2017 THIRD ROUND HOUSING ELEMENT

Overview

This 2017 Third Round Housing Element ("Housing Element") has been prepared in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28b(3) to address a settlement with Fair Share Housing Center of the Borough's third round fair share obligations, including both the fair share obligation for the "gap period" (1999-2015) and the fair share obligation for the prospective need period (2015-2025). The Housing Element has also been prepared to comply with all requirements of N.J.S.A. 52:27D-310, the Fair Housing Act, as amended, N.J.A.C. 5:93-1, et seq., and N.J.A.C. 5:80-26.1, et seq., as modified by the terms of the settlement agreement.

According to the Fair Housing Act, municipalities that choose to enact and enforce a zoning ordinance are obligated to prepare a Housing Element as part of the community's Master Plan. The Fair Housing Act of 1985 had established COAH as the State agency to administer municipal implementation of Housing Elements and Fair Share Plans and to create Rules and Regulations regarding the development of low- and moderate-housing in the State.

COAH was charged with adopting Procedural and Substantive Rules governing how municipalities voluntarily submitting to COAH's jurisdiction would be required to address their affordable housing fair share obligations and establishing criteria for the calculation of municipal fair share obligations. Municipalities that were found by COAH to conform to the Rules were granted substantive certification, entitling them to a 10 year presumption of validity as to compliance with their constitutional fair share obligations.

The first round of Rules adopted by COAH covered the time period from 1987 to 1993. In 1994, COAH adopted new Rules establishing the requirements for meeting the second round of affordable housing fair share obligations and assigning new fair share allocations covering the entire cumulative twelve year period from 1987 to 1999 (now referred to as the "prior round").

COAH's Substantive Rules for the third round were originally adopted on December 20, 2004, to cover the period from January, 2000, to December, 2013. Significant portions of these third round Rules were subsequently held by the Appellate Court to be invalid, and COAH issued new proposed third round Rules in December of 2007 to cover the period from July 1, 2008, to July 1, 2018. In May of 2008, COAH adopted, with minor revisions, the new proposed third round Rules, but, in response to numerous comments and objections to these Rules, COAH simultaneously proposed a set of substantial amendments to these Rules. The amendments were adopted on September 22, 2008. The amended 2008 Rules were also challenged, and, on October 8, 2010, the Appellate Court determined that these Rules, too, were invalid.
Both sets of invalidated COAH Rules had required municipalities to calculate their third round fair share obligations based upon projections (by the municipality in 2004 and by COAH in 2008) of growth in households and employment in each municipality during the delivery period. It was primarily, but not exclusively, this aspect of COAH's third round Rules that the Appellate Court found to be unconstitutional.

While finding that COAH's 2008 third round Rules were invalid as to the methodology for calculating prospective fair share obligations, the Appellate Court had upheld the methodologies for calculating the rehabilitation share and the prior round obligation (pursuant to N.J.A.C. 5:93-1, et seq.)

Meanwhile, in June of 2008, the New Jersey Legislature had adopted certain amendments to the Fair Housing Act. These amendments were signed into law by the Governor in July of 2008. Among other things, the Fair Housing Act amendments affected the requirements for providing very low income housing (housing affordable to households earning 30 percent or less of the regional median income by household size), the role of non-residential developments in the provision of affordable housing, and the removal of Regional Contribution Agreements as a permissible mechanism for complying with the fair share obligation.

On September 26, 2013, the New Jersey Supreme Court upheld the Appellate Division's 2010 decision in In Re Adoption of 5:96 and 5:97 by New Jersey Council on Affordable Housing, 215 N.J. 578 (2013) and ordered COAH to prepare and adopt new Rules. In the end, COAH failed to adopt new Rules, despite efforts by the Supreme Court to compel this, and, on March 10, 2015, in response to a Motion in Aid of Litigants' Rights filed by Fair Share Housing Center, the Supreme Court removed COAH's responsibility for reviewing and approving municipal housing elements and fair share plans and transferred that responsibility to trial court judges in each vicinage. 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.

To protect municipalities that had voluntarily submitted to the COAH process from opportunistic builders' remedy lawsuits, the Supreme Court provided an opportunity (and a period of temporary immunity) during which any municipality that had either participated in the COAH process during the third round but had not yet been certified, or that had been certified by COAH as to compliance with its third round fair share obligation, a window of opportunity to file a Declaratory Judgment action in Superior Court, seeking the Court's approval of the adopted third round Housing Element and Fair Share Plan or of a modification thereof.

Lincoln Park was a participating municipality in COAH's regime, and filed a request for Declaratory Judgment in Morris County Superior Court within the requisite time period. The Borough's request is currently pending before the Honorable Maryann L. Nergaard, J.S.C.

Since the filing of the Borough's request for a Declaratory Judgment, one entity, Meridia Transit Village, Lincoln Park, LLC, (hereafter "Meridia"), intervened in the process. Lincoln Park has negotiated extensively with Meridia in an effort to meet multiple Borough goals and is including two Meridia projects within this 2017 Housing Element and Fair Share Plan.
Although no determination has, as yet, been made by Judge Nergaard quantifying municipal third round fair share obligations in Morris County, the Borough of Lincoln Park has also negotiated and reached a settlement with Fair Share Housing Center (FSHC), an affordable housing advocacy law firm that was granted standing by the New Jersey Supreme Court as an interested party in all of the municipal Declaratory Judgment actions. The settlement agreement with FSHC establishes both the extent of Lincoln Park's third round fair share obligations and how those obligations will be addressed. The settlement agreement and the Borough's Housing Element and Fair Share Plan, which has been prepared to implement the terms of the settlement agreement with FSHC and the settlement with Meridia, are now scheduled for a Fairness and Compliance Hearing before Judge Nergaard on August 18, 2017, at 1:30 P.M.

**Summary of Lincoln Park's Past Affordable Housing Activities and Satisfaction of Prior Round Obligations**

Lincoln Park has had a long history of providing affordable housing in response to its Court and COAH-mandated fair share obligations.

In 1978, three years after the original *Mount Laurel* decision was handed down (and before *Mount Laurel II*), and well before the passage of the Fair Housing Act in 1985 and the establishment of COAH, Lincoln Park was sued for exclusionary zoning by the Morris County Fair Housing Council and the New Jersey Office of the Public Advocate along with 26 other municipalities in Morris County. In 1984, one year after the Supreme Court decided *Mount Laurel II*, Lincoln Park settled the litigation based upon a plan to address a fair share obligation of 212 units. The Borough received a conditional Judgment of Repose in 1984, with a final Judgment entered in 1985.

In 1987, Lincoln Park adopted a new Housing Element and Fair Share Plan prepared in accordance with the (by then) adopted Fair Housing Act and COAH's new (first round) Rules, which assigned Lincoln Park a much lower fair share allocation (of 105 units) than had been addressed in its settlement. It is not clear whether this new plan was ever filed with COAH.

In 1994, the Borough adopted a second round Housing Element and Fair Share Plan and filed it with COAH. It did not, however, submit a petition for second round substantive certification until 1997. The Borough's petition for substantive certification was granted by COAH on June 3, 1998. The new construction portion of the Borough's second round affordable housing obligation was determined by COAH in 1994 to be 73 units (in addition to a 27 unit rehabilitation obligation). COAH's resolution granting second round substantive certification acknowledged that the Borough had not only satisfied this obligation but that the Borough had a surplus of affordable housing credits.

What follows is a summary chart of how COAH tallied Lincoln Park's prior round credits.
Pursuant to the 1985 Judgment of Repose, the development now known as Pine Brook Village had been constructed originally with 77 low and moderate income family rental units that had been funded with low income housing tax credits. According to the terms of the tax credit financing, which were upheld by court order (a copy of which is included in the Appendices to this document), these units were permitted, after the first 15 years of the deed restriction, to be converted for sale to moderate income family households. This issue had been litigated by the Borough, since Lincoln Park wished to retain these units as low and moderate income rental units, but the owner of Pine Brook Village prevailed in Court, and the units were permitted to be converted.

In 2003, the Borough applied to COAH for a technical amendment to its Housing Element and Fair Share Plan involving an amendment to the Borough’s Spending Plan to allow Lincoln Park to spend $395,000 of the development fees it had collected in its Affordable Housing Trust Fund on a write down/buy down program intended to create 10 low-income age-restricted sales units at Pine Brook Village out of 10 moderate income family sales units. COAH approved both the technical amendment and the revised Spending Plan for the Borough. Parenthetically, Morris County Community Development also contributed funds from its HOME program to this project, thereby adding three (3) more units to the program, for a total of 13 new age-restricted low income sales units.

As a result of COAH’s approval of the amendment to the Spending Plan, and using funds provided from both the Hunting Meadows development (formerly Evergreen Acres/Coventry Run/Acom) plus the additional HOME funding obtained through Morris County Community Development, a total of 13 of these moderate income family sales units were converted to low income sales units for senior citizens and now have new deed restrictions adding another 30 years to the original period of restrictions. Documentation pertaining to these 13 age-restricted units is included in the Appendices to this document.

As noted in the table above, COAH had awarded the Borough 18 rental bonus credits for Pine Brook Village in the second round, when the original affordability controls were still in place. However, Pine Brook Village is no longer a rental project.
Consequently, under the terms of the settlement agreement with FSHC, the Borough's 74 unit prior round affordable housing obligation will henceforth be determined to have been fully satisfied as follows: 56 credits for 56 of the 77 low and moderate income family rental units at Pine Brook Village plus 18 rental bonuses. FSHC has agreed to accept COAH's award of 18 rental bonuses for the prior round, even though the 77 Pine Brook Village units remained as rental units for a period of only 15 years and not the requisite 20 or 30 years, because the Borough had more than exceeded its rental obligation at that time and there is a certain equivalency in 36 affordable rental units with 15 years of controls to 18 affordable rental units with 30 year controls.

**Surplus Prior Round Units**

The Borough entered the third round with the following surplus units to be applied to the "gap period" (1999-2015).

**Society Hill II:** 56 low and moderate income family sales units (28 low, 28 moderate)

**Hunting Meadows/Coventry Run:** 4 low income age-restricted sales units (plus fees that helped pay for the write down/buy down of 10 of the 13 low income age-restricted sales units at Pine Brook Village)

It has been learned that the affordability controls on the Colonial Village moderate income rental unit expired in 2008. That unit is no longer an affordable unit.

**Total:** 60 carry-over credits available for the "gap period" (1999-2015) portion of the third round obligation

**New Supportive and Special Needs Housing**

In addition to the housing that was created pursuant to the previous Court-approved and COAH-approved Housing Elements and Fair Share Plans, several facilities providing supportive and special needs housing have been established in Lincoln Park. All of these facilities potentially qualify for crediting, with the unit of crediting (in the case of group homes) being the bedroom.

The 2008 Housing Element and Fair Share Plan had identified and documented three of these facilities:

**73 Chapel Hill Road:** 3 units; owned by New Bridge Services, 21 Evans Place, Pompton Plains; purchased on January 16, 2001. This is permanent supportive living housing for three disabled low income persons, each of whom pays $500.00 per month rent to live there. The home was purchased with a forgivable 20 year mortgage by New Bridge from Pequannock Township Senior Citizens Corporation, which operates a HUD-related senior citizens housing program in Pequannock Township but also has "residual receipts" that it is using to fund other types of affordable housing in the area. This particular home is not age-restricted, despite its sponsorship.
In 2012, Lincoln Park expended $14,000 from its Affordable Housing Trust Fund to enable the renovation of the HVAC system in this facility.

107 Terrace Parkway; 5 bedrooms (originally 4, but fifth bedroom created with HUD funding in 2003); owned by Center for Family Support of New Jersey, 795 Main Street, Hackensack; purchased on February 6, 2001. Although the deed is held by the Center for Family Support, the lien holder is the State of New Jersey and the lien is in perpetuity. This home is funded by the New Jersey Department of Human Services, Division of Developmental Disabilities with a 20 year commitment, but subject to a potentially much longer time frame. It is also not age-restricted.

151 Harvest Lane; 2 bedrooms; owned by Community Options, Inc., 16 Farber Road, Princeton; purchased on August 4, 1994. This housing unit is located on the first floor of the Hilltop Farm Condominium development. The deed is held by Community Options, Inc., and contains a 40 year deed-restriction. Funding is from the New Jersey Department of Human Services, Division of Developmental Disabilities. The facility is not age-restricted.

Since the 2008 Housing Element and Fair Share Plan was prepared, two more special needs housing facilities have been created in Lincoln Park. These are as follows:

15 McKinley Street; 4 bedrooms of permanent supportive housing; owned by Advancing Opportunities, Inc., 1005 Whitehead Road Extension, Ewing, New Jersey, 08638. The facility was established in 2014 and funded by the New Jersey Housing and Mortgage Finance Agency through the Special Needs Housing Partnership, using $100,000 contributed by Lincoln Park from its Affordable Housing Trust Fund and a 20 year capital funding contract with the New Jersey Department of Human Services. All of the residents are required to be low income (earning 50 percent or less of median income). The facility is not age-restricted.

205 Robertson Way; 2 group home bedrooms; owned by REM New Jersey, 50 Cottontail Lane, Suite 330, Somerset, New Jersey 08873. The facility was established in 2012. It is believed that this facility was funded through a 20 year capital funding contract with the New Jersey Department of Human Service, Division of Developmental Disabilities, although this still needs to be confirmed. The facility is not age-restricted. To date, REM New Jersey has not responded to telephone inquiries by and on behalf of Lincoln Park seeking further documentation regarding its creditworthiness. Consequently, Lincoln Park is not seeking credit for these two bedrooms at this time. Should crediting documentation become available in the future, the Borough would like to add credits for the two bedrooms in this facility to its affordable housing inventory.

Documentation regarding four of these five facilities is presented in the Appendices to this document. The four documented facilities, taken together, provide 14 units of low and very low income rental housing for persons with special needs. The Borough intends to use the credits for these units to help satisfy, not only its third round rental obligation, but also a portion of its third round very low income housing obligation.

Total: 14 credits (out of a potential for 16) for 14 group home bedrooms/alternative living arrangements.
Housing, Demographic and Employment Information

Appendix A of this document contains detailed Housing, Demographic and Employment background information regarding Lincoln Park. The data were updated in 2015 to reflect the 2010 U.S. Census and 2013 American Communities Survey (ACS) data.

Lincoln Park is a substantially developed community, with most of its 4,382 housing units (of which 3,978 were occupied in 2013) having been constructed prior to 1990, with over 25 percent of the Borough's housing built between 1980 and 1989 and 42 percent of its housing built prior to 1960. Household sizes in occupied housing units tend to be smaller in Lincoln Park than for the County as a whole and the State.

In 2010, the Borough had a resident population of 10,521 persons. While approximately 31 percent of the Borough's population fell into the 35 to 54 age bracket, the Borough has a higher percentage of persons in the 55-64 and 65+ age cohorts than either the County or the State. In terms of household and per capita income and the educational attainment of its residents, Lincoln Park fares well compared to the State as a whole, but slightly less well in comparison to the whole of Morris County.

Most of Lincoln Park's limited employment opportunities lie in the service sector. Most of the Borough's residents commute to work elsewhere, with 85 percent of them driving alone to work, despite the availability of rail service and the existence of a train station within the Borough.

Components of the Borough's Cumulative Fair Share Obligation

Consistent with its settlement with FSHC, this 2017 Third Round Housing Element and Fair Share Plan addresses a third round settlement obligation of 251 units. This includes both the obligation that accrued during the "gap period" (1999-2015) and the obligation projected for the prospective need period (2015-2025). In addition, the Borough was found to have a 15 unit rehabilitation share (based upon 2010 U.S.Census data) and a prior round obligation (for the period from 1987-1999) of 74 units. This last portion of the obligation was determined by COAH in accordance with its prior round Rules (N.J.A.C. 5:93-1, et seq.).

Present Need Obligation (Rehabilitation Share): 15 units (per FSHC, Kinsey July, 2015, Report)

TOTAL CUMULATIVE FAIR SHARE OBLIGATION: 340 units
Lincoln Park's Capacity to Accommodate Growth

Most of Lincoln Park’s developable land (as well as much of its land that, today, would not be considered developable) has already been developed.

Although large areas of the Borough are still undeveloped, they are undeveloped precisely because they are undevelopable, being heavily impacted by flood plains or wetlands or both.

A vacant land analysis was undertaken in 2015/2016 to determine the Borough’s remaining capacity to absorb development and thereby accommodate additional affordable housing units (its Realistic Development Potential or RDP).

When Lincoln Park prepared its Third Round Housing Element and Fair Share Plan, first in 2005 and again in 2008, for submission to COAH, it did not seek an adjustment for insufficient vacant land because the Borough was entering the third round with a substantial surplus of affordable housing from the prior round. This surplus made it possible for the Borough to meet its COAH-calculated “growth share obligation” with some additional mechanisms added to create units addressing the third round rental and very low income housing obligations, thereby avoiding the expense of documenting the Borough’s lack of land.

In light of the much higher projections of housing need prepared for Fair Share Housing Center by David N. Kinsey, PhD, FAICP, PP, however, this undertaking, at least initially, appeared to be necessary in light of Lincoln Park’s limited vacant developable land resources.

Based upon the completed vacant land analysis, it was determined that Lincoln Park has about 107 acres of vacant developable land remaining in 31 privately and publicly owned parcels, after eliminating constrained areas (flood plains, wetlands and slopes over 15 percent), lots too small to accommodate inclusionary development at densities ranging from 6 to 20 units per acre (essentially ruling out parcels less than one-half acre in size), lots or areas of lots that contain development that is not reflected on the Tax List and lots with other development issues (such as isolated landlocked parcels).

None of the remaining parcels is ideal for development. The largest vacant parcels are all located in a portion of the Borough that lies outside of the sewer service area and where the septic suitability of the soils is poor.

Added to the vacant land analysis for the purpose of calculating the RDP are sites, such as the two Main Street Meridia lots, which were being proposed for development at the time of the analysis, as well as the Elefante nursery, and another nursery (located in the unsewered area off Jacksonville Road). The nursery lots are clearly not vacant but might reasonably be expected to redevelop with inclusionary residential development with favorable zoning or overlay zoning (and, in the case of the Jacksonville Road nursery property, with the eventual availability of sewerage).
Because of the small size and physical constraints of so many of the parcels that survived the cut in the vacant land analysis, and considering their locations amidst established neighborhoods, COAH’s presumptive minimum density of 6 units per acre was used to calculate a yield on the scattered small lots and in the unsewered areas. The densities were increased, where deemed appropriate, on parcels with more land and/or a favorable location (within a sewer service area).

Based on the densities assigned to each parcel, an RDP of 151 affordable units had been calculated. The RDP analysis included approximately 94 affordable units derived from properties located in the northwest quadrant of the Borough that will not materialize unless and until sewer service can be extended from Montville. This is an area where the septic suitability of the soils is notoriously poor, so there is no possibility of inclusionary residential development without public sewerage. As a result, the RDP calculation was essentially a split result: one portion was a 57 unit RDP likely to be accommodated within the 10 year compliance period, and the other was a 94 unit RDP that could not be fulfilled unless sewer service were able to be provided to the northwest quadrant of the Borough. If any of these properties had needed to be used to satisfy the third round obligation, the Borough would have needed to request a "durational adjustment" (a postponement of the anticipated fulfillment of the obligation) until such time as sewer service were made available to that area.

The Appendices to this document provides the basis for the calculation of the RDP, in accordance with N.J.A.C. 5:93-4. However, it should be noted that, at this time, Lincoln Park will be able to fully satisfy its entire third round obligation without having to seek either a vacant land adjustment or a durational adjustment, even though it would have qualified for such adjustments had it needed to invoke them. This outcome is due to both the substantial number of surplus prior round credits available to the Borough to carry over into the "gap period" portion of the third round plus a number of extra measures taken by the Borough to preserve existing affordable housing units as affordable and to encourage new affordable housing opportunities over the last 17 years.

**Addressing the Remaining Third Round Fair Share Obligation**

**Surplus Units from Prior Round Applied to Gap Period**

As previously described, the Borough enters the third round having fully satisfied the entirety of its prior round obligation with a surplus of credits for units provided over and above those needed to fulfill the prior round obligation, 60 of which will be applied to the "gap period" (1999-2015).

**Group Homes**

In addition to the surplus prior round units, the Borough has identified/helped to create 16 new units (bedrooms) of supportive and special needs housing for which it is currently eligible to receive 14 credits (the two (2) units in the REM New Jersey facility have not yet been sufficiently documented to qualify for crediting).
Extensions of Expiring Controls

As previously noted, the Borough implemented a write down/buy down program in 2003 to create 13 low income age-restricted sales units within Pine Brook Village, after the original period of controls expired. Each of these 13 units was deed restricted with new 30 year affordability controls.

The Borough has also extended the affordability controls on another 120 affordable housing units whose existing controls had been set to expire during the third round (56 at Society Hill II and 64 at Pine Brook Village). The Appendices to this document includes documentation of all of the units on which the controls were extended. At this time, the Borough is seeking credit for only 99 extended controls (56 at Society Hill, the 13 low income buy down units at Pine Brook Village, and 30 of the 64 moderate income units at Pine Brook Village). The reason for this is the need to maintain, overall, the required balance between low and moderate income units the Borough is claiming credit for in its Plan. This is achieved in the following manner:

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<thead>
<tr>
<th></th>
<th>Low</th>
<th>Moderate</th>
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<tbody>
<tr>
<td>Society Hill</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>Pine Brook Village</td>
<td>13 A.R.</td>
<td>30 (out of 64 extended)</td>
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<tr>
<td>Group Home Bedrooms</td>
<td>14</td>
<td></td>
</tr>
<tr>
<td>Hunting Meadows</td>
<td>3 A.R.</td>
<td></td>
</tr>
<tr>
<td><strong>Balance</strong></td>
<td><strong>58</strong></td>
<td><strong>58</strong></td>
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*As a condition of receiving credits for the extensions of expiring controls on all of these units, the Borough has agreed, as part of its settlement with FSHC, to take all necessary steps to ensure that all of the units on which the controls have been extended will remain affordable for a total period of at least 60 years from the date(s) such units were originally placed in service. Under the current UHAC Rules, this means that the municipality will not take any action to remove the affordability controls unless the unit has been and remained affordable for a full 60 year period from the date of its initial occupancy.*

All of the credits for the extensions of expiring controls are being applied to the prospective need period (2015-2025). This is to separate these credits from the surplus credits that were carried over into the "gap period" (1999-2015), as no unit is permitted to receive more than one credit in any round (except for units that are eligible for rental bonuses). It is reasonable and appropriate to treat the "gap period" as separate from the prospective need period, in this context. Not only has the Supreme Court determined that the gap period obligation requires a separate calculation from the prospective need, but also if COAH had adopted valid third round Rules on schedule, municipalities would be well into their fourth round of affordable housing compliance by now.
New Sites

Meridia, Block 3.05, Lots 305 and 305.5

These lots, located at 107 and 117 Main Street, are already developed (each contains a home, one of which is historic). Together they create a site totaling approximately 4.38 developable acres out of roughly 4.52 total acres. This site is available, developable, suitable and approvable, as those terms have been defined by COAH, for inclusionary residential development. The site has access to both sewer and water services. The area that is constrained by wetlands and floodplain is located at the very back of the site, along the rear property line, and is not extensive. The lots both front on Main Street, which will be used to provide access to the development.

This property is currently zoned "ACH - Adult Community Housing Zone", permitting age-restricted multi-family housing at a density of 10 units per acre. The current zoning requires an affordable housing set-aside.

Pursuant to a settlement agreement entered into with Meridia on May 2, 2017, that involves not only the development of this particular site, but also the development or redevelopment of a key site in the Borough's proposed Downtown Rehabilitation Area, which is scheduled to proceed first.

The Main Street lots will be rezoned to allow their development with a total of 128 non-age-restricted rental apartment units, of which 15 percent, or 20 units, will be affordable family rental units. These 20 affordable family rental units will include 7 three-bedroom units and 13 two-bedroom units. One of the three-bedroom units and two of the two-bedroom units will be reserved for occupancy by and affordability to very low income households (earning 30 percent or less of the regional median household income by household size).

Meridia, Block 139, Lots 19, 20 and 21

These lots, located at 239, 243-245 and 247 Main Street, are also developed, and together total 0.43 acres of land in the Borough's proposed Downtown Rehabilitation Area. This site is located in the Borough's B-1 Business zone, a district that permits, in addition to a wide range of business uses, single-family and two-family dwellings and "extended family dwellings" as permitted and regulated in the R-15 zone, or in a single story over ground floor commercial development.

This site is located adjacent to the Lincoln Park train station. It is proposed to be redeveloped as a mixed-use development containing one building of up to 60 feet in height with four floors of residential units over ground floor retail/commercial space and residential units (in the rear). A total of 92 rental dwelling units will be permitted to be constructed on this site, of which 15 percent, or 14 will be affordable family rental units. Of these 14 affordable family rental units, 8 will be two-bedroom units and 6 will be one-bedroom units. One of the one-bedroom affordable units and one of the two-bedroom affordable units will be reserved for occupancy by and affordability to very low income households (earning 30 percent or less of the regional median household income by household size).
The bedroom distribution of the affordable units within the two Meridia developments, taken together, will match UHAC requirements, but the Borough has agreed to allow the developer to move all of the one bedroom affordable units to the Downtown Rehabilitation Area site and to move all of the three bedroom affordable units to the Main Street site.

To facilitate the development of the Downtown site, parking for the development will be accommodated by the Borough in the train station parking lot (by arrangement with New Jersey Transit) or on another lot in the immediate vicinity of the Downtown site.

_Evangelical Mission, Revised Zoning_

This property is identified on the Borough's Tax Map as Block 35, Lots 1.1, 3, 5 and a portion of Lot 8. It was included in the 2008 Housing Element and Fair Share Plan as an age-restricted multi-family development, because that is what the property owner originally requested to build.

The Evangelical Mission property lies partially in Montville and partially in Lincoln Park. The Montville portion is developed with a house of worship. The land in Lincoln Park is largely undeveloped; it is a large property (encompassing over 15 acres of land). The topography of the site is challenging, but the site is nevertheless available, developable, suitable, and approvable as a site for inclusionary residential development. Its constraints consist largely of steep slopes and shallow depth to bedrock. There is a small area of wetlands in the southeast corner of the site. The property has been confirmed to lie in the sewer service area and to have access to both sewer and water service. Its access is via a driveway onto Main Street in Montville.

Sometime after the 2008 Housing Element and Fair Share Plan was prepared and submitted to COAH, the property owner approached the Borough and indicated that it no longer wished to build an age-restricted development. In 2012, zoning provisions were drafted to eliminate the age-restriction and to provide enhanced incentives for _family affordable rental_ units to be constructed, with a higher density for rental units (as compared to for sale units) and a lower affordable housing set-aside rate for rental affordable units as compared to for sale units.

At the request of the property owner, the adoption of these zoning changes was put on hold.

The Borough is now prepared to move forward with their adoption (with some minor modifications to the 2012 draft ordinance amendments). Under the terms of the currently proposed zoning, this development could generate either 95 or 150 total units, based on differential densities and building heights for a rental development versus a for-sale development. If the affordable units are constructed as rental units, as many as 150 total units, of which 23 units (15 percent) would be affordable, could be built, reflecting a density of 9.5 units per gross acre of land. If the affordable units are constructed as for sale units, only 95 total units could be built (at a density of 6 units per gross acre of land), and 19 (20 percent) would be required to be affordable.

The property owner has not moved forward with an application on this property, and has not pressed for the rezoning. However, in light of the limited opportunities that exist within the
Borough for new inclusionary residential developments, the Borough intends to proceed with the rezoning in the hope that the property owner reopens its interest in such development.

**Third Round Rental Obligation**

COAH’s Rules (at N.J.A.C. 5:93-1, *et seq.*) provide that at least 25 percent of the new construction component for the third round (i.e. excluding the rehabilitation share) must be satisfied with rental units. **Lincoln Park’s third round rental obligation is 25 percent of 251 units or 63 units.** The Borough is also entitled to claim a bonus credit for each rental unit created up to the amount of the rental obligation.

As previously noted, the Borough has 14 fully documented supportive and special needs bedrooms, all of which count as affordable rental units, leaving another 49 rental units to be provided in the Plan. Under the terms of the settlement with FSHC, **at least half, or 32 units, of the rental obligation must be satisfied with family rental units rather than special needs bedrooms or age-restricted rental units.**

To address the need for family rental units, the Borough’s Plan proposes that the three new inclusionary residential developments described above, each of which is either committed by the terms of an agreement to provide rental affordable housing units (the two Meridia sites) or, in the case of the Evangelical Mission site, will be rezoned with sufficient incentives for the construction of the family affordable rental units to enhance the likelihood that this will actually occur.

When implemented, the development of the two Meridia sites will yield a total of 34 affordable family rental units, thus ensuring that all of the required affordable family rental units will be built.

If and when the Evangelical Mission site develops, it is anticipated that, due to the incentives for creating rental affordable housing units that will be incorporated into the zoning for that site, another 23 affordable family rental units eventually will be constructed there.

Thus, the total number of affordable rental units to be provided as part of this Plan will be as follows:

<table>
<thead>
<tr>
<th>Type</th>
<th>Units</th>
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<tbody>
<tr>
<td>Group Home/Special Needs Bedrooms</td>
<td>14 built</td>
</tr>
<tr>
<td>Meridia Family Rental Units (Main Street Site)</td>
<td>20 committed to be built</td>
</tr>
<tr>
<td>Meridia Family Rental Units (Downtown Rehabilitation Area Site)</td>
<td>14 units committed to be built</td>
</tr>
<tr>
<td>Evangelical Mission (using Rental Zoning Incentives)</td>
<td>23 units incentivized</td>
</tr>
<tr>
<td>Total Rental Units in Plan Addressing Third Round Rental Obligation</td>
<td>71 potential rental units (all but 23 built or committed)</td>
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Summary of Third Round Compliance Proposals

**SUMMARY OF PROPOSALS TO SATISFY THIRD ROUND FAIR SHARE OBLIGATION**

<table>
<thead>
<tr>
<th>Name</th>
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<th>Low</th>
<th>Moderate</th>
<th>Rental Bonuses</th>
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<td>Sales</td>
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<td>Group Home Bedrooms (4 facilities)</td>
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<td><strong>226-230 units plus 48 bonuses</strong></td>
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<td></td>
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<td><strong>274-278 (surplus of 23-27 units)</strong></td>
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Note: The surplus units noted above do not include the extensions of expiring controls that were not able to be counted at this time in order to maintain the balance of low and moderate income units in the Plan.

**Third Round Age-Restricted Housing**

Under COAH’s prior round Rules, municipalities are permitted (though not required) to age-restrict up to 25 percent of the third round obligation. At this time, Lincoln Park is not proposing any new age-restricted affordable housing units as part of its 2017 Housing Element and Fair Share Plan. However, 13 of the units on which the expiring affordability controls were extended (that were also bought down from moderate to low income) are age-restricted, and the 4 Hunting Meadows units attributed to the "gap period" are also age-restricted. Together, these 17 age-restricted units equal only 6.8 percent of the third round fair share obligation.
Third Round Very Low Income Housing Obligation

As a result of the July, 2008, amendments to the Fair Housing Act, all municipalities now have an obligation to provide at least 13 percent of the new (post 2008) units built to satisfy the third round obligation as very low income units (units affordable to households earning 30 percent or less of median income).

One way to address this obligation is to require that, within any inclusionary or 100 percent affordable rental housing development, at least 13 percent of the low and moderate income units built shall be affordable to very low income households, defined as households earning 30 percent or less of the regional median household income by household size. The Borough's proposed Affordable Housing Ordinance will be requiring this in all rental projects. Currently, the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1, et seq., still requires that only 10 percent of all affordable rental units be affordable to households earning 35 percent or less of median income. UHAC was last amended in 2004, prior to the Legislature's adoption of the 2008 amendments to the Fair Housing Act altering both the threshold for very low income eligibility and the municipal obligation to provide very low income housing. The Borough's Affordable Housing Ordinance will be consistent with the Legislature's determination as to the proper threshold for very low income affordability and the municipal requirement for very low income housing. It will also require, consistent with the terms of the settlement with FSHC, that at least half of all very low income units must be family very low income units (as opposed to special needs or age-restricted units).

The very low income housing requirement is difficult to apply to for sale units, as it is often impossible for very low income households to qualify for a mortgage to purchase a unit. Consequently, municipalities have to find additional ways to satisfy the 13 percent very low income housing requirement. One way to help meet the requirement is through special needs housing, since most (though not all) such housing accommodates and is affordable to very low income households.

In Lincoln Park's case, very low income housing is provided by 7 of the 14 existing special needs units/bedrooms (both 15 McKinley and 73 Chapel Hill Road permit low income occupancy, so they cannot be counted on to provide very low income housing).

Considering existing affordable units constructed after July 1, 2008, and those that are proposed to be constructed as part of this Plan, a total of 8 very low income units are required to be provided in Lincoln Park's case. This 8 unit very low income housing obligation is calculated based upon the 34 affordable units proposed in the two Meridia projects, the maximum of 23 affordable units proposed at the Evangelical Mission site, and the 4 documented special needs/group home units that were built after 2008, a total of 57 units. Of the 8 very low income units that represent 13 percent of 57 units, at least half are required by the terms of the settlement with Fair Share Housing Center to be available to families (i.e. not special needs units). The 5 very low income family rental units anticipated on the two Meridia sites will fully address the family very low income requirement. The other 3 very low income units will be addressed with qualifying group home bedrooms.
There are 4 more existing group home bedrooms serving a very low income clientele in Lincoln Park. Additionally, Lincoln Park anticipates the creation of additional family very low income units as part of its efforts to promote development and redevelopment in its Downtown Rehabilitation Area and as a result of the Borough's adoption of a Mandatory Set-Aside Ordinance. Both of these initiatives are addressed in the ensuing section of this Housing Element.

Additional Mechanisms Proposed to Promote Affordable Housing Development

Downtown Rehabilitation Area

The Borough of Lincoln Park adopted Resolution R15-276, directing that a study be undertaken to determine if several blocks in the Borough's downtown, in the vicinity of the train station, would qualify as an Area in Need of Rehabilitation. The study was last revised on January 11, 2016, and the conclusion of the study is that this area does indeed meet several of the conditions established in the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-14(a) for designating an area as an Area in Need of Rehabilitation.

The Borough adopted Resolution R16-124 formally designating the study area as an Area in Need of Rehabilitation, and the Commissioner of the New Jersey Department of Community Affairs has signed off on such designation as being consistent with the 2001 State Development and Redevelopment Plan. A draft plan for this area has been prepared. It is designed to encourage mixed use developments, with inclusionary residential development on the upper floors of buildings that will contain retail and service businesses on the ground levels.

Mandatory Set-Aside Ordinance

The Borough proposes to enhance the opportunity for the continuing development of additional affordable housing units in Lincoln Park by the adoption of a mandatory affordable housing set-aside ordinance that will read as follows:

- All new multi-family developments constructed at a density of six (6) or more units per acre and yielding five (5) or more new dwelling units that become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or a new or amended rehabilitation or redevelopment plan, shall be required to provide a set-aside of low and moderate income housing, including very low income housing in rental developments. The amount of the set-aside shall be calculated as 15 percent of the total number of dwellings constructed if the affordable units will be for rent and 20 percent of the total number of dwellings constructed if the affordable units will be for sale. This provision does not affect residential development on sites that are zoned for inclusionary development as part of the Borough's Housing Element and Fair Share Plan, which sites will be subject to the affordable housing set-aside requirements set forth in the zoning and/or rehabilitation/redevelopment plans.
applicable to such sites, nor does it affect residential development in the Downtown Rehabilitation Area which shall be subject to the affordable housing set-aside requirements of the Rehabilitation Plan or any site specific redevelopment plan. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Borough of Lincoln Park to grant such rezoning, variance, or other relief. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement.

Addressing the Rehabilitation Share

Lincoln Park has a 15 unit rehabilitation obligation, according to the July, 2015, report of Fair Share Housing Center's expert, Dr. Kinsey.

Lincoln Park's rehabilitation program has, in the past, been undertaken by Morris County's Department of Community Development. Over the years, a number of units have been rehabilitated in Lincoln Park through this program. Lincoln Park would propose to continue its participation in the County's program as a means of addressing its rehabilitation obligation.

The Borough will also establish its own rental rehabilitation program to supplement the County's program, as the County's program is limited to owner occupied units. The Borough's program will have to meet COAH's requirements for an average expenditure of at least $10,000 in hard costs per rehabilitated unit, the inclusion of at least one major system in the rehabilitation, and the requirement for 10 year affordability controls on all rehabilitated units (which requirements have been consistently upheld by the courts).

In 2012, Lincoln Park expended $14,000 from its Affordable Housing Trust Fund to repair the New Bridge Services HVAC system, a major system, benefiting 3 affordable rental (special needs) units, but the expenditure per unit does not meet the minimum average required.

The Appendices to this document include a draft Rental Rehabilitation Program Manual and a proposed resolution authorizing the execution of a contract with a qualified rehabilitation program administrator. The Borough’s proposed Affirmative Marketing Plan, which is also included in the Appendices, specifically addresses the affirmative marketing of any rehabilitated rental units that are or that may become vacant.

The Borough is prepared to dedicate $50,000 from its Affordable Housing Trust Fund, or $10,000 per year over the first five years of the compliance period, to fund the hard costs of a rental rehabilitation program, with the acknowledgement that should the number of applications for the rehabilitation of rental units in the first five years exceed five (5) or should the cost of rehabilitating individual units exceed the minimum average of $10,000 per unit in hard costs, the Borough may be required to provide additional funds, either from its Affordable Housing Trust Fund or from general revenues (or by bonding).
The Borough will advertise the availability of both the County's and its own rehabilitation programs by including a notice of their availability with the annual tax bills and by posting on the Borough's website.

The Borough’s Spending Plan, also included in the Appendices to this document, illustrates how the Borough proposes to fund the rehabilitation program, at least for the first half of the compliance period.

Included with the Spending Plan in the Appendices is a Resolution agreeing to fund any shortfall in the Borough's affordable housing programs, including its rehabilitation program.

**Consideration of Other Sites for Inclusionary Development**

The Borough has in the past been presented with an informal request for the rezoning of industrially zoned land in the flood plain for inclusionary residential development, but due to the NJDEP restrictions on development in the flood plain, the request was abandoned. During the preparation of this 2017 Third Round Housing Element and Fair Share Plan, the only new proposals for inclusionary residential development were for sites that are included in the Plan.

The Evangelical Mission property was proposed for inclusionary residential development (albeit age-restricted) as part of the 2008 Third Round Housing Element and Fair Share Plan. It is proposed to be included in the current Plan, as well, but as a non-age-restricted development rather than as an age-restricted development.

**Availability of Infrastructure**

Lincoln Park is served by both public sewer and public water. Water service is not an issue in the Borough. Sewer service is readily available to all but the northwest quadrant of the Borough. All of the sites in the Plan have been confirmed by the Borough Engineer to be included in the sewer service area.

**Anticipated Land Use Patterns, Anticipated Demand for Projected Growth and Economic Impact**

Clearly there will be impacts associated with the new development that is proposed as part of this Plan and the higher densities at which such development will occur. These impacts are not entirely negative, however.

To the extent that additional dwelling units will be created in Lincoln Park as a result of this Plan, there will be new households requiring retail goods and services, enhancing the viability of the Borough’s retail business district and providing an impetus for the revitalization and redevelopment of properties in the proposed Downtown Rehabilitation Area.

The densities proposed in each case are anticipated to be manageable for the sites in question given the characteristics of each site and the need (and opportunities) for mitigation of impacts.
The development on the Evangelical Mission property can be well screened from adjacent properties by topography and by existing vegetation as well as by proposed landscaping.

Development on the Meridia properties will be more visible, due to the characteristics of the sites themselves and their locations. The site plan for the Meridia Main Street site, in particular, will need to include carefully designed buffers and graduated building heights (lower in the front of the site) to help minimize visual impacts on the surrounding area.

**Development Constraints**

The principal development constraints that affect most of Lincoln Park are the expansive flood plains and wetlands associated with the Pompton and Passaic Rivers, which have their confluence in the southeast corner of the Borough. There are also steep slopes associated with the crest and embankments of Hook Mountain, which runs through the center of the Borough.

The Evangelical Mission site is not within a flood plain although it is located along the embankment of Hook Mountain. There is a band of steeply sloping area that crosses portions of Lots 3, 5 and 8 in Block 35, and a small area of wetlands in the southeast corner of Lot 1.1. The balance of the site is constraint-free. It is estimated that approximately 6 acres of the roughly 15 acre Evangelical Mission property is affected by these constraints.

The extent and nature of the critical wildlife habitat that actually exists on the Evangelical Mission site has yet to be determined. There are no Borough regulations pertaining to this issue, but it may affect the site’s ability to obtain certain types of NJDEP permits.

The Meridia Main Street site has some floodplain areas along the rear property line, but is otherwise constraint-free. The Meridia Downtown Rehabilitation Area site is partially located within the flood plain; it is already fully developed. New construction will need to comply with applicable NJDEP regulations.

Most of Lincoln Park’s land area is designated as Planning Area 5 on the State Plan maps. However, portions of the Borough, and, in particular its developed core, are located in Planning Area 1. Most of the proposed Evangelical Mission site and all of both Meridia sites are located within Planning Area 1. Small areas in the southernmost portion of the Evangelical Mission site that lie close to the crest of Hook Mountain are designated as PA-5. The PA-5 portion of the site encompasses less than two acres, however, and also overlaps the wetlands in the southeast corner of the site.

The Borough is not located in the New Jersey Highlands Region, nor is it located in the Meadowlands or Pinelands or in any CAFRA area.

No known contamination or sources of contamination exist on any of the proposed inclusionary residential development sites.
Summary of Lincoln Park’s Third Round Affordable Housing Plan

The Borough of Lincoln Park will address its third round affordable housing obligation, as agreed upon in the settlement with FSHC, as follows:

- **Prior Round Obligation**: 74 units
  - Fully satisfied with 56 of the Pine Brook Village former family rental units and 18 rental bonus credits.

- **Rehabilitation Share**: 15 units
  - To be addressed with rehabilitation projects funded through and administered by Morris County Community Development, supplemented by a Borough funded rehabilitation program targeted at rental units in need of rehabilitation.

- **Third Round Obligation**: 251 units
  - To be addressed as follows:

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**TOTAL THIRD ROUND CREDITS**

274-278 (surplus of 23-27 units)

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