempt from the Common Open Space and amenity requirements.
  - b) Common Open Space as defined under Section 120-23.8.G.1 shall not be required for any development that is located on a property that is less than 0.40 acre (15,246 sf).
  - c) Common Open Space as defined under Section 120-23.8.G.1 shall not be required for any development containing four (4) or fewer residential dwelling units.

3. Common Open Space areas shall be provided on the property and shall be predominantly located in the front yard, however may extend into any yard or setback area. The Common Open Space shall be safely and properly connected to the public sidewalk and shall be barrier free.
4. Common Open Space areas shall be improved and maintained by the property owner or association in perpetuity with provisions to be included in a developer's agreement or board resolution.
5. In all mixed-use developments, the Common Open Space shall be designed as an extension of the commercial use and the streetscape.
6. Amenity Space. A multi-family or mixed use development containing ten (10) or more total residential units shall dedicate a minimum of fifteen percent (15%) of the gross floor area of the largest floor on any level for residential amenities including but not limited to club rooms, multi-purpose rooms, and lobbies with seating areas. The amenities may be located on any building level provided that the amenities are accessible to all residents of the project. Such amenities shall be in addition to required commercial space for mixed use developments.

H. Parking Regulations:

1. Off-street parking spaces shall be permitted in a floor constructed below grade or on the ground floor of a building provided that such parking spaces are enclosed in a garage and not visible from the street or neighboring properties. Additional structured parking shall be permitted on the second story provided that the structured parking is located in the rear of the building with residential units or commercial spaces fronting on the street.
2. Structured parking garages shall be constructed with the same type of building materials and finishes as the main portion of the building.
3. Tandem parking is prohibited.
4. All required parking spaces shall be provided on-site.
5. Minimum required off-street parking spaces:
  - a) The minimum number of off-street parking spaces shall comply with the Residential Site Improvement Standards (RSIS) for all residential uses and the applicable Borough Ordinances for all non-residential uses.

I. Design Standards:



1. All building elevations are constructed with the same architectural style and incorporate upscale building materials on all building elevations. The use of vinyl siding and EIFS shall be prohibited.
- 2.
3. The Developer shall incorporate Green Design Standards as defined in this ordinance into the project subject to review and approval by the Planning Board.
4. All dwelling units shall be constructed to the standards as outlined in the National Fire Protection Association (NFPA) 13 fire protection codes.

J. Affordable Housing Requirements:

All projects which consist of five (5) or more new residential units shall comply with the requirements of the Borough Affordable Housing Ordinance No. 2016-08, and any additional or supplemental State or Federal regulations.

1. For projects which consist of five (5) or more new residential units, no fewer than 20 percent (20%) of for-sale units or 20 percent (20%) of for rental units constructed shall be set aside as units affordable to very low, low, and moderate income households.
2. Income Distribution: The income distribution for the affordable units in each project shall be as follows: no more than fifty percent (50%) may be moderate income units, at least thirty-seven percent (37%) shall be low income units and at least thirteen percent (13%) shall be very low-income units.
3. Bedroom mix: At least twenty percent (20%) of the affordable units in each project shall be three-bedroom units; no more than twenty percent (20%) of the affordable units in each project shall be efficiency and one-bedroom units; at least thirty percent (30%) of the affordable units in each project shall be two-bedroom units; the balance may be two or three bedroom units; at the discretion of the developer.
4. The developer shall have an obligation to deed restrict the affordable units as very low, low-, or moderate-income affordable units for a period of at least forty (40) years, until such time and under conditions as the Borough elects to release the deed restriction, so that the Borough may count the affordable units against its affordable housing obligation. The deed restrictions shall be recorded with the County Clerk, and a copy of the recorded deed shall be forwarded to the Borough Municipal Housing Liaison and Administrative Agent. Any sale of the property or units shall not affect the length or terms of the deed restriction.
5. All affordable units shall comply with the bedroom distribution requirements, income distribution requirements, pricing requirements, integration of affordable unit requirements, affirmative marketing requirements, candidate qualification and screening requirements and deed restriction requirements of the Borough's Affordable Housing Ordinance and UHAC rules.

6. The developer/owner of the Affordable Units shall contract with an experienced and duly qualified administrative agent for the administration of the Affordable Units. The developer's/owner's administrative agent may either be the Borough Administrative Agent or shall report to the Borough Administrative Agent, and the developer/owner shall have the obligation to pay all costs associated with affirmatively marketing and deed restricting the Affordable Units, income qualifying residents, and maintaining compliance with the affordability controls on the Affordable Units in accordance with this Section and the Borough's Affordable Housing Ordinance for the entirety of the Deed-Restriction Period. The developer/owner and its Administrative Agent to enable the Borough to comply with the affordable housing monitoring requirements of the Court.

## **BOROUGH OF KENILWORTH**

### **ORDINANCE NO. 2025-XXX**

#### **AN ORDINANCE AMENDING CHAPTER 120, ENTITLED “LAND USE” OF THE BOROUGH OF KENILWORTH ORDINANCE TO AMEND AN INCLUSIONARY OVERLAY ZONE DISTRICT FOR CERTAIN PROPERTIES IN THE BOROUGH OF KENILWORTH FORMER NATIONAL TOOL SITE AREA IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE BOROUGH OF KENILWORTH**

**WHEREAS**, the Borough of Kenilworth Planning Board adopted the Fourth Round Housing Element and Fair Share Housing Plan of the Borough of Kenilworth Master Plan, dated June 2025 on TBD.

**WHEREAS**, the Fourth Round Housing Element and Fair Share Plan included various mechanisms to address the Borough’s unmet need, including the use of overlay zones;

**WHEREAS**, one of these mechanisms was included under the section “Satisfaction of Fourth Round Unmet Need”, and states, “The National Tool Site is located Light Industrial (I) zone district at the rear of Monroe Avenue, between North 10<sup>th</sup> and North 12<sup>th</sup> Streets. This property is currently developed as a light-industrial use, and directly abuts the R-5 Residential zone. To create future opportunities for affordable housing, the Borough will enact an amendment to the zoning code for this property.”;

**WHEREAS**, the Kenilworth Borough Council has since recommended that the Borough include the following properties within the overlay area:

- Block 56, Lot 9.01;
- Block 58, Lot 4; and
- Block 59, Lots 1, 2, and 3.

A map depicting the Former National Tool Site Overlay Area has been included as Exhibit A in this Agreement;

**WHEREAS**, the set-aside requirements as stated in the Borough’s Fourth Round Housing Element and Fair Share Plan include:

“The Overlay Rezoned Area includes a total of approximately 4.33 acres of unconstrained land, which are proposed to be developed for inclusionary age-restricted affordable units at an average of 15 units per acre, which would yield approximately 65 total units with a 20% set-aside of 13 affordable units.”

**WHEREAS**, it was determined in order to create future opportunities for affordable housing, *The Revised General Ordinances of the Borough of Kenilworth*, shall be amended to create the Former National Tool Site Overlay Zone, with a development density of 15 units an acre with a 20% age-restricted affordable housing set aside, as a mechanism to address the Borough's unmet obligation need in accordance with N.J.A.C. 5:93-4.2(h);

**WHEREAS**, as per the requirements as set forth in the amendments to the Fair Housing Act, known as Bill A4/S50 ("FHA Amendments"), signed into law on March 20, 2024, the Borough of Kenilworth is to prepare and adopt a Fourth Round Fair Share Plan and Housing Element to be filed with the Department of Community Affairs (DCA) by June 30, 2025.

**WHEREAS**, Similarly to the Third Round, the Amended FHA grants municipalities the ability to adjust their prospective need obligations for the Fourth Round based on a lack of vacant land. The process for preparing a vacant land adjustment ("VLA") for the Fourth Round follows the methodology established in the Municipal Adjustments Subchapter of COAH's Prior Round Substantive Rules (N.J.A.C. 5:93-4.2), with some minor differences as specified in the Amended FHA and explained further in this report. The application of the methodology for vacant land adjustments from COAH's Prior Round Substantive Rules in the Fourth Round is affirmed by language in N.J.S.A. 52:27D-311.m.: "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L.2024, c.2 (C.52:27D-304.1 et al.), or binding court decisions."

**WHEREAS**, as part of the Borough's Fourth Round Fair Share Plan, the Borough will prepare a Vacant Land Adjustment, whereas the municipality can satisfy its prospective need obligation through a combination of a realistic development potential ("RDP") calculation (which is lower than the Borough's prospective need) and unmet need mechanisms addressing the remaining credit deficit from the municipality's prospective need;

**WHEREAS**, to provide for the realistic opportunity for affordable housing through unmet need zoning mechanisms, the Borough is to create the Former National Tool Site Overlay Zone, with a development density of 15 units an acre with a 20% affordable housing set aside as a mechanism to address the Borough's unmet obligation need in accordance with N.J.A.C. 5:93-4.2(h);

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Kenilworth, Union County, New Jersey as follows:

Section 1. Chapter 120 entitled "Land Use" of *The Revised General Ordinances of the Borough of Kenilworth*, as heretofore supplemented and amended, is hereby supplemented and amended by the addition of paragraph 120-21.1.c to Subsection 120-21.1 entitled "Designation of zoning districts" to include the Former National Tool Site Overlay Zone:

The properties in the Former National Tool Site Overlay Zone are known as:

Block 56, Lot 9.01;  
Block 58, Lot 4; and

Block 59, Lots 1, 2, and 3 are hereby designated as the “Former National Tool Site Overlay Zone” in accordance with the provisions of the Housing Element and Fair Share Plan.

Section 2. Chapter 120, entitled “Land Use,” of *The Revised General Ordinances of the Borough of Kenilworth*, is hereby amended to amend Section 120-23.8 to permit and govern the Former National Tool Site Overlay Zone within a portion of the I – Industrial Zone District in addition to the underlying uses permitted in these zones. The amended Section 120-23.8 shall read and be enumerated as follows:

### **120-23.8 – Former National Tool Site Overlay Zone**

**A. Intent and Purpose:**

1. The intent and purpose of the Former National Tool Site Overlay Zone is to address the Borough’s unmet affordable housing obligation, in conformance with the Fourth Round affordable housing requirements as set forth by Bill A4/S50 (P.L. 2024, c.2), to comply with the Borough’s constitutional obligation with respect to affordable housing under the Mount Laurel doctrine.

- B. Applicability:** The Former National Tool Site Overlay Zone shall be applied to the following properties and as mapped on Exhibit A. Any discrepancies between the properties listed under Section 1 or Section 120-23.8 and Exhibit A, Exhibit A shall take precedence. The Official Zoning Map of the Borough of Kenilworth is hereby amended in accordance with the foregoing and is incorporated by reference.

<b>Block</b>	<b>Lot</b>	<b>Address</b>	<b>Zone</b>
56	9.01	120 NO 13 <sup>th</sup> ST	I
58	4	234 NO 12 <sup>th</sup> ST	I
59	1	109 NO 10 <sup>th</sup> ST	I
59	2	50 WASHINGTON AVE	I
59	3	56 WASHINGTON AVE	I

**C. Permitted Primary Uses:**

1. Mixed Use Structures combining retail business establishments or personal service establishments on the ground floor or upper floors and containing a nonresidential use that is enumerated and permitted pursuant to Section 120-23.8 (I Zone) of the Borough of Kenilworth Ordinances for all properties located in the I Industrial Zone District with inclusionary apartments on the upper floors. Residential dwelling units are prohibited on the first floor.
2. Mixed-Use Structures combining business and professional office uses on the ground floor or upper floors containing a nonresidential use that is enumerated and permitted pursuant to Section. 120-23.8 I Industrial Zone of the Borough of Kenilworth Ordinances for all properties located in the I Industrial Zone District

with inclusionary apartments on the upper floors. Residential dwelling units are prohibited on the first floor.

3. Multi-family apartments. Residential units are prohibited on the first floor.
4. The underlying zoning for all properties in the Former National Tool Site Area in accordance with Chapter 120 Land Use shall remain in place.

D. Permitted Secondary Uses:

1. Secondary uses enumerated in Section 120-23.8 (I Zone) shall be permitted on all properties located in the I Zone.
2. Uses associated with multi-family residential apartment uses and mixed-use developments as follows:
  - a) Structured multi-level parking garages provided that any structured parking is enclosed with the same building materials and finishes used for the main portion of the mixed-use or multi-family residential building.
  - b) Amenities ancillary to multi-family residential and mixed-use developments, such as lobbies, fitness centers, storage areas for the residents of the multi-family buildings, and common area meeting rooms for the residents of the building.

E. Height, Area, and Bulk Requirements for Mixed Use and Multi-Family Apartment Buildings

	Item	I Zone District
(a)	Max. Density	15 DU/acre
(b)	Min. Lot Area	5,000 sq. ft.
(c)	Min. Lot Width	50 feet
	Min. Lot Frontage	50 feet
(d)	Min. Lot Depth	100 feet
(e)	Max. Building Coverage	80%
(f)	Max. Impervious Lot Coverage	90%
(g)	Max. Buildings Height	3 Stories & 38
(j)	Min. Front Yard Setback for buildings 3 stories or less	10 Feet

(l)	Min. Side Yard Setback – one side (for buildings 3 stories or less)	5 Feet
(m)	Min. Side Yard Setback - both sides	15 Feet
(p)	Min. Side Yard Setback – Corner Lot	10 feet
(q)	Rear Yard Setback	30 feet

F. Multi-Family and Mixed-Use Residential Design Requirements

1. Residential (apartment) uses or offices may occupy the second or third floor (or the fourth floor where permitted) of a building. Separate and discreet entrances for each use shall be provided to the street level. There shall be no mixed uses (apartments and offices or commercial uses) on any floor.
2. Three bedroom or greater market rate apartment dwelling units are prohibited.
3. The minimum gross square footage of the commercial floor area on the ground or first floor of any mixed-use building shall be no less than twenty percent (20%) of the gross floor area of the largest floor of the building on any level. The commercial space and its primary entrance shall be oriented to and located along the street frontage of the property.
4. Wherever a multifamily apartment building or mixed-use building is on a lot which abuts a residence zone, a ten (10) foot wide landscaped buffer area shall be provided adjacent to the residential use or zone boundary in a manner approved by the approving authority. Such buffer area shall be suitably planted and maintained with landscaping materials of such species and sizes so as to preclude any detrimental effect upon the adjacent residence zone.

G. Open Space and Amenity Requirements:

1. Common Open Space shall be defined as, “Land that is part of a development that is designed and intended for the common use and enjoyment of the residents of the development, their visitors and the public and that may include such complementary structures and improvements as are necessary and appropriate for the development. Examples of such complementary structures and improvements include passive recreational facilities and/or open spaces, including walkways, courtyards, terraces, plazas, alleys, gazebos, fountains, sitting areas, gardens, pocket parks and other similar uses and structures clearly incidental and supportive of the residents and visitors of the development.”



2. Common Open Space area as defined under Section 120-23.8.G.1 that is a minimum of 10% of the gross lot area shall be provided for all mixed-use or residential projects that are three stories or greater. The following projects are exempt from these Common Open Space Requirements:
  - a) Any project that does not have a residential use is exempt from the Common Open Space and amenity requirements.
  - b) Common Open Space as defined under Section 120-23.8.G.1 shall not be required for any development that is located on a property that is less than 0.40 acre (15,246 sf).
  - c) Common Open Space as defined under Section 120-23.8.G.1 shall not be required for any development containing four (4) or fewer residential dwelling units.
3. Common Open Space areas shall be provided on the property and shall be predominantly located in the front yard, however may extend into any yard or setback area. The Common Open Space shall be safely and properly connected to the public sidewalk and shall be barrier free.
4. Common Open Space areas shall be improved and maintained by the property owner or association in perpetuity with provisions to be included in a developer's agreement or board resolution.
5. In all mixed-use developments, the Common Open Space shall be designed as an extension of the commercial use and the streetscape.
6. Amenity Space. A multi-family or mixed use development containing ten (10) or more total residential units shall dedicate a minimum of fifteen percent (15%) of the gross floor area of the largest floor on any level for residential amenities including but not limited to club rooms, multi-purpose rooms, and lobbies with seating areas. The amenities may be located on any building level provided that the amenities are accessible to all residents of the project. Such amenities shall be in addition to required commercial space for mixed use developments.

H. Parking Regulations:

1. Off-street parking spaces shall be permitted in a floor constructed below grade or on the ground floor of a building provided that such parking spaces are enclosed in a garage and not visible from the street or neighboring properties. Additional structured parking shall be permitted on the second story provided that the structured parking is located in the rear of the building with residential units or commercial spaces fronting on the street.

2. Structured parking garages shall be constructed with the same type of building materials and finishes as the main portion of the building.
3. Tandem parking is prohibited.
4. All required parking spaces shall be provided on-site.
5. Minimum required off-street parking spaces:
  - a) The minimum number of off-street parking spaces shall comply with the Residential Site Improvement Standards (RSIS) for all residential uses and the applicable Borough Ordinances for all non-residential uses.

I. Design Standards:

1. All building elevations are constructed with the same architectural style and incorporate upscale building materials on all building elevations. The use of vinyl siding and EIFS shall be prohibited.
- 2.
3. The Developer shall incorporate Green Design Standards as defined in this ordinance into the project subject to review and approval by the Planning Board.
4. All dwelling units shall be constructed to the standards as outlined in the National Fire Protection Association (NFPA) 13 fire protection codes.

J. Affordable Housing Requirements:

All projects which consist of five (5) or more new residential units shall comply with the requirements of the Borough Affordable Housing Ordinance No. 2016-08, and any additional or supplemental State or Federal regulations.

1. For projects which consist of five (5) or more new residential units, no fewer than 20 percent (20%) of for-sale units or 20 percent (20%) of for rental units constructed shall be set aside as units affordable to very low, low, and moderate income households.
2. Income Distribution: The income distribution for the affordable units in each project shall be as follows: no more than fifty percent (50%) may be moderate income units, at least thirty-seven percent (37%) shall be low income units and at least thirteen percent (13%) shall be very low-income units.
3. Bedroom mix: At least twenty percent (20%) of the affordable units in each project shall be three-bedroom units; no more than twenty percent (20%) of the affordable units in each project shall be efficiency and one-bedroom units; at least thirty percent (30%) of the affordable units in each project shall be two-bedroom units; the balance may be two or three bedroom units; at the discretion of the developer.

4. The developer shall have an obligation to deed restrict the affordable units as very low, low-, or moderate-income affordable units for a period of at least forty (40) years, until such time and under conditions as the Borough elects to release the deed restriction, so that the Borough may count the affordable units against its affordable housing obligation. The deed restrictions shall be recorded with the County Clerk, and a copy of the recorded deed shall be forwarded to the Borough Municipal Housing Liaison and Administrative Agent. Any sale of the property or units shall not affect the length or terms of the deed restriction.
5. All affordable units shall comply with the bedroom distribution requirements, income distribution requirements, pricing requirements, integration of affordable unit requirements, affirmative marketing requirements, candidate qualification and screening requirements and deed restriction requirements of the Borough's Affordable Housing Ordinance and UHAC rules.
6. The developer/owner of the Affordable Units shall contract with an experienced and duly qualified administrative agent for the administration of the Affordable Units. The developer's/owner's administrative agent may either be the Borough Administrative Agent or shall report to the Borough Administrative Agent, and the developer/owner shall have the obligation to pay all costs associated with affirmatively marketing and deed restricting the Affordable Units, income qualifying residents, and maintaining compliance with the affordability controls on the Affordable Units in accordance with this Section and the Borough's Affordable Housing Ordinance for the entirety of the Deed-Restriction Period. The developer/owner and its Administrative Agent to enable the Borough to comply with the affordable housing monitoring requirements of the Court.

AFFORDABLE HOUSING

# Plan Summary

Municipality: [UNION - KENILWORTH BORO \(2008\)](#)  
Plan Version: 4.0 PENDING

Laura Reir

HOME

Plan Summary

Project

Contact

Trust Fund

Spending Plan

Documents

Fair Share Obligation

Plan Counts

## PLAN HEADER

<b>County</b> UNION	<b>Municipality</b> KENILWORTH BORO
------------------------	--

## PLAN DETAIL

Round # 4.0	Current YES	Monitored NO		
Docket #	Status PENDING	Status Date		
Status Posted Date	Status Posted By			
Initial Filing Date 12/18/2024 17:05	Certification Date	Withdraw Date	Inactive Date	
Flags				
Waiver Text				

## PLAN SUBMISSION HISTORY

## CONFIRMATION HISTORY

Accurate and Complete Date	Type	Confirmed By	Confirmed Date	Note	Reopen Reason
02/13/2025 14:28	PROJECT	Reinertsen, Laura	02/13/2025 14:28	PROJECT/UNIT DATA CERTIFIED FOR FEB. 15, 2025 DCA DEADLINE	
02/13/2025 14:15	TRUST FUND	Reinertsen, Laura	02/13/2025 14:15	CONFIRMED TRUST FUND DATA FEB. 15, 2025 DCA DEADLINE	
02/13/2025 14:14	TRUST FUND	Reinertsen, Laura	02/13/2025 14:14	CONFIRMED TRUST FUND DATA FOR FEB 15, 2025 DCA DEADLINE	

Tips: Click **Update** button to update record or click Underline field to update the record detail. Click **Plan Counts** button to view Plan Count

AFFORDABLE HOUSING

# Plan Summary

Municipality: [UNION - KENILWORTH BORO \(2008\)](#)  
Plan Version: 4.0 PENDING

Laura Reir

HOME

Plan Summary

Project

Contact

Trust Fund

Spending Plan

Documents

Fair Share Obligation

Plan Counts

## PLAN HEADER

<b>County</b> UNION	<b>Municipality</b> KENILWORTH BORO
------------------------	--

## PLAN DETAIL

Round # 4.0	Current YES	Monitored NO		
Docket #	Status PENDING	Status Date		
Status Posted Date	Status Posted By			
Initial Filing Date 12/18/2024 17:05	Certification Date	Withdraw Date	Inactive Date	
Flags				
Waiver Text				

## PLAN SUBMISSION HISTORY

## CONFIRMATION HISTORY

Accurate and Complete Date	Type	Confirmed By	Confirmed Date	Note	Reopen Reason
02/13/2025 14:28	PROJECT	Reinertsen, Laura	02/13/2025 14:28	PROJECT/UNIT DATA CERTIFIED FOR FEB. 15, 2025 DCA DEADLINE	
02/13/2025 14:15	TRUST FUND	Reinertsen, Laura	02/13/2025 14:15	CONFIRMED TRUST FUND DATA FEB. 15, 2025 DCA DEADLINE	
02/13/2025 14:14	TRUST FUND	Reinertsen, Laura	02/13/2025 14:14	CONFIRMED TRUST FUND DATA FOR FEB 15, 2025 DCA DEADLINE	

Tips: Click **Update** button to update record or click Underline field to update the record detail. Click **Plan Counts** button to view Plan Count