



Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
David T. Rammler, Esq.
Joshua D. Bauers, Esq.
Rachel N. Lokken, Esq.
Ashley J. Lee, Esq.
Esmé Devenney, Esq.
Will Fairhurst, Esq.

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Edward J. Buzak, Esq.
Surenian, Edwards, Buzak, & Nolan LLC
150 River Road
Suite N4
Montville, NJ 07045

**Re: In the Matter of the Borough of Alpine, County of Bergen,
Docket No. BER-L-6286-15**

Dear Mr. Buzak:

This letter memorializes the terms of an agreement reached between the Borough of Alpine (the "Borough" or "Alpine"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1,30 (2015) (Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Alpine filed the above-captioned matter on July 8, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Borough and FSHC have agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement terms

The Borough and FSHC hereby agree to the following terms:

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

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

Present Need (per Jacobson Decision)	4
Prior Round Obligation (pursuant to <u>N.J.A.C. 5:93</u>)	214, adjusted per 20% cap to 108
Third Round (1999-2025) Obligation (per Jacobson Decision)	122 as adjusted pursuant to the 20% cap

FSHC and the Borough agree to the terms in this agreement solely for the purposes of settlement of this action. FSHC and the Borough, which each have their own methodology consultants, accept the Third-Round obligation of 122 units solely for the purposes of achieving a settlement of the litigation and is without prejudice to the parties' ability to challenge that Third-Round number during any proceedings involving subsequent rounds of affordable housing calculations after July 1, 2025.

4. For purposes of this Agreement, the Third Round Obligation shall be deemed to include the Gap Present Need which is a measure of households formed from 1999-2015 that need affordable housing that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), and the Prospective Need, which is a measure of the affordable housing need anticipated to be generated between July 1, 2015 and June 30, 2025.
5. As the Borough's Present Need obligation is four (4) units, it will participate in the Bergen County Rehabilitation Program. Due to the de minimus rental component of the Borough's housing stock, the Borough shall not be required to establish and support a local housing rental rehabilitation program.
6. As noted above, the Borough has a Prior Round Obligation of 214 units, that was adjusted by the court in 2000 on the basis of the 20% cap (pursuant to N.J.A.C. 5:93-2.16) to 108 units. The Borough received a Judgment of Repose on December 28, 2000 for its Prior Round Housing Element and Fair Share Plan. In that Judgment of Repose, the Borough received a vacant land adjustment and had a realistic development potential (RDP) of 32 units, as described in Exhibit A, and has a Prior Round Unmet Need of 76 units. The Borough's 32-unit Prior Round RDP was met as follows:

Name of Development	AH units/credits	Rental Bonus	Total Credits	Comments/Status
RCA Borough of Fairview	16		16	Completed
Municipal Development Block 39 Lot 2.01	8	8	16	Completed; family rental
Total	24	8	32	

7. As noted above, the Borough has a Third Round obligation of 122 units adjusted per the 20% cap. The Borough has updated its vacant land analysis. The Borough is eligible for a vacant land adjustment and has a Third Round realistic development potential (RDP) of 32 units, as described in Exhibit B and a Third Round Unmet Need, of 90 units. The Borough's Third Round RDP will be met as follows:

RDP = 32				
Name of Development	AH units/credits	Rental Bonus	Total Credits	Comments/Status
Sylco Development Block 55 Lots 25.01, 26 through 30	8	8	16	Settlement Agreement; family rental
Expanded Municipal site	14		14	Supportive housing
Accessory Apartments	4		4	Family rentals, Proposal outline below
Total	26	8	34	

The parties agree that in accordance with Paragraph 14(d) and applicable law that at least half the affordable units addressing RDP (or 12 family units per the following calculation 32 RDP - 8 bonuses = 24 units x 0.5 = 12 units) shall be available to families that are to be addressed as shown above through 8 Sylco family units and 4 accessory apartment family units.

8. The Sylco site – Block 55 Lots 25.01, 26 through 30. The Borough has entered into a settlement agreement with the owners of this approximately 22.624-acre property for the development of 40 residential units with an on-site affordable housing set-aside of 8 affordable housing units. The Sylco agreement shall be presented to the court simultaneously with this agreement at a fairness hearing in accordance with Paragraph 24 below. The Borough agrees to require Sylco to comply with all requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, *et seq.*) (as modified below regarding very low-income statutory requirements) and the Second Round Rules on inclusionary developments at N.J.A.C. 5:93-5.6 including with respect to phasing of affordable units, integration of market-rate and affordable units, income and bedroom distribution, and the affordability controls deed restriction.
9. The Expanded Municipal site – Block 39 Lot 2.01. The Borough will provide a realistic opportunity for the development of affordable housing that will be developed or created through means other than inclusionary zoning at its Expanded Municipal site. The Borough has entered into an agreement with the Bergen County United Way to develop this property with additional affordable homes as described below:
- a. The Borough previously developed this site as part of its Prior Round affordable housing plan with 8 family rental affordable housing units. The Borough proposes to expand this site with additional affordable rental supportive housing units containing an aggregate 14 bedrooms. The parties understand that this property does not currently have access to public sewer service and public water and the original 8 affordable housing units on this site were developed utilizing a septic system and a

well. The parties anticipate that the septic system either has sufficient remaining capacity or will be expanded to handle the additional affordable rental supportive housing units containing an aggregate 14 bedrooms and that the existing well has sufficient capacity or can be expanded to create sufficient capacity to accommodate an additional 14 bedrooms. In the event that the New Jersey Department of Environmental Protection ("NJDEP") determines that the system is unable to handle the additional affordable rental supportive housing units containing an aggregate 14 bedrooms, the Borough agrees that it shall be required to provide for any shortfall on a different site to be identified no later than 120 days of the issuance of the final non-appealable decision of the NJDEP.

- b. In accordance with N.J.A.C. 5:93-5.5, the Borough recognizes that evidence of adequate and stable funding must be provided for any non-inclusionary affordable housing developments. The municipality shall direct that the project sponsor provides a pro forma of both total development costs and sources of funds and anticipated sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending within sixty days of this agreement.
 - c. In addition, a construction or implementation schedule, or timetable, shall be submitted for each step in the development process: including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contractor and construction. The schedule shall provide for construction to begin by March 31, 2025. The Borough shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. The Borough will provide this information as part of its Housing Element and Fair Share Plan.
 - d. In the event that BCUW cannot begin construction of the proposed project, due to lack of funding or otherwise, by March 31, 2025, the Borough, in its sole discretion, within thirty (30) days after March 31, 2025, will either (i) amend its Plan, subject to the review and comment of FSHC and the Special Master and review and approval of the Court, to include valid compliance mechanisms that do not rely upon securing outside funding that will provide a realistic opportunity for additional affordable rental supportive housing units containing an aggregate 14 bedrooms, unless the Borough has created a realistic opportunity for additional affordable units, bedrooms, or credits not referenced in this Agreement (collectively, "Unanticipated Units") in which case the additional affordable rental supportive housing units containing an aggregate 14 bedrooms shall be reduced by said Unanticipated Units; or (ii) bond or take other necessary action to provide funding for the proposed project. If the Borough replaces some or all of the additional affordable rental supportive housing units containing an aggregate 14 bedrooms, the Unanticipated Units that replace any or all of the additional affordable rental supportive housing units containing an aggregate 14 bedrooms will be in compliance with all terms of this Agreement.
10. Accessory Apartment Program – the Borough will create an accessory apartment program for at least four (4) family rental units. Each of the four AHU's would be eligible for a subsidy of up to \$70,000.00 (\$280,000.00 in the aggregate) to assist in the conversion or creation of the accessory apartment. That program would remain in effect through July 1, 2025. Any units that were in progress or for which discussions have been initiated would continue after July 1, 2025. Any shortfall as of July 1, 2025 (excluding those in progress as mentioned in the previous sentence) would be addressed in the fourth round by the Borough without utilizing the accessory apartment program. In addition, any

affordable housing obligation of the Borough in the 10 year fourth round period would not be satisfied through the accessory apartment program.

11. The Borough's Third Round RDP of 32 units subtracted from the Third Round Obligation of 122 units leaves a Third Round Unmet Need of 90 units ($122 - 32 = 90$) plus the Prior Round Unmet Need of 76 units ($108 - 32 = 76$), results in a total Prior Round and Third Round Unmet Need of 166 units. The combined 166-unit Unmet Need shall be addressed through the following mechanisms:
 - a. Radio/Telecommunications Tower Site (Block 80, Lots 10 and 11) – the Borough agrees to adopt overlay zoning permitting the development of thirty-five total residential units and requiring a 20% set-aside of seven (7) affordable housing units. The parties contemplate that the site will be developed in a manner consistent with the concept plan attached as Exhibit C such that only the front portion of the property closest to Route 9W will be developed and that no residential uses or parking would be developed within the potential fall zone of the radio/telecommunications tower that is expected to remain on the site. The parties recognize that like most properties in Alpine this site does not yet have public sewer and public water run to it and it is not yet in a sewer service area. The Borough agrees to permit public sewer and public water to be run to this site and to assist any developer of this site to procure public sewer and public water. The parties also contemplate that this site could be developed with on-site wastewater treatment including potentially through a package treatment facility or septic. The Borough agrees to assist any potential developer of this site in securing the infrastructure necessary to construct the thirty-five units including but not limited to an expansion of the sewer service area, endorsing all applications to the NJDEP or its agent to provide water and/or sewer capacity to the site seeking support for and cooperating with any necessary county amendment of the wastewater management plan, and cooperating with neighboring municipalities to provide necessary sanitary sewer and public water service and/or supporting the development of on-site package treatment or septic and wells. The Borough also agrees to support the developer in the event it is necessary to secure sewer and/or public water capacity for the site via litigation with a neighboring municipality. Nothing set forth herein shall require the Borough to expend funds beyond paying for its own professionals and staff to achieve the results set forth in this subparagraph.
 - b. The Borough agrees to adopt an ordinance requiring a mandatory affordable housing set aside for all new multi-family residential developments of five (5) units or more 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 new or amended redevelopment/rehabilitation plan. The set aside of affordable units for all developments will be 20%. The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five (5) or more. The form of the Ordinance shall be finalized prior to final judgment being issued in this matter through collaboration between FSHC, the Special Master, and representatives of the Borough. Neither this mandatory set-aside ordinance nor this Settlement Agreement gives any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Borough to grant such rezoning, variance or other relief.
12. The parties recognize that additional sites could generate additional development with future sewer service tie in to satisfy unmet need. The parties agree to address this

potential additional development through the approach set forth below. The Borough agrees to create a realistic opportunity for the development of an aggregate of 15 affordable housing units in the Borough in an inclusionary development or developments that shall include market-rate and affordable housing units set-aside on any site, except for the Sylco site located at Block 55 Lots 25.01, 26 through 30, that meets the following conditions:

- a. Site specifications:
 - i. Minimum of five-acre tract;
 - ii. Within an existing sewer service area or within 500 linear feet of an existing sewer service area or the municipal border;
 - iii. A minimum lot width at street line and at setback line: 250 feet on the following county roads: Hillside Avenue or Anderson Avenue.
 - iv. A height not to exceed 42 feet and 3 stories.
 - v. A minimum front yard setback of 75 feet from Hillside Avenue or Anderson Avenue.
 - vi. A minimum side yard of 50 feet.
 - vii. A minimum rear yard of 50 feet.
 - viii. A maximum density of 6 du/ac.
 - ix. A maximum building coverage of 30%.
 - x. A maximum impervious coverage of 50%.
 - xi. A minimum distance between buildings of 30 feet.
 - xii. A maximum building length of 160 feet.
 - xiii. Minimum perimeter landscape buffer of 25 feet
 - xiv. Minimum building setback to internal drive of 20 feet
 - xv. Slope disturbance governed per Section 220-3E
- b. The process for offering and approval of a qualifying site shall be spelled out in any final judgment of repose and the process shall be as follows:
 - i. Any developer seeking to present a development in accordance with this section of the Agreement shall notify the Borough, FSHC, and the Special Master in writing. The developer shall then submit a detailed concept plan complying with the parameters set forth above.
 - ii. Within thirty days of receipt of said detailed concept plan, the Borough, the Special Master and FSHC shall confer regarding the proposal and determine its viability and its compliance with the criteria set forth above. If the Special Master, FSHC and the Borough agree that the proposal meets the standards and criteria set forth above, a meeting with the Developer shall be convened to address any additional developmental issues to allow the Borough to draft a comprehensive ordinance reflecting the agreed upon development proposal. The Borough shall submit a draft ordinance to effectuate the selected property to the Special Master, FSHC, and the developer of the site within forty-five days of such concurrence from the convened meeting. The ordinance will address, without limitation, design standards for facade design, materials, landscaping, buffer requirements, lighting, etc. All development regulations shall be applicable to the extent not inconsistent with the enumerated requirements set forth herein. The Special Master, FSHC, and the developer shall provide comments on the proposed zoning ordinance within two weeks of receipt. If necessary, all participants shall confer to work out any disagreements. The Borough shall introduce the agreed-upon ordinance to rezone the property selected by the developer to permit the requisite number of residential units (not to exceed 75 residential units in the aggregate on one site or multiple sites

within the parameters and criteria set forth above)) and require a 20% set-aside for affordable housing integrated throughout the development within sixty (60) days. The Borough's refusal to prepare a draft ordinance within forty-five (45) days after concurrence is reached as set forth above or to introduce the agreed-upon ordinance within sixty (60) days shall constitute grounds for the bringing of a motion to enforce litigant's rights by FSHC. The trial court, shall be the final arbiter of the zoning ordinance to be introduced and adopted by the Borough to implement the rezoning of the respective site or sites and the parties to this agreement expressly waive any further challenge to that ordinance after the Special Master's review, and the trial court's determination, and agree to expressly support and defend the adoption of and implementation of any such court approved ordinance against any third-party challenge in any court review including any appellate review.

- iii. The Borough agrees to support any and all efforts of the developer of the proposed site to procure sewer and/or water to the site including but not limited to: endorsing all applications to the NJDEP or its agent to provide water and/or sewer capacity to the site, seeking support for and cooperating with any necessary county amendment of the wastewater management plan, and cooperating with neighboring municipalities to provide necessary sanitary sewer and/or water service and/or supporting the development of on-site package treatment or septic. The Borough also agrees to support the developer in the event it is necessary to secure sewer or water capacity for the site via litigation instituted by the Developer with a neighboring municipality under the doctrine invoked in Dynasty Bldg. Corp. v. Upper Saddle River, 267 N.J. Super. 611 (App. Div. 1993) and approved by the Supreme Court in Bi-County Development of Clinton, Inc., v. High Bridge, 174 N.J. 301 (2002). Nothing set forth herein shall require the Borough to expend funds beyond paying for its own professionals and staff to achieve the results set forth in this Paragraph or to implement any agreement resulting from any litigation as set forth. The obligations set forth in this paragraph shall terminate on July 1, 2025, provided, however, that the Borough shall continue its involvement in any then pending project or funding applications that were commenced prior to July 1, 2025.

- 13. The Borough agrees that 13% of all affordable units constructed after July 1, 2008, with the exception of affordable units constructed after July 1, 2008 that had been granted preliminary or final site plan approval prior to July 1, 2008, are required to be very low-income units (as defined below), with half of the very low income units being available to families. The Borough will comply with those provisions by requiring that 13% of all affordable units generated as a result of any site developed through the inclusionary and/or overlay zoning set forth above, and any units generated as a result of the mandatory set-aside ordinance be reserved for very low-income households. The municipality will comply with those requirements as follows:

Affordable Housing Units Created after 7/1/2008	# of Units
Sylco – Total Family Affordable Rentals	8
Municipal site – Affordable rental supportive housing units containing an aggregate 14 bedrooms.	14
Site(s) in Paragraph 12 – Total affordable units	15

Accessory Apartments	4
Total	41
Current Minimum VLI Required (13% of 41 Total)	5
Current Minimum Family VLI Units (50% of 5 Total VLI)	3
Sylco – Very Low-Income Family Affordable Rentals	2
Expanded Municipal site - Very Low-Income Special Needs/Supportive Rentals	14
Site(s) in Paragraph 12 – Very Low-Income Family Affordable Rentals	2
Total Family and Supportive VLI	4 Family VLI and 14 Supportive VLI

In addition, the Borough agrees to require that 13% of all affordable housing units developed in any future inclusionary or 100% affordable housing development will be available to very low-income households.

Except as to the Sylco site referenced in this Agreement and the Expanded Municipal site referenced in this Agreement, the Borough may, at its discretion, round the very low income obligation for a particular project up or down; notwithstanding the Borough shall be responsible for ensuring not less than 13% of the affordable units created after July 1, 2008 are restricted for very low income households by July 1, 2025.

14. The Borough shall meet its combined Prior Round and Third Round RDP and unmet need in accordance with the following standards as agreed to by the Parties and reflected in the tables in paragraphs 6 and 7 above:
 - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
 - b. At least 50 percent of the units addressing the Third Round RDP and the combined unmet need shall be affordable to very low-income and low-income households with the remainder affordable to moderate-income households.
 - c. At least twenty-five percent of the Third Round RDP and the combined Unmet Need shall be met through rental units, including at least half in rental units available to families.
 - d. At least half of the units addressing the Third Round RDP and the combined Unmet Need must be available to families.
 - e. The Borough agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned in the Borough to meet its cumulative prior round and third round fair share obligation.

15. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New

Jersey State Conference of the NAACP, Bergen County NAACP, Jersey City NAACP, Paterson NAACP, Passaic NAACP, Hoboken NAACP, the Latino Action Network, the Bergen County Housing Authority, Northeast New Jersey Legal Services, Bergen Urban League, Garden State Episcopal CDC, Mount Olive Baptist Church, Urban League Affordable Housing & CDC, Bergen County Housing Coalition, Fair Housing Council of Northern NJ, New Jersey Community Development, Advance Housing, Paterson Habitat for Humanity, Family Promise of Bergen County, Saint Paul's Community Development Corp., Supportive Housing Association of New Jersey, Islamic Center of New Jersey, Monarch Housing Associates and the New Jersey Housing Resource Center and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

16. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, *et seq.*, or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in rental projects shall be affordable to households earning 30% or less of the regional median income. The Borough, as part of its HEFSP, shall adopt and/or update appropriate implementing ordinances in conformance with all applicable laws to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:
 - a. Regional income limits shall be established for the Housing Region in which the Borough is located (in this case, Housing Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
 - b. The income limits attached hereto as Exhibit D are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2023, and shall be utilized until the Borough updates the income limits

- after HUD has published revised determinations of median income for the next fiscal year.
- c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
 - d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement, the terms of which shall also be reflected in the Borough's Affordable Housing Ordinance.
17. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
 18. As an essential term of this Agreement, within one hundred twenty (120) days of the Court's approval of this Agreement and the entry of an Order approving this agreement following a fairness hearing, the Borough shall introduce an ordinance or ordinances providing for the amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein, and shall endorse a Housing Element and Fair Share Plan to be adopted by the Planning Board and adopt a Spending Plan in conformance with the terms of this Agreement. The parties agree that this 120-day time period may be extended by the parties with the approval of the Court, provided that the Borough has diligently pursued efforts to comply with this section.
 19. The parties agree that if a decision of a court of competent jurisdiction in Bergen County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round Obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment (or the time to appeal has expired), the Borough may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Borough shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including maintaining all site specific zoning; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms set forth herein to address unmet need; and otherwise fully implementing the mechanisms to address the fair share obligations as established in this Agreement. The reduction of the Borough's Third Round Obligation as established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its Third Round Obligation, the Borough may carryover any resulting extra credits to future rounds in conformance with the then-applicable law.
 20. The Borough will prepare a Spending Plan as part of its HEFSP. The parties to this Agreement agree that the Spending Plan will be provided to FSHC and the Special Master for review and will be prepared in accordance with accepted standards to be approved by the Court and that the Borough may request the Court to find that the expenditures of funds contemplated under the Spending Plan approved by the Court constitute a

"commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment in this matter that includes approval of the Spending Plan in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through July 1, 2025, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended. In addition, the Borough may utilize its affordable housing trust fund, and FSHC shall not object, to funding the donation set forth in this agreement, provided it does so in accordance with applicable law.

21. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
22. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the period of protection provided in this Agreement. The Borough agrees to comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review, which the parties agree will be due on July 1, 2024, as the date 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 the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and if there are changed circumstances whether any mechanisms of 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. Any interested party may by motion request a hearing before the court regarding these issues. The parties recognize that the compliance process for this Agreement will still be ongoing as of the point of the statutory midpoint review.
 - b. For the review of very low-income housing requirements required by N.J.S.A. 52:27D-329.1, on July 1, 2024 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.
23. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other

pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.

24. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69(Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties agree that the municipality will be entitled to either a "Judgment of Compliance and Repose" or "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," (collectively "Final Judgment") 221 NJ at 6, which shall be determined by the trial Judge. Each party may advocate regarding whether substantive certification or repose should be provided by the Court with each party agreeing to accept either form of relief and to not appeal an Order granting either repose or substantive certification and accompanying protections. The "accompanying protection" or repose shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
25. The Borough agrees to pay to FSHC as a donation for the advancement of affordable housing in the amount of \$90,000 within forty-five days of the entry of an order signifying the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing.
26. If an appeal is filed of the Court's approval or rejection of this Agreement and/or Final Judgment, the Parties agree to defend the Agreement and/or Final Judgment on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
27. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Bergen County.
28. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable, except the entry of a Final Judgment. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof, unless the Final Judgment is rescinded or vacated. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections, unless the Final Judgment is rescinded or vacated.
29. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
30. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.

31. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
32. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
33. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
34. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
35. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
36. No member, official or employee of the Borough shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
37. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
38. All Notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight carrier or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) Notices shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be effected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC:

Adam M. Gordon, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE BOROUGH: Mayor Paul Tomasko
Borough Hall
100 Church Street
P.O. Box 1095
Alpine, New Jersey 07620
Phone: 201-784-2900

WITH A COPY TO THE MUNICIPAL CLERK: Stephanie Wehmann, RMC, CMR
Borough Hall
100 Church Street
P.O. Box 1095
Alpine, New Jersey 07620
Phone: 201-784-2900, ext 19

AND A COPY TO: Edward J. Buzak, Esq.
Surenian, Edwards, Buzak, & Nolan LLC
150 River Road
Suite N4
Montville, NJ 07045
Phone: (973)335-0600
Telecopier: (973)335-1145
Email: EJB@SURENIAN.COM

AND TO: Levi Kool, Esq.
Huntington Bailey, LLP.
373 Kinderkamack Road
Westwood, New Jersey 07675
Phone: (201)666-8282
ljk@huntingtonbailey.com

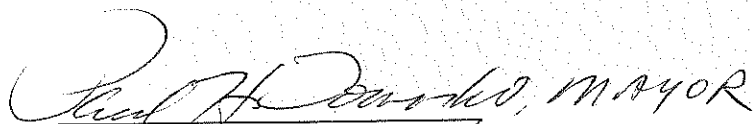
Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the Borough of Alpine, with the authorization
of the governing body:

Handwritten signature of Paul H. Tomasko in cursive script.

PAUL H. TOMASKO

Dated: 11-1-23

Exhibit A: Prior Round Vacant Land and Redevelopment Potential Analysis of Alpine, 2000

Master's Report on the Mount Laurel Compliance Plan
Alpine Borough, Bergen County, NJ

Page 6

Vacant Land Adjustment

The Borough of Alpine, as part of its first cycle (1987-1993) fair share plan submission to COAH, prepared a vacant land inventory and analysis which requested a downward adjustment to the new construction obligation which was then 120 units. The vacant land analysis contended that there were no vacant land areas that were suitable and developable for inclusionary development. The COAH rules in effect at the time (N.J.A.C. 5:92-1 et seq.) required tracts of land to be at least two acres in area to be considered for inclusionary development.

The Borough's second cycle (1987-1999) Housing Element and Fair Share Plan, adopted December 20, 1995, again requested a downward adjustment to the new construction obligation which had been reduced by the revised COAH regulations (N.J.A.C. 5:93-1 et seq.) to 108 units as noted above.

The December 1995 vacant land analysis reviewed municipal tax records and determined that there were 205.7 acres of privately owned vacant land in the Borough in 84 separate tax parcels. Of that total, 82 of the vacant parcels were determined to be ineligible under COAH regulations for consideration for the development of affordable housing because they had been subdivided into residential building lots or were located in the midst of established single family neighborhoods. None of these 82 lots were served by public sanitary sewer systems. The remaining two lots identified as vacant in the analysis were eliminated from consideration due to steep slope constraints. Consequently the Borough sought an adjustment of the new construction component of its Fair Share down to zero.

I reviewed the vacant land analysis set forth in the 1995 Housing Element and requested and received supplemental information from Mr. Burgis, Alpine's consulting planner. As a result of the documentation provided by the Borough and my own site inspections I have concluded that an adjustment of the Borough's new construction component is warranted from 108 units to 32 units.

This vacant land adjustment is based on an assessment of the "Realistic Development Potential" for affordable housing units of four sites, per COAH rules (N.J.A.C. 5:93-4.2(f)) as summarized below:

Chemtek	11 units
Cresskill Hills	14
Norian	1
Sharon Realty	<u>6</u>
Total	32 units

Source: Philip B. Caton, Master's Report on the Mount Laurel Compliance Plan of the Borough of Alpine, Bergen County, New Jersey, June 23, 2000

Exhibit B: Third Round Vacant Land and Realistic Development Potential (RDP) Analysis of Alpine, 2023

Sites (by ID#)	Block	Lot	Street Address	Total Site Area (acres)	Developable Acres (includes C-1 waters and buffers)	RDP Density (units/acre)	Total RDP (affordable housing units)
18	21	12	Drive	2.16	2.16	6	2.6
21	22	26	46 Tamarack Road	1.94	1.07	6	1.3
22	22	5	11 Tulip Tree Road	1.93	1.93	6	2.3
28	39	8	Route 9W	2.55	2.00	6	2.4
45	48	3	Closter Dock Road	0.87	0.87	6	1.0
52	49	19	46 Glen Goin Drive	1.21	1.21	6	1.5
53*	50	1.02	385 Hillside Avenue	1.03	1.03	6	1.2
67	71	10.02	847 Closter Dock Road	1.00	1.00	6	1.2
71	77	3	16 Cambridge Way	2.28	2.28	6	2.7
72	79.03	3	40 Allison Road	1.83	1.74	6	2.1
81	81.06	21	11 Schaffer Road	2	1.98	6	2.4
82	81.06	22	7 Schaffer Road	2	1.84	6	2.2
84	81.08	4	28 Schaffer Road	1.92	0.89	6	1.1
A (Sylco/Kamson)	55	25.01, 26, 27 & 30	2 Frick Drive, 854-858 Closter Dock Road, and 1 Appletree Lane	20.5			8.0
TOTAL RDP							32.0

Exhibit C: Concept Plan Alpine Tower Site - Block 80 Lots 10 & 11



R425.00'



100.00'

50.00'

NJ Route 9W

100.00'

Note:

1. The site survey used for this conceptual design is a copy of the document and has been scaled to reflect the approximate property size and configuration. This base information will be required to be updated in order to confirm the conceptual design illustrated on this plan.
2. The building outlines shown on this plan are conceptual and reflect the general architectural form to accommodate the amount of units shown. The architectural design will require refinement by an architectural professional which may alter the building form prior to further site and development planning.
3. This site plan reflects the conceptual 2-dimensional arrangement of site improvements and does not account for the existing or proposed site grading or applicable storm water management requirements. Further refinement of this plan will be required by a qualified professional to address these requirements in accordance with applicable regulations.

ba BURGIS Associates, Inc.
 COMMUNITY PLANNING
 LAND DEVELOPMENT AND DESIGN
 LANDSCAPE ARCHITECTURE
 25 Westwood Avenue
 Westwood, New Jersey 07675
 P: (201) 666-1871
 F: (201) 666-2199
 W: burgis.com

Project Title
Housing Study

Confidential and Deliberative

Borough of Alpine
 Bergen County, New Jersey

Key Map
 Scale NOT TO SCALE

Dwg. Legend

Conceptual Development Summary:

Unit Type

Multifamily Residential Flats:
 1- 35 unit building @ 3 stories

Affordable 15% of 35= 5.25 or 6 units
 Min (2) 3-bedroom unit
 (3) 2-bedroom units
 Max (1) 1-bedroom unit

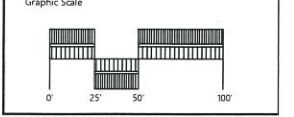
Parking Calculation: 35 units
 2.0 per unit x 35= 70 sp req.
 82 prop.

Base site information obtained from GIS Data from NIGIN Warehouse

Rev	Description	Date	Drawn	Checked

Dwg. Title

Concept Study



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

Project No.	3017.01
Sheet No.	1 of 1
Date	8/8/22
Drawn	EJ/ES
ACAD File	3017.01 Concept 16
Dwg. Scale	1"=50'

Dwg. No.
C-1B-50

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Exhibit D: 2023 Regional Income Limits

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - May 26, 2023

2023 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

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

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase		Regional Asset
												Rents**	Sales***	Limit****
Region 1 Bergen, Hudson, Passaic and Sussex	Median	\$84,288	\$90,309	\$96,329	\$108,371	\$120,412	\$125,228	\$130,045	\$139,678	\$149,311	\$158,944	6.0%	4.12%	\$232,836
	Moderate	\$67,431	\$72,247	\$77,064	\$86,697	\$96,329	\$100,183	\$104,036	\$111,742	\$119,449	\$127,155			
	Low	\$42,144	\$45,154	\$48,165	\$54,185	\$60,206	\$62,614	\$65,022	\$69,839	\$74,655	\$79,472			
	Very Low	\$25,286	\$27,093	\$28,899	\$32,511	\$36,124	\$37,568	\$39,013	\$41,903	\$44,793	\$47,683			
Region 2 Essex, Morris, Union and Warren	Median	\$86,680	\$92,872	\$99,063	\$111,446	\$123,829	\$128,782	\$133,735	\$143,642	\$153,548	\$163,454	6.0%	7.50%	\$237,565
	Moderate	\$69,344	\$74,297	\$79,251	\$89,157	\$99,063	\$103,026	\$106,988	\$114,913	\$122,838	\$130,763			
	Low	\$43,940	\$46,436	\$49,532	\$55,723	\$61,914	\$64,391	\$66,868	\$71,821	\$76,774	\$81,727			
	Very Low	\$26,004	\$27,862	\$29,719	\$33,434	\$37,149	\$38,635	\$40,121	\$43,092	\$46,064	\$49,036			
Region 3 Hunternon, Middlesex and Somerset	Median	\$100,030	\$107,175	\$114,320	\$128,610	\$142,900	\$148,616	\$154,332	\$165,764	\$177,196	\$188,628	6.0%	5.38%	\$272,103
	Moderate	\$80,024	\$85,740	\$91,456	\$102,888	\$114,320	\$118,893	\$123,466	\$132,611	\$141,757	\$150,902			
	Low	\$50,015	\$53,588	\$57,160	\$64,305	\$71,450	\$74,308	\$77,166	\$82,382	\$88,598	\$94,814			
	Very Low	\$30,009	\$32,153	\$34,296	\$38,583	\$42,870	\$44,585	\$46,300	\$49,729	\$53,159	\$56,588			
Region 4 Mercer, Monmouth and Ocean	Median	\$91,038	\$97,540	\$104,043	\$117,048	\$130,054	\$135,256	\$140,458	\$150,862	\$161,267	\$171,671	6.0%	6.07%	\$244,635
	Moderate	\$72,830	\$78,032	\$83,234	\$93,639	\$104,043	\$108,205	\$112,367	\$120,690	\$129,013	\$137,337			
	Low	\$45,519	\$48,770	\$52,022	\$58,524	\$65,027	\$67,628	\$70,229	\$75,431	\$80,633	\$85,836			
	Very Low	\$27,311	\$29,262	\$31,213	\$35,115	\$39,016	\$40,577	\$42,137	\$45,259	\$48,380	\$51,501			
Region 5 Burlington, Camden and Gloucester	Median	\$80,089	\$85,800	\$91,520	\$102,960	\$114,400	\$118,976	\$123,552	\$132,704	\$141,856	\$151,008	6.0%	8.54%	\$212,016
	Moderate	\$64,064	\$68,640	\$73,216	\$82,368	\$91,520	\$95,181	\$98,842	\$106,163	\$113,485	\$120,806			
	Low	\$40,040	\$42,900	\$45,760	\$51,480	\$57,200	\$59,488	\$61,776	\$66,352	\$70,928	\$75,504			
	Very Low	\$24,024	\$25,740	\$27,456	\$30,888	\$34,320	\$35,693	\$37,066	\$39,811	\$42,557	\$45,302			
Region 6 Atlantic, Cape May, Cumberland, and Salem	Median	\$67,098	\$71,890	\$76,683	\$86,268	\$95,854	\$99,688	\$103,522	\$111,190	\$118,859	\$126,527	6.0%	10.42%	\$179,522
	Moderate	\$53,678	\$57,512	\$61,346	\$69,015	\$76,683	\$79,750	\$82,818	\$88,952	\$95,087	\$101,221			
	Low	\$33,549	\$35,945	\$38,341	\$43,134	\$47,927	\$49,844	\$51,761	\$55,595	\$59,429	\$63,263			
	Very Low	\$20,129	\$21,567	\$23,005	\$25,880	\$28,756	\$29,906	\$31,057	\$33,357	\$35,658	\$37,958			

Moderate income is between 80 and 90 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

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

** This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3 (Consumer Price Index for All Urban Consumers (CPI-U); Regions by expenditure category and commodity and service group). Landlords who did not increase rents between 2015 through 2022 because of the lack of authority to do so, may increase rent by up to the applicable combined percentage including 2023 or 9.0% whichever is less in accordance with N.J.A.C. 5:97-9.3(c). In no case can rent for any particular apartment be increased more than one time per year.

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

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

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