

**SPECIAL ADJUDICATOR'S REPORT
FOR A MOUNT LAUREL COMPLIANCE HEARING
BOROUGH OF ALPINE, BERGEN COUNTY, NEW JERSEY**

*In the Matter of the Borough of Alpine, County of Bergen,
Docket No. BER-L-6286-15
and
Sylco Investments #4, LLC et al. v. Borough of Alpine,
Docket No. BER-L-0293-20*

September 4, 2024

Prepared for:

**The Honorable Christine A. Farrington, J.S.C.
Superior Court of New Jersey
Bergen County Justice Center
10 Main Street
Hackensack, NJ 07601**

Prepared by:

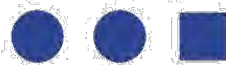


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1.0 INTRODUCTION

This report has been prepared in light of the upcoming Compliance Hearing before the Honorable Christine A. Farrington, J.S.C., on September 11, 2024, at 10:00 am, in In the Matter of the Borough of Alpine, County of Bergen, Docket No. BER-L-6286-15 (the “DJ Action”), and Sylco Investments #4, LLC et al. v. Borough of Alpine, Docket No. BER-L-0293-20. This report reviews the compliance of the Borough of Alpine’s (“Borough”) 2024 Third Round Housing Element and Fair Share Plan (“HEFSP”) and 2024 Land Use Plan Amendment (“Land Use Plan Amendment”) with the substantive rules of the Council on Affordable Housing (“COAH”) (N.J.A.C. 5:93, or the Second Round rules, as well as the specific Third Round rules upheld by the N.J. Supreme Court). It also reviews the Borough’s compliance with the terms of the court-approved Settlement Agreement between the Borough of Alpine and Fair Share Housing Center (“FSHC;” the “FSHC Agreement”), executed on November 1, 2023, and with the terms of the court-approved Settlement Agreement between the Borough, its Planning Board (collectively the “Municipal Parties”), and F.E. Alpine, Inc.; Sylco Investments #4, LLC; Sylco Investments 854, LLC; 850 Closter Dock Road, LLC; 842 Closter Dock Road, LLC; and Sylco Investments #5, LLC (collectively “Sylco;” the “Sylco Agreement”), fully executed by the Borough, its Planning Board, and Sylco on November 1, 2023. These agreements were approved by Your Honor, after a duly-noticed Fairness Hearing, by order dated March 12, 2024. I am submitting this report in my capacity as Special Adjudicator, appointed in the above-captioned DJ Action per Court Order of September 21, 2015.

Public notice of the upcoming Compliance Hearing was published in accordance with established Mount Laurel case law. The notice properly summarized the Borough’s HEFSP and directed interested members of the public to the Borough Clerk’s office, where they could review and request copies of the HEFSP and related documents, described the purpose of the Court compliance hearing that is to be held on September 11, 2024, and invited written comments or objections to be filed no later than August 21, 2024. I am not aware of any written comments or objections received by the August 21, 2024 deadline in response to the public notice.

This report recommends that the Court grant the Borough a Third Round Judgment of Compliance and Repose, subject to the fulfillment of certain terms and conditions noted herein.

2.0 THE 2023 SETTLEMENT AGREEMENTS; FAIRNESS HEARING

Alpine filed a Complaint for Declaratory Judgment on July 8, 2015, amended August 14, 2015, seeking a declaration of its compliance with the Mount Laurel doctrine and in accordance with the New Jersey Supreme Court's March 10, 2015, decision in In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (Mount Laurel IV). Through the declaratory judgment process, the Borough and FSHC engaged in negotiations to settle the litigation, including determination of the Borough's Prior Round and Third Round affordable housing obligations and enumeration of the compliance mechanisms that would satisfy those obligations.

To determine the Borough's Prior Round obligation, the parties relied on the Borough's 2000 Judgment of Repose ("JOR") for its Second Round Housing Element and Fair Share Plan ("HEFSP"). In that matter, the Court had established the Borough's Second Round obligation at 214, which was adjusted to 108 units on the basis of the 20% cap pursuant to N.J.A.C. 5:93-2.16. In addition, the Court granted the Borough a Vacant Land Adjustment ("VLA"), resulting in a Second Round Realistic Development Potential ("RDP") of 32 units and a remaining Unmet Need of 76 units.

In March 2018, as part of ongoing negotiations with FSHC, the Borough updated its Vacant Land Analysis, proposing a Third Round RDP of either 13 or 19 units, depending on whether a C-1 stream buffer was to be included in the calculation of the Borough's Third Round RDP.

In August 2019, Sylco filed a motion to intervene, challenging the exclusion of its properties from the Borough's 2018 Vacant Land Analysis, seeking to have the Borough's immunity from exclusionary zoning litigation terminated, and seeking a rezoning of its properties to enable inclusionary residential development. Sylco's motion was denied, but Sylco was permitted to participate in the Borough's DJ Action as an interested party.

In January 2020, Sylco filed a separate complaint, alleging that, while its properties were not available when the Borough's 2000 Second Round HEFSP was adopted, they had since become available, and since Alpine had not met its entire 108-unit Prior Round obligation, the availability of the Sylco properties constituted a "changed circumstance" pursuant to FSHC v. Twp. of Cherry Hill, 173 N.J. 393 (2002) and therefore should compel a recalculation of the Borough's RDP. The complaint sought to have the Court compel the Borough to recalculate its Second Round RDP by including the Sylco properties; to address an increased RDP; to adopt inclusionary zoning on the Sylco properties at a substantial density; and to amend its zoning ordinance to permit multi-family housing where appropriate in the Borough. Sylco then sought to have its action consolidated with the Borough's DJ Action. Sylco's motion to consolidate was denied.

After extensive negotiations, the Municipal Parties reached a settlement with Sylco regarding development of its properties to resolve the 2020 litigation, and the Borough and FSHC reached a separate settlement in the Borough’s DJ Action.

The Sylco Agreement permits Sylco to develop its properties with a maximum of 40 non-age-restricted townhomes, including 32 market-rate units and eight (8) affordable units, a 20% affordable housing set-aside (the “Development”). The affordable units are required by the Sylco Agreement to be non-age-restricted rentals.

The FSHC Agreement establishes the Borough’s fair share need allocations as follows:

- 4-unit Third Round Present Need (Rehabilitation obligation)
- 108-unit Prior Round (1987-1999) obligation, as adjusted per 20% cap
- 122-unit Third Round (1999-2025) Gap and Prospective Need obligation, adj. per 20% cap

The Borough has limited vacant developable land and, for that reason, the Borough received a VLA of its Prior Round obligation to a Prior Round RDP of 32 units and an Unmet Need of 76 units, and a VLA of its Third Round obligation to a Third Round RDP of 32 units and an Unmet need of 90 units.

On January 26, 2024, both Settlement Agreements were presented to Your Honor at a Fairness Hearing, along with my Fairness Report, dated January 18, 2024. Your Honor approved both Settlement Agreements and concluded that both are fair, reasonable, and adequately protect the interests of the region’s lower-income households. Subsequently, Your Honor issued an Order on March 12, 2024, reflecting such decision.

This report and the upcoming Compliance Hearing focus on the Borough’s Land Use Plan Amendment and on the Borough’s Third Round HEFSP and its compliance with the rules and regulations set forth in COAH’s Second Round rules (and the court-upheld Third Round regulations), the Fair Housing Act (“FHA”), the Uniform Housing Affordability Controls (“UHAC”), and the Court-approved Settlement Agreements.

3.0 ALPINE BOROUGH’S LAND USE PLAN AMENDMENT

The Sylco Agreement required the Borough Planning Board to adopt a Master Plan Amendment, pursuant to the procedures prescribed by the Municipal Land Use Law (“MLUL”) that is consistent with the proposed rezoning ordinance for the site and with the submitted Concept Plan for the Development.

Fairness Report Condition: No later than 90 days after entry of an Order approving the Sylco Agreement, the Borough Planning Board must adopt a Master Plan Amendment to permit the Sylco development as contemplated by the proposed rezoning ordinance and Concept Plan.

The MLUL at N.J.S.A. 40:55D-28.a. specifies the process for adoption of a Land Use Plan Element or Amendment, and N.J.S.A. 40:55D-28.b.(2) prescribes the required contents of a Land Use Plan Element. On June 6, 2024, the Borough Planning Board adopted a Land Use Plan Amendment to its 2002 Master Plan, consistent with the required process. The Amendment appropriately amends the Borough's Land Use Goal #7 and its associated policy statement, which concern Alpine's commitment to comply with its fair share affordable housing obligation. However, no other portions of the Borough's 2002 Master Plan were amended in order for the Sylco ordinance to be consistent, or to anticipate any potential rezoning as a result of unanticipated opportunities pursuant to Paragraph #12 of the FSHC Settlement, discussed below. In particular, the adopted Land Use Plan Amendment did not:

- Amend any other **Land Use Goals** and associated policy statements that may require it, including those restricting density or intensity of use to then-current levels;
- Amend the category description in **Section 2.3 Land Use Categories** for the **Moderate Density Residential Use R-1** residential zone, in which the Sylco property is currently included, to either remove the Sylco property from the zone or note it as an exception to R-1 standards, and to remove from the description the statement that no change is proposed to the one-dwelling-per-acre existing density in this category;
- Amend as necessary the description in **Section 2.3 Land Use Categories** for **Multi-Family Residential (Mt. Laurel Housing)**.
- Amend **Section 6.2 Sewer** of the **Infrastructure** section to include the Sylco site. This section restricts the current and future availability of sewer service to a specific list of blocks and lots that do not include the Sylco property;
- Amend the Land Use Plan Map, the Zone Map to implement Master Plan Recommendations, or the map of lots that are connected or are permitted to connect to sanitary sewer (these three maps may all be found at the end of the 2002 Master Plan), to reflect the changes for the Sylco site.

Within 90 days of the entry of any conditional Judgment of Repose in this matter, the Borough must amend the relevant elements of its 2002 Master Plan as follows (collectively Condition 1):

- Amend all Land Use goals and policy statements as needed so that the Sylco ordinance is consistent, including but not limited to rewording the prohibition on additional density or intensity of use.
- Amend the category description for the Moderate Density Residential Use R-1 residential zone to remove the Sylco lots.
- Amend the Sewer paragraph in the Infrastructure section to include the Sylco site as being permitted to have access to sewer service.
- Amend all relevant maps so that the Sylco ordinance is consistent. With the adoption of the Sylco ordinance, the Zoning Map must also be amended.

4.0 ALPINE BOROUGH'S HOUSING ELEMENT AND FAIR SHARE PLAN

The FHA at N.J.S.A. 52:27D-310 and COAH's rules prescribe the components of the municipal Housing Element of the Master Plan. The Borough prepared a Third Round HEFSP and provided a draft, including appendices, for review. The HEFSP was adopted by the Borough Planning Board on June 6, 2024, and endorsed by the Borough's Governing Body on June 26, 2024, via Resolution no. 13:6'2024. The Borough has provided a copy of the adopted HEFSP, without any appendices. The Borough's adopted HEFSP meets the basic requirements of the FHA, applicable COAH regulations, and the terms of the FSHC Settlement Agreement; however, the Borough will need to provide an administrative supplement that includes additional required information.

The Borough plans to address its fair share obligation using the compliance mechanisms listed below.



Wetlands Source:
 Wetlands (from Land Use/Land Cover 2015 Update), Edition 1/28/2019
 Publisher: NJ Department of Environmental Protection (NJDEP)
 Division of Information Technology (DOIT),
 Bureau of Geographic Information System (BGIS)

Special Flood Hazard Area Source:
 Title: National Flood Hazard Layer (NFHL)
 Organization Name: Federal Emergency Management Agency
 Publication Date: 2020

Steep Slopes Source:
 Steep Slopes calculated from:
 New Jersey 10 Foot Resolution LiDAR (Light Detection and Ranging)
 Derived Digital Elevation Model (DEM), Non-Hydro-Flattened
 Originator: New Jersey Department of Environmental Protection
 Publication Date: 10/2019

Aerial Source:
 Title: NJ 2020 Natural Color Imagery
 Publisher: NJ Office of Information Technology, Office of GIS (NJOGIS)
 Publication Date: 7/7/2021



KEY MAP

Legend

- Affordable Housing Sites
- 100 Year Flood
- Wetlands
- Water
- Slopes 15 Percent and above
- Streams



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 Architecture
 Planning
 Landscape Architecture

Affordable Housing Sites

LOCATION:
 Alpine Borough, Bergen County, NJ

DATE:
 January 2024

Rehabilitation Obligation: 4 units

The Borough’s HEFSP says it intends to continue to work with the Bergen County Home Improvement Program, which provides funds for rehabilitation of homes in the County that are occupied by income-eligible owner households. Qualified owner-occupants in all Bergen County municipalities are automatically eligible to apply for these funds, and no shared-services agreement is required. Because of the Borough’s small Rehabilitation obligation, the FSHC Agreement stipulates the Borough does not need to establish a municipal rental rehabilitation program.

The Borough’s HEFSP indicates it will dedicate \$10,000 per unit in affordable housing trust funds to supplement Bergen County’s funds.

The Borough must provide for review and then adopt a Spending Plan that dedicates at least \$10,000 per unit to supplement the County’s Program (see Condition 14, below).

Prior Round RDP/Unmet Need: 32-unit RDP and 76-unit Unmet Need

Per the FSHC Settlement Agreement, the Borough has met its 32-unit Prior Round RDP with the following compliance mechanisms, which were approved by the Court as part of the Borough’s 2000 JOR:

Alpine Borough Prior Round Compliance Mechanisms			
Prior Round RDP = 32 Units			
Compliance Mechanism	Units	Rental Bonuses	Total Credits
Regional Contribution Agreement (RCA)			
Borough of Fairview	16		16
100% Affordable – Completed			
Municipal Site – affordable family rentals	8	8	16
Total	24	8	32

Regional Contribution Agreement: 16 units

Fairness Report Condition: As part of its Third Round HEFSP, the Borough must provide documentation of the transfer of \$320,000 to the Borough of Fairview in satisfaction of its RCA Obligation.

The Borough has provided in an appendix to its draft HEFSP copies of a check, dated November 9, 2000, made out to the Borough of Fairview in the amount of \$320,000, with accompanying correspondence indicating it is payment pursuant to the Regional Contribution Agreement between the municipalities.

Municipal Site: 8 family affordable rentals and 8 rental bonuses

In the HEFSP the Borough lists eight units from the Municipal Site (Block 39, Lot 2.01) toward Prior Round compliance, but provides no details on the income-bedroom distribution of the units, when they came online, or what entity administers them, which should be added in an administrative supplement to the HEFSP.

Fairness Report Condition: The Borough must provide a copy of a c.o. for the eight (8) existing affordable family rental units on the Municipal Site, must indicate in its HEFSP which experienced and qualified Administrative Agent administers the units per UHAC regulations, and must verify with information from the qualified Administrative Agent and then confirm in the HEFSP the income-bedroom distribution of the existing family affordable rental units.

The Borough has provided a certificate of occupancy, dated December 21, 2006, for “Alpine Borough COAH Housing” on Block 39, lot 2 in the Borough. A deed restriction of at least 30 years, recorded March 24, 2009, indicates the units are administered by the Housing Authority of Bergen County. No other information has been provided.

In an administrative supplement to the HEFSP, the Borough must note that the Housing Authority of Bergen County administers the affordable units, and must provide from HABC a unit census showing the affordability level and bedroom count for each unit (see Condition 11, below).

Prior Round Rental Obligation, Prior Round Rental Bonuses

Although not discussed in the Borough’s HEFSP, the Borough satisfies its Prior Round requirement to provide at least 25% of its Prior Round obligation as rental units with eight affordable rental units from the Municipal Site (25% of its 32-unit Prior Round RDP). The Borough is entitled to claim, and is claiming, eight rental bonuses, equal to its rental obligation, the maximum permitted.

Third Round RDP/Unmet Need: 32-unit RDP and 90-unit Unmet Need

Vacant Land Analysis

Fairness Report Condition: As an appendix to its HEFSP, the Borough must include full details of its Vacant Land Analysis as required by N.J.A.C. 5:93-4.2, including:

- A table sorted by block/lot of all sites reviewed, with ownership information, gross and net acreage, which reason under N.J.A.C. 5:93-4.2(e) were relied on for any sites eliminated, the presumptive density and total potential units (one column) for sites included, and the number of affordable units being assigned to each included site. The Affordable Units column should be totaled. Each site should be assigned a number, which should be used to designate it on the Borough's associated aerial map(s).
- An aerial map showing existing land use by parcel.
- An aerial map or maps showing all streets and lots, all environmental constraints, all sites considered, identifying them by the site number from the table discussed above, and which sites are included, and which are excluded from contributing to the Borough's RDP.

The Borough has included in the HEFSP an Existing Land Use map that shows all vacant parcels, and a separate aerial map that shows environmental constraints. The Borough has included in an appendix to its draft HEFSP the table of parcels that generate the Third Round RDP that was attached to the FSHC Settlement Agreement. Each parcel listed in the table has an identification number assigned to it, but those numbers are not included on the Existing Land Use map. The table also does not note any vacant parcels that were not included in the RDP calculation, and which reason(s) under N.J.A.C. 5:93-4.2(e) were relied on for their exclusion, it does not indicate ownership of any parcel, and it does not include a total unit yield for any parcel. The Existing Land Use map does not indicate which vacant parcels have been included in the Borough's RDP calculation and which have not. No street names are included.

In an administrative supplement to the HEFSP, the Borough must provide the full table of all vacant lots in the Borough, including ownership information, and whether they were included in the RDP calculation and if not, which reason(s) under N.J.A.C. 5:93-4.2(e) were relied on for the exclusion. Each site should be assigned an identification number, and all sites should be identified on an accompanying aerial map, with visual denotation as to whether they are

included in the RDP calculation. The aerial map should show all streets, all lots, and all environmental constraints (see Condition 11, below).

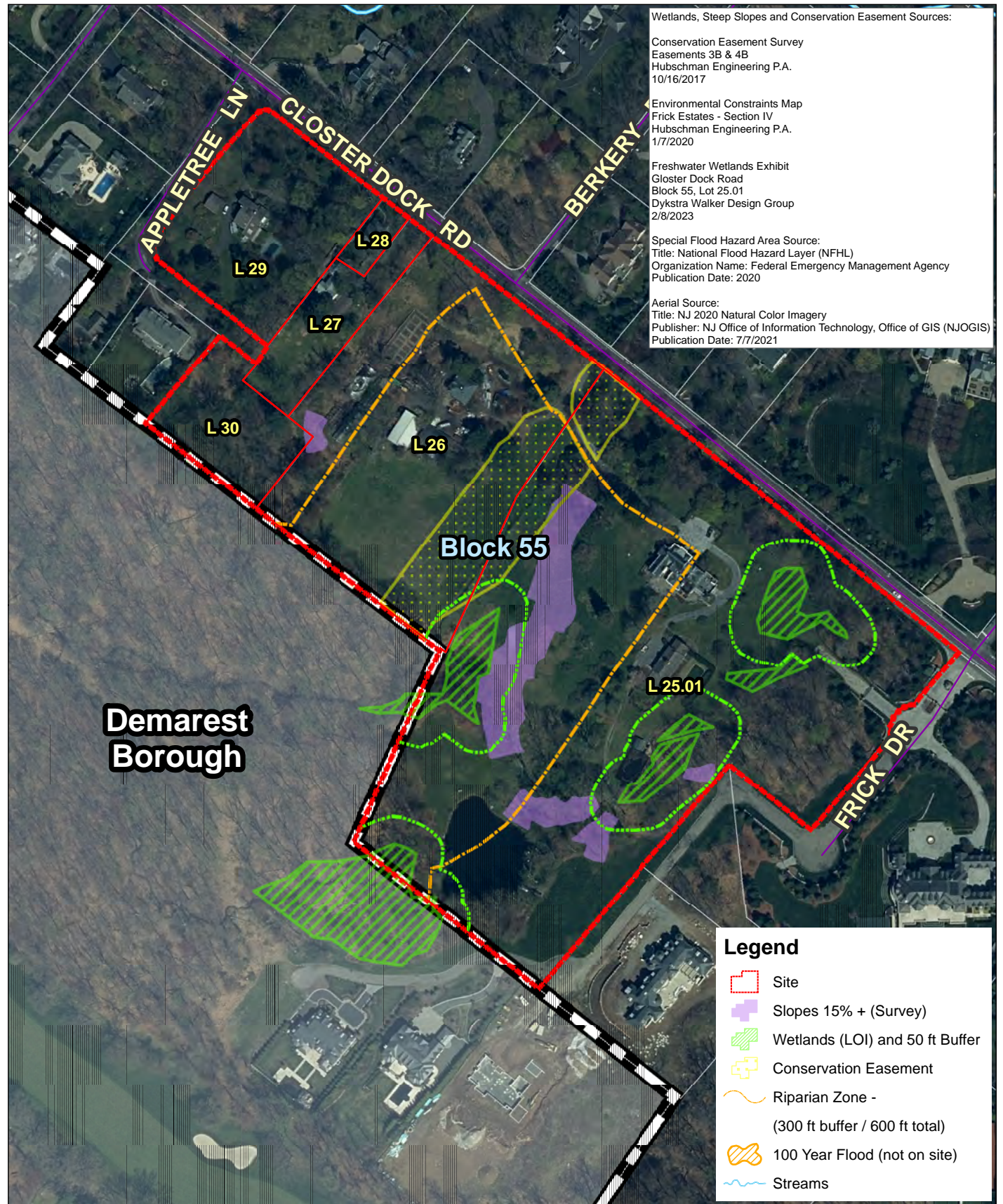
Realistic Development Potential

The Borough proposes to satisfy its 32-unit Third Round RDP via the following compliance mechanisms:

Alpine Borough Third Round Compliance Mechanisms Third Round RDP = 32 Units			
Compliance Mechanism	Units	Rental Bonuses	Total Credits
Inclusionary Development – Proposed			
Sylco Development - affordable family rentals	8	8, max	16
100% Affordable – Proposed			
Municipal Site Expansion – affordable supportive rental bedrooms	14	capped	14
Accessory Apartment Program – Proposed			
Affordable family rentals	4	capped	4
Total	26	8	34
Surplus (34 credits/reductions less 32-unit RDP)			2

Sylco Site: 8 family affordable rentals and 8 rental bonuses

Via the Sylco Agreement, the Borough has included the proposed Sylco Development toward satisfaction of its Third Round RDP. The development, proposed for Block 55, Lots 25.01, 26, 27, 28, 29, and 30, totaling approximately 22.6 acres located generally on Closter Dock Road between Frick Drive and Apple Tree Lane, calls for 40 non-age-restricted townhomes, of which 32 may be market-rate and eight (8) must be family affordable rental units, comprising one (1) one-bedroom unit, five (5) two-bedroom units, and two (2) three-bedroom units (see the aerial site map and Sylco’s concept plan below). Of the eight (8) affordable units, the Sylco Agreement requires two (2) to be very low-income units and two (2) to be low-income units; four (4) may be moderate-income units.



Wetlands, Steep Slopes and Conservation Easement Sources:

Conservation Easement Survey
Easements 3B & 4B
Hubschman Engineering P.A.
10/16/2017

Environmental Constraints Map
Frick Estates - Section IV
Hubschman Engineering P.A.
1/7/2020

Freshwater Wetlands Exhibit
Closter Dock Road
Block 55, Lot 25.01
Dykstra Walker Design Group
2/8/2023

Special Flood Hazard Area Source:
Title: National Flood Hazard Layer (NFHL)
Organization Name: Federal Emergency Management Agency
Publication Date: 2020

Aerial Source:
Title: NJ 2020 Natural Color Imagery
Publisher: NJ Office of Information Technology, Office of GIS (NJOGIS)
Publication Date: 7/7/2021

Legend

- Site
- Slopes 15% + (Survey)
- Wetlands (LOI) and 50 ft Buffer
- Conservation Easement
- Riparian Zone -
(300 ft buffer / 600 ft total)
- 100 Year Flood (not on site)
- Streams



Affordable Housing Site - Sylco

Per Sylco Survey and Sylco Concept Plan
Block 55 - Lots 25.01 & 26-30

LOCATION:
Alpine Borough, Bergen County, NJ

DATE:
January 2024

The Borough's HEFSP discusses the environmental constraints on the site, but not the other site suitability factors, including access to appropriate streets; adjacent uses; the state Planning Area that encompasses the site; its current zoning and the proposal to rezone the property; the need for a Master Plan Amendment consistent with the rezoning ordinance; and how water and sewer service will be provided, given that the Sylco site is not currently within the Borough's Sewer Service Area.

In an administrative supplement to the HEFSP the Borough must provide a full site suitability analysis for the Sylco site as set forth in N.J.A.C. 5:93-5.3 (See Condition 11, below).

Fairness Report Condition: No later than 120 days after entry of an Order approving the Sylco Agreement, introduce an ordinance, substantially in the form attached to the Sylco Agreement, to rezone the Sylco property; refer the ordinance to the Planning Board for consistency review, which the Planning Board must provide within 35 days of the date of referral; and adopt the ordinance after a public hearing no later than 35 days after the Planning Board issues its review and recommendation.

The Borough requested, and our office and FSHC have agreed to, an extension of the deadline by which the Borough's implementing ordinances must be introduced. In an appendix to its draft HEFSP the Borough has provided a draft rezoning ordinance for the Sylco site, marked "For Discussion Purposes Only" (the "HEFSP Draft"). The draft differs from the draft attached to the Sylco Agreement (the "Sylco Agreement Draft") in several respects, including the following:

- Vehicular access: The Sylco Agreement Draft permits maintenance vehicles, landscaping vehicles, etc., to gain access to the site via Appletree Lane; the HEFSP Draft does not.
- Parking and internal roadway setbacks: The Sylco Agreement Draft specifies a min. parking and internal roadway setback of 30 feet from lot lines; the HEFSP Draft requires 40 feet.
- Signage: The HEFSP Draft includes various changes to signage standards, including to the number of signs (two in the Sylco Agreement Draft, one in the HEFSP Draft), the maximum permitted area of signs and height of sign lettering, and, in the HEFSP Draft, an increase in the required setback for any signs.
- Omission in the HEFSP Draft of the Soil Movement and Steep Slopes provisions, which were included in the Sylco Agreement Draft. The HEFSP Draft says only that these provisions are "to be inserted by Borough engineer." An updated version with these provisions included has not been provided.
- Omission in the HEFSP Draft of any tree requirements, which were also included in the Sylco Agreement Draft.

The Borough must provide for review and then adopt the Sylco ordinance substantially in the form provided in the Sylco Agreement (Condition 2).

The Sylco site is not currently within the Borough's Sewer Service Area, and Sylco has applied to the DEP for an amendment to the applicable Water Quality Management Plan ("WQMP"), which the Sylco Agreement requires the Municipal Parties to support.

Fairness Report Condition: Sylco's Engineer shall present testimony at the Fairness Hearing regarding the representations as to anticipated DEP approvals of the amendment to the applicable WQMP to include the Sylco site in the sewer service area, and of the anticipated DEP approvals of various riparian, wetlands, etc., environmental permits.

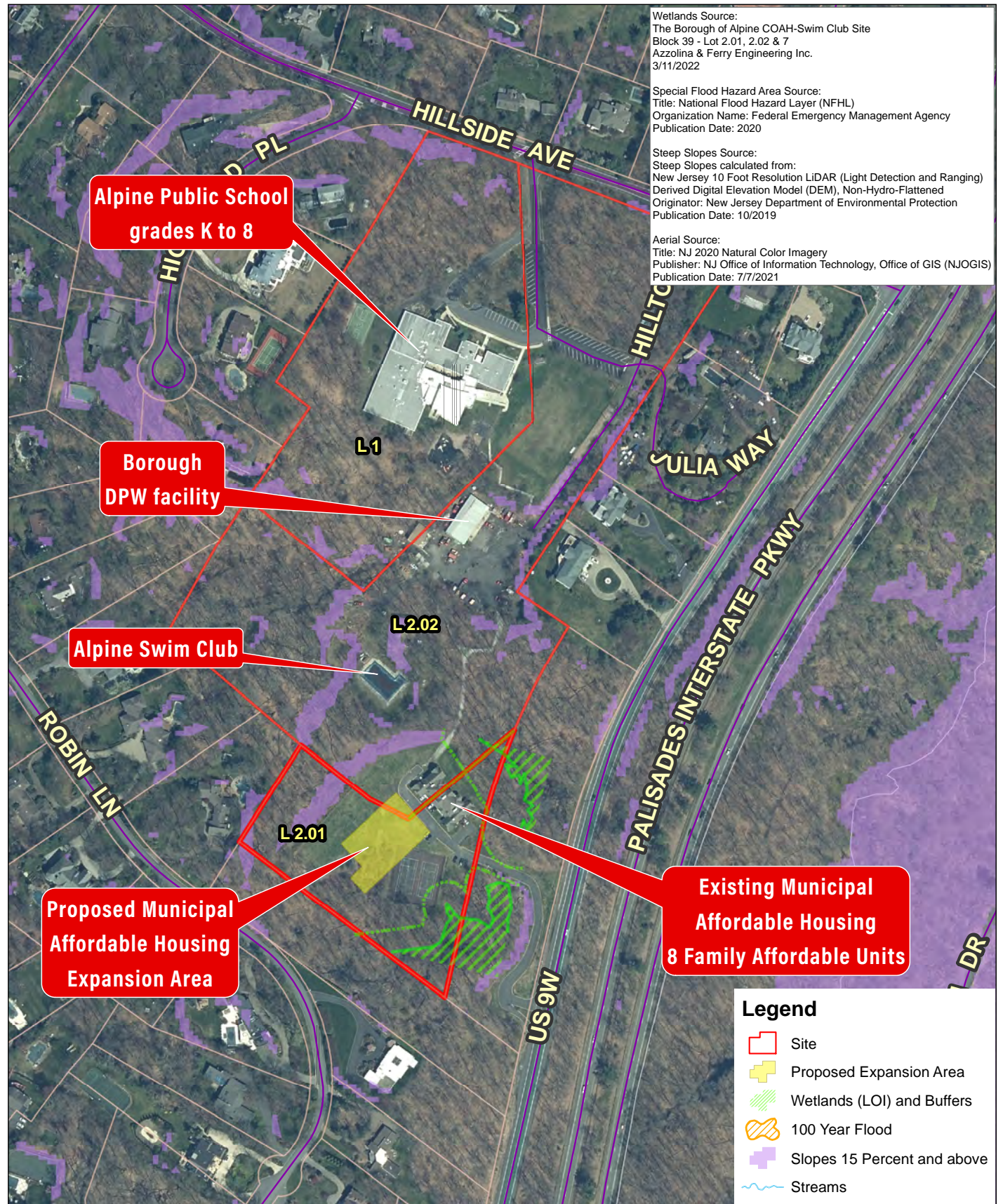
Mark Gimigliano, Sylco's Engineer, presented testimony regarding the anticipated DEP approvals of the amendment to the applicable WQMP to include the Sylco site in the sewer service area, and of the anticipated DEP approvals of various riparian, wetlands, etc., environmental permits.

Municipal Site Expansion: 14 supportive rental bedrooms

As noted above, the Borough previously developed eight (8) family affordable rental housing units on municipally owned land (Block 39, Lots 2.01 and 2.02) as part of its Prior Round affordable housing plan. The Borough proposes to expand the development on this municipal site with new affordable rental supportive housing units containing a total of 14 bedrooms. The Borough has entered into an agreement with BC UW/Madeline Housing Partners, LLC ("BC UW") to develop and administer the new affordable supportive bedrooms.

The Borough's HEFSP does not discuss the suitability for the proposed expansion of the Municipal Site, including which state Planning Area encompasses the site expansion or the presence of steep slopes, and while it does refer to a proposed expansion of the existing septic system as discussed below, there is no discussion of provision of water to the additional units. In addition, since this development is municipally sponsored, there is no discussion of funding or a construction timetable. The accompanying aerial does not depict any environmental constraints, including the location of the existing and proposed septic system.

In an administrative supplement to the HEFSP the Borough must provide a full site suitability analysis per N.J.A.C. 5:93-5.3 for the part of the Municipal Site where the expansion will be located, and must add environmental constraints, including the location of the existing and proposed expansion of the septic system, to the accompanying aerial for the site (see Condition 11, below).



Wetlands Source:
 The Borough of Alpine COAH-Swim Club Site
 Block 39 - Lot 2.01, 2.02 & 7
 Azzolina & Ferry Engineering Inc.
 3/11/2022

Special Flood Hazard Area Source:
 Title: National Flood Hazard Layer (NFHL)
 Organization Name: Federal Emergency Management Agency
 Publication Date: 2020

Steep Slopes Source:
 Steep Slopes calculated from:
 New Jersey 10 Foot Resolution LiDAR (Light Detection and Ranging)
 Derived Digital Elevation Model (DEM), Non-Hydro-Flattened
 Originator: New Jersey Department of Environmental Protection
 Publication Date: 10/2019

Aerial Source:
 Title: NJ 2020 Natural Color Imagery
 Publisher: NJ Office of Information Technology, Office of GIS (NJOGIS)
 Publication Date: 7/7/2021

Legend

- Site
- Proposed Expansion Area
- Wetlands (LOI) and Buffers
- 100 Year Flood
- Slopes 15 Percent and above
- Streams



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 Architecture
 Planning
 Landscape Architecture

Affordable Housing Expansion Municipal Site

Block 39 - Lot 2.01 + (Lots 1 & 2.02)

LOCATION:
 Alpine Borough, Bergen County, NJ

DATE:
 January 2024

The FSHC Agreement includes an acknowledgement by the parties that this property does not currently have access to public water and sewer service, and the original eight (8) affordable family units were developed utilizing a well and septic system. The parties acknowledge in the FSHC Agreement that the current well and septic system either have sufficient capacity or can and will be expanded to serve the additional 14 bedrooms of affordable rental supportive housing.

A 2022 report from Borough Engineer Perry E. Frenzel, PE PP, of Azzolina & Feury Engineering, Inc., indicated the existing septic system was functioning well and recommended upgrading the system with the addition of electric pumps for more efficient dispersion of wastewater, which would allow the accommodation of an additional 12 bedrooms.

Fairness Report Conditions: Within 60 days of entry of an Order approving the FSHC Agreement, provide an updated report from the Borough Engineer indicating whether the proposed upgrades to the existing septic system will support a total of 14 bedrooms and whether the existing well, as is or with upgrades, will support water service for a total of 14 bedrooms.

No report has been provided.

The Borough must provide an updated report from the Borough Engineer indicating whether the proposed upgrades to the existing septic system on the Municipal Site will support a total of 14 bedrooms, and whether the existing well, as is or with upgrades, will support water service for a total of 14 bedrooms (Condition 3).

Fairness Report Condition: Provide information on the process and timing for submitting any required applications to the state Department of Environmental Protection (“DEP”) for expansion of the existing septic system and well, including who will submit the application, whether new testing will be required, when it will be submitted, and when a determination for the septic system/well is expected. Provide our office and FSHC with DEP’s determination on the septic and well applications within 15 days of receipt.

No documentation has been provided.

The Borough must provide information on the process and timing for submitting any required applications to DEP for expansion of the existing septic system and well, including who will submit the application, whether new testing will be required, when it will be submitted, and when a determination for the septic system/well is expected (Condition 4).

The Borough must provide our office and FSHC with DEP’s determination on the septic and well applications within 15 days of receipt (Condition 5).

In the event DEP determines that either the well or the septic system is unable to handle 14 additional bedrooms, the Borough agrees that it will be required to provide for any shortfall on a different site, to be identified no later than 120 days from the issuance of a final unappealable decision of DEP.

In 2022, the Borough executed an agreement with BC UW to transfer land to BC UW for construction of 12 bedrooms of permanent supportive housing. The date of the agreement and the block and lot number of the lands to be transferred are not specified in the agreement. The agreement requires the property to be deed-restricted in perpetuity as housing for individuals with developmental disabilities. The BC UW agreement is contingent on the Borough receiving a final, unappealable JOR in its DJ Action, and provides for closing on the land transfer to take place after entry of the JOR. The agreement requires BC UW to secure financing within one year of execution of the agreement, secure building permits within 18 months of execution, and to complete construction within 12 months of securing building permits, which deadline may be extended in the event of delays beyond BC UW's control. The agreement requires the Borough to adopt a spending plan that provides for full reimbursement to BC UW of all costs and fees associated with the project. The agreement permits a municipal residency preference.

Fairness Report Condition: Within 60 days of entry of an Order approving the Settlement Agreements, provide an updated agreement with BC UW that requires BC UW to construct 14 special-needs bedrooms, and that removes the municipal residency preference or includes a letter from BC UW's attorney referencing the state Department of Developmental Disabilities' permission to utilize such a municipal residency preference.

No agreement has been provided.

The Borough must provide an updated agreement with BC UW that requires BC UW to construct 14 special-needs bedrooms, and that removes the municipal residency preference or includes a letter from BC UW's attorney referencing the state Department of Developmental Disabilities' permission to utilize such a municipal residency preference (Condition 6).

The Borough must provide for review and then adopt a Spending Plan that allocates sufficient funds for full reimbursement to BC UW of all costs and fees associated with the project (see Condition 14, below).

The FSHC Agreement notes that, in accordance with N.J.A.C. 5:93-5.5, evidence must be provided of adequate and stable funding for any non-inclusionary affordable housing development, and required

that, within 60 days of execution of the FSHC Agreement, or by December 31, 2023, BCUW was to provide a pro forma of total development costs and total sources of funds, including documentation of funding available to the Borough and/or BCUW, and any applications for third-party funding that are still pending. BCUW had indicated that its schedule is slightly delayed due to a change in service provider for the units, but that a pro forma would be provided as soon as the square footage of the proposed expansion had been calculated.

Fairness Report Condition: Within 30 days of entry of an Order approving the FSHC Agreement, provide a pro forma from BCUW detailing total development costs and total sources of funds, and provide documentation of funding available to the Borough and/or BCUW, and of any pending third-party funding applications.

No pro forma has been provided.

The Borough must provide a pro forma from BCUW detailing total development costs and total sources of funds, and must provide documentation of funding available to the Borough and/or BCUW, and of any pending third-party funding applications (Condition 7).

In addition, the FSHC Agreement requires, as part of the Borough's HEFSP, submission of a construction or implementation schedule for the project that addresses each step in the development process: site plan preparation, granting of municipal approvals, applications for third-party permits and approvals, selection of a contractor, and construction. The schedule must provide for construction to begin by March 31, 2025. The Borough must also indicate the entity responsible for overseeing and monitoring all development activity on the project.

Fairness Report Condition: As an appendix to its HEFSP, include the updated, executed agreement with BCUW and the pro forma discussed above, and an implementation schedule for construction of the 14 supportive housing bedrooms on the expanded Municipal Site that, pursuant to the FSHC Agreement, provides for construction to begin by March 31, 2025.

The Borough's HEFSP does not include an appendix for the BCUW project.

As an appendix to the administrative supplement to its HEFSP, the Borough must include the updated, executed agreement with BCUW, the pro forma for the project, and an implementation schedule for construction of the 14 supportive housing bedrooms on the expanded Municipal Site that, pursuant to the FSHC Agreement, provides for construction to begin by March 31, 2025 (Condition 8).

Affordable Accessory Apartment Program (4 units)

The FSHC Agreement requires the Borough to establish an accessory apartment program for at least four (4) family affordable rental units. Each accessory apartment would be eligible for a subsidy of up to \$70,000 (a total of \$280,000) to assist in the conversion or creation of the affordable accessory apartment. The FSHC Agreement requires the program to remain in effect through July 1, 2025, and to proceed with any units that are in progress or for which discussions have been initiated by that date. Any remaining shortfall as of July 1, 2025, is to be addressed in the Fourth Round without utilizing the affordable accessory apartment program, and the FSHC Agreement stipulates that any affordable housing obligation of the Borough in the 10-year Fourth Round period would not be satisfied through an accessory apartment program.

Fairness Report Condition: Submit for review and then introduce and adopt an ordinance establishing an affordable accessory apartment program.

The Borough requested, and our office and FSHC have agreed to, an extension of the deadline by which the Borough's implementing ordinances must be introduced. As part of its adopted HEFSP, the Borough has provided a draft Accessory Apartment Ordinance. The ordinance permits one accessory apartment on any conforming single-family lot in the Borough, and largely references the existing standards for both apartments created within an existing dwelling and for accessory buildings. Standards for accessory buildings are found in §220-13, Heights and Setbacks, of the Borough Code. Among other standards, §220-13 limits separate accessory apartments to the rear yard, and the draft ordinance limits accessory apartments to a maximum habitable area of 1,000 square feet. Section 220-13 permits a maximum of 20% coverage of the rear yard area inclusive of setbacks.

Fairness Report Condition: Provide an authorizing resolution and executed agreement with a qualified and experienced Administrative Agent for establishment and administration of the Borough's affordable accessory apartment program.

In an appendix to its draft HEFSP the Borough has provided a governing body resolution, adopted January 4, 2024, appointing Laura Mongello of TKLD Consulting in Paramus, N.J., as the Borough's Administrative Agent. Attached to the resolution is a proposal for Administrative Agent services. The Borough has not provided the executed agreement with TLKD, and the proposal does not include establishment and administration of an affordable accessory apartment program.

The Borough must provide the qualifications of TKLD as an experienced and qualified Administrative Agent, a draft of the agreement for review and then execute an agreement with

TKLD for services to include administration of an affordable accessory apartment program (see Condition 16, below).

The Borough must provide for review and then adopt a Spending Plan that allocates sufficient funds to subsidize a four-unit affordable accessory apartment program (see Condition 14, below).

Third Round Rental, Family Rental, Family, Age-Restricted and Very Low-Income Requirements; Third Round Rental Bonuses

The Borough's HEFSP does not discuss how its compliance plan addresses the requirements for a minimum number of rental units, a minimum number of family and family rental units, a maximum number of age-restricted units, or the required 13% very low-income units for all projects approved and constructed after July 17, 2008. The Borough is claiming the maximum permitted number of rental bonuses for the Third Round.

The Borough complies with each of the requirements as follows:

- Minimum rental requirement: 25% of 32-unit RDP = 8 units. The 8 affordable units to be provided at the Sylco site and the 14 special-needs bedrooms to be provided at the expansion of the Municipal site will all be rental units, thus satisfying this requirement. In addition, the FSHC Agreement requires the Borough to ensure that at least 25% of all affordable housing units constructed as a result of any development approved pursuant to any of the Unmet Need mechanisms discussed below will be rental units.
- Maximum rental bonuses: The Borough is claiming the maximum permitted 8 rental bonuses, equal to its minimum rental requirement.
- Maximum age-restricted units: The maximum number of age-restricted units is 8. The Borough is claiming no age-restricted units toward Third-Round compliance.
- Minimum family rentals: 50% of the minimum rental obligation = 50% of 8 units = 4 units. The Borough is providing 8 proposed family affordable rental units from the Sylco site, thus satisfying this requirement. In addition, at least half of the required rental units generated via any Unmet Need mechanism must be available to families.
- Minimum family units: 50% of all affordable units, or 50% of 24 units = 12 units. The Borough satisfies this requirement through provision of 8 family units at the Sylco site and 4 proposed accessory apartments that will be available to families. In addition, at least half of the units generated via any Unmet Need mechanism must be available to families.

- Very low-income units: The FHA requires 13% of all affordable units approved and constructed since July 2008 to be very low-income. The 8 proposed affordable units on the Sylco site, the 14 proposed special-needs bedrooms on the expansion of the Municipal Site, the four proposed accessory apartments, and the anticipated 15 affordable family units from Unmet Need mechanisms, discussed below, a total of 41 affordable units, generate a combined very low-income obligation of five units. Of those five, at least three must be family units. The Borough satisfies these obligations with two family affordable units from the Sylco site, 14 special-needs bedrooms from the expansion of the Municipal Site, and two family affordable units from the Unmet Need mechanisms discussed below, for a total of 18 very low-income units, of which four are to be family units.

In an administrative supplement to the HEFSP, the Borough must include details on all its Third Round and very low-income formula obligations and its Third Round rental bonus calculation (see Condition 11, below).

Prior Round and Third Round Combined Unmet Need: 166 Units

The Borough proposes the following compliance means to help address its 166-unit Unmet Need:

Alpine Borough Prior Round and Third Round 166-Unit Unmet Need Compliance Mechanisms	Rental	For Sale	Family	Senior	Affordable Units
Surplus credits from Third Round	X				2
Radio/Telecommunications Tower Inclusionary Overlay Zone	X				7
Mandatory Borough-Wide Affordable Housing Set-Aside	X				TBD
Additional Unmet Need Opportunities	X		X		15
Total					24+

In addition to the two surplus credits from the satisfaction of its Third Round RDP, the Borough has agreed to the following to help satisfy its 166-unit combined Prior Round (76) and Third Round (90) Unmet Need:

Radio/Telecommunications Tower Inclusionary Overlay Zone (7 units):

Alpine has agreed to adopt overlay zoning on Block 80, Lots 10 and 11, permitting the development of 35 total residential units and requiring a 20% set-aside of seven (7) affordable units. Lot 10 includes the radio/communications tower. The parties contemplate that only the front portion of the property, closest to Route 9W, will be developed, and no residential uses or parking would be developed within the fall zone of the radio/communications tower, which is expected to remain on the site. Although the rear portion of both lots is in State Plan PA1, DEP's GeoWeb mapping indicates the front portion of both lots is in State Plan Planning Area 8 (PA8), Parks and Natural Areas. Borough Planner Joseph Burgis, PP, AICP, of Burgis Associates, indicated in telephone conversations with our office that he believes the PA8 designation is a mapping error, since the designation also appears to cover all or part of several single-family lots to the northwest of the radio/telecommunications tower lots. Mr. Burgis noted that it is possible to have the State Plan policy map amended to change this designation or correct the mapping error as applicable; however, either the State Planning Commission or a state agency must request the amendment, or the Borough may request it as part of cross-acceptance. Otherwise, the property owner must request an amendment.

Fairness Report Condition: Initiate the process of requesting an amendment to the State Plan policy map to correct or re-designate Block 80, Lots 10 and 11 as PA1, and provide quarterly progress updates beginning 90 days after entry of an order approving the Settlement Agreements.

The Borough has provided no documentation showing that the process of requesting an amendment to the State Plan policy map has been initiated, and no other updates have been provided.

The Borough must initiate the process of requesting an amendment to the State Plan policy map to correct or re-designate Block 80, Lots 10 and 11 as PA1 (Condition 9).

The Borough must provide quarterly progress updates on efforts to have the State Plan policy map amended, beginning 90 days after entry of an order approving the Settlement Agreements (Ongoing Condition of Monitoring).

The Borough's HEFSP discusses this site as a location for units to help defray the Borough's Unmet Need, but it does not provide any site suitability information. The aerial in the HEFSP delineates no

environmental constraints, and the graphic is “flipped,” making it appear as an upside-down mirror image.

In an administrative supplement to the HEFSP, the Borough must provide basic site suitability information for the Radio Tower site, and must include any environmental constraints on the site aerial, which should be oriented correctly (see Condition 11, below).

Fairness Report Condition: Submit the overlay ordinance for the Radio Tower site for review and then introduce and adopt the ordinance within 120 days after entry of an Order approving the FSHC Agreement.

As noted above, the Borough requested, and our office and FSHC approved, an extension of the deadline by which its implementing ordinances must be introduced. The Borough has provided for review a draft inclusionary overlay ordinance for the Radio/Telecommunications Tower site, the standards for which permit the contemplated inclusionary development.

Mandatory Borough-Wide Affordable Housing Set-Aside

The Borough has agreed to adopt an ordinance requiring a mandatory affordable housing set-aside of 20% for all new multi-family residential development 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 a new or amended redevelopment or rehabilitation plan. The form of this ordinance is to be finalized through collaboration between FSHC, the Borough and the Special Adjudicator.

Fairness Report Condition: Provide for review and then introduce and adopt the mandatory set-aside ordinance, which may be included in an amended Affordable Housing Ordinance.

The Borough requested, and our office and FSHC have agreed to, an extension of the deadline by which the Borough’s implementing ordinances must be introduced. The Borough has provided for review, and our office has returned comments on, a draft mandatory set-aside ordinance, as a separate ordinance from its Affordable Housing Ordinance. The ordinance requires a 20% affordable housing set-aside, requires any fractional set-aside of 0.5 or greater to be rounded up to the next whole unit, but permits fractional set-asides of less than 0.5 to be rounded down with no other obligation.

The Borough must update its draft mandatory set-aside ordinance to require a fractional payment in lieu of construction, to be calculated pursuant to N.J.A.C. 5:97-6.4(c)3, as revised and amended, as well as to include other changes included in comments provided by our office (Condition 10).

Additional Unmet Need Opportunities (up to 15 units)

Paragraph #12 of the FSHC Agreement - Unmet Need Sites: Per Paragraph #12 of the FSHC Agreement, the parties acknowledge that other sites could generate additional inclusionary development with future sewer service tie-in to assist in satisfying the Borough's Unmet Need. The Agreement sets forth the approach via which the parties will address any potential additional development, and the Agreement anticipates that such potential additional development could generate an aggregate of 15 affordable units in one or more inclusionary developments that would include market-rate units and an on-site affordable housing set-aside, on any site except the Sylco site discussed above, that meets the conditions set forth in Paragraph #12. These conditions include:

- A minimum five-acre tract;
- Within an existing sewer service area or within 500 linear feet of an existing sewer service area or the municipal border;
- A minimum lot width at street line and at setback line of 250 feet on the following county roads: Hillside Avenue or Anderson Avenue;
- A height not to exceed 42 feet and 3 stories;
- A minimum front yard setback of 75 feet from Hillside Avenue or Anderson Avenue;
- A maximum density of 6 dwelling units per acre;
- A minimum perimeter landscape buffer of 25 feet.

Paragraph #12 of the FSHC Agreement details the process by which a qualifying site may be offered and approved, which process is to be spelled out in any final JOR in this matter. The process requires any developer proposing a project per Paragraph #12 to notify the Borough, the Special Adjudicator, and FSHC and provide for review a detailed concept plan. If the Borough, FSHC and Special Adjudicator agree the proposal is compliant and viable, the Borough must draft for review a comprehensive ordinance reflecting the development proposal and consistent with the requirements detailed above. Once all parties have reviewed the ordinance and conferred to resolve any disagreements, the Borough must introduce the ordinance. The Borough is permitted to limit all such developments to a total of 75 residential units, and the ordinance for any such development must require a 20% on-site affordable housing set-aside. Because any very low-income units from any sites that could produce affordable units pursuant to Paragraph #12 of the FSHC Agreement are required by the FSHC Agreement to be family units, any rezoning ordinance drafted for any such site must require that the affordable units produced be family units.

The FSHC Agreement sets forth time periods within which each step in this process must be completed and, should the Borough not introduce the ordinance in a timely manner, permits FSHC to bring a motion to enforce litigants' rights. In that instance, the FSHC Agreement stipulates that the trial court will be the final arbiter of the zoning ordinance and the parties to the FSHC Agreement expressly waive any further challenge to that ordinance and agree to support and defend its adoption and implementation against any third-party challenge in any court review, including any appellate review.

HEFSP, Affordable Housing Ordinance

The FSHC Agreement requires that, within 120 days of entry of an order approving the Agreement, the Borough must adopt and endorse an HEFSP, adopt the zoning ordinances discussed above, and amend its Affordable Housing Ordinance, to implement the compliance plan and terms of the Sylco Agreement and the FSHC Agreement. As noted above, the Borough requested, and our office and FSHC have agreed to, an extension of the deadline by which the Borough's implementing ordinances must be introduced.

Fairness Report Condition: Within 120 days of entry of a Court order approving the FSHC Agreement, adopt and endorse an HEFSP in accordance with the Sylco Agreement, the FSHC Agreement, and the applicable conditions in this report.

The Borough has provided its Third Round HEFSP, prepared by Mr. Burgis and dated May 23, 2024. The Borough has also provided an adopted Planning Board resolution indicating the HEFSP was adopted June 6, 2024. No governing body resolution of endorsement has been provided. The HEFSP needs some additional information as noted in various places above, summarized here, which can be provided via an administrative supplement

The Borough must provide an administrative supplement to its HEFSP, which must include (collectively Condition 11):

- **Income-bedroom distribution and Administrative Agent information for the existing affordable units on the Municipal Site.**
- **A full Third Round vacant land analysis.**
- **Full site suitability details for the Sylco site.**
- **Full site suitability details for the expansion on the Municipal Site, and inclusion of environmental constraints on the site aerial.**
- **Basic site suitability for the Radio/Telecommunications Tower Site, and inclusion of environmental constraints on the site aerial.**

- Discussion of how the Borough meets its Prior Round and Third Round formula obligations and its very low-income obligation, and how it calculates its rental bonuses.

Fairness Report Condition: Within 120 days of entry of a Court order approving the FSHC Agreement, adopt the zoning ordinances discussed above, and amend the Borough's Affordable Housing Ordinance to implement the terms of the Agreement.

As noted above, the Borough has requested, and my office and FSHC have consented to, an extension of the deadline by which all implementing ordinances must be adopted. The Borough has provided the draft zoning ordinances, and a draft Affordable Housing Ordinance, on which we have provided comments.

The Borough must update its draft Affordable Housing Ordinance to include the following, as noted in the comments returned (Condition 12):

- Additional definitions not set forth elsewhere in the Municipal Code;
- A provision for fractional payments in lieu of construction for fractional set-asides of less than 0.5;
- UHAC and FHA requirements for affordability controls, income and bedroom distribution;
- Language from the FSHC Agreement regarding income limits and asset limits;
- Other changes included in comments returned by our office.

Development Fee Ordinance

Although the Borough already had an approved Development Fee Ordinance, it has provided for review a draft updated ordinance, on which we have provided comments.

The Borough must update its draft amended Development Fee Ordinance to include provisions for fractional payments in lieu of construction for set-asides less than 0.5 units, as set forth in N.J.A.C. 5:97-6.4(c)3, as revised and amended, as well as to include other changes noted in comments returned by our office (Condition 13).

Spending Plan

Fairness Report Condition: Within 120 days of an order approving the FSHC Agreement, provide for review and then approve a Spending Plan. If the Borough allocates trust funds for the \$90,000 FSHC

payment, it should be shown in the Spending Plan as an administrative payment in accordance with COAH's 20% administrative cap.

No spending plan has been provided.

The Borough must provide for review and then approve a Spending Plan, which must include funds to support the Bergen County Home Improvement Program, sufficient funds to reimburse BCUW for all costs and fees associated with its project, and sufficient funds for a four-unit accessory apartment program. If the Borough allocates trust funds for the \$90,000 FSHC payment, it should be shown in the Spending Plan as an administrative payment in accordance with COAH's 20% administrative cap (Condition 14).

Affirmative Marketing Plan

Fairness Report Condition: Within 120 days of an order approving the Agreement, provide for review and then adopt an Affirmative Marketing Plan that includes required notification of the named entities in term #15 of the FSHC Agreement.

The Borough has provided as an appendix to its draft HEFSP a draft Affirmative Marketing Plan resolution, that requires notification of all entities included in the FSHC Agreement. However, the resolution does not include separate information for each affordable housing compliance mechanism in the Borough that requires affirmative marketing (the Sylco site, the existing Municipal Site, and the accessory apartment program); does not set forth the Borough's random selection process; does not list media in the region that must be used to market units, and does not list employers in the region that must be notified when units are available.

The Borough must update and re-adopt its Affirmative Marketing Plan to include all key elements of the standard COAH Affirmative Marketing Plan template, including a separate Section 1 for each compliance mechanism that must be affirmatively marketed; a description of the Borough's random selection process; a list of the media required to be used; and a list of the employers in the region that must be notified when units are available (Condition 15).

Municipal Housing Liaison and Administrative Agent

The Borough has provided as an appendix to its draft HEFSP an adopted resolution dated September 27, 2006, appointing Borough Mayor Paul Tomasko as the Borough's Municipal Housing Liaison.

As discussed above, the Borough has provided an adopted resolution appointing TKLD Consulting as its Administrative Agent, and has provided a proposal for Administrative Agent services from TKLD.

The Borough must provide the qualifications of TKLD and the executed agreement with TKLD, which must include establishment and administration of an accessory apartment program (Condition 16).

Fairness Report Condition: The experienced Administrative Agent must provide an operating manual for administration of the accessory apartment program, a draft of which must be provided for review.

No manual has been provided.

The Borough must provide a draft for review and adopt an operating manual for administration of an accessory apartment program (Condition 17).

5.0 CONCLUSION

This report has been prepared in light of the upcoming Compliance Hearing before Your Honor on September 11, 2024. It reviews Alpine Borough's adopted 2024 Housing Element and Fair Share Plan, and related plan documents. The Borough is seeking a Judgment of Compliance and Repose for its Third Round HEFSP.

Notwithstanding the additional documents required as set forth herein, I find the Borough's 2024 HEFSP to be consistent with the Mount Laurel doctrine including the Mount Laurel IV decision, COAH's Second Round rules (and the court-upheld Third Round regulations), the Fair Housing Act, the Uniform Housing Affordability Controls, and the Court-approved Sylco and FSHC Settlement Agreements. I recommend that Your Honor grant the Borough a Judgment of Compliance and Repose, subject to the Borough fulfilling the numbered conditions contained herein.

I would recommend that the Borough be provided with 90 days from the entry of the Court's conditional order to address the conditions. Your Honor may wish to have the Borough submit a certification with any required supporting documentation as to how it has addressed each condition. Once the Borough has satisfied all immediate numbered conditions, I will notify Your Honor and copy all parties, at which point the issuance of a final Judgment of Compliance and Repose for the Borough would be warranted. I don't believe an additional court hearing would be required. In the meantime, I recommend that the Borough's immunity remain in effect.