

AMENDED 2025 FOURTH ROUND HOUSING PLAN

HOUSING ELEMENT & FAIR SHARE PLAN
BOROUGH OF PENNINGTON
MERCER COUNTY
NEW JERSEY

JANUARY 2, 2026

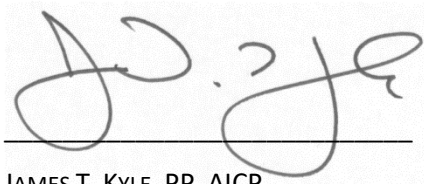
ADOPTED BY THE PLANNING BOARD

JANUARY 14, 2026

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INTRODUCTION & EXECUTIVE SUMMARY

Since the 1975 New Jersey Supreme Court decision known as “Mount Laurel I,” New Jersey municipalities have a constitutional obligation to provide opportunities for construction of low and moderate housing units through their zoning ordinances. This 1975 decision led to a body of case law, legislative changes and rulemaking by a state agency that collectively is known as the “Mount Laurel Doctrine”. Through the compliance process, New Jersey municipalities have been assigned their fair share of the region’s affordable housing need for each compliance period and must create mechanisms to address that need to have “satisfied” their constitutional obligation. The purpose of this Housing Element and Fair Share Plan (hereinafter the “Plan”) is to detail how Pennington will satisfy its constitutional obligation.

Affordable housing in New Jersey is defined as housing units which are reserved for households with incomes not more than 80% of the regional median income. Each affordable unit, depending on the age and type of housing, must remain reserved for low and moderate income households for up to 40 years, a requirement enforced by deed restriction. Each affordable unit is eligible for one “credit” against the obligation and certain units are eligible for “bonus credits,” which potentially provide more than one credit per unit. In addition to providing the minimum number of credits, municipalities must ensure diversity in the unit type (at least half of the units must be available to families and the remaining may be reserved for seniors and those with special needs), diversity in the level of affordability (very low, low and moderate income units), and diversity in the size of affordable units (one, two and three bedroom units).

Participation in this process and satisfaction of the affordable housing obligation can be achieved voluntarily or involuntarily, however, voluntary compliance is heavily incentivized. Municipalities that do not successfully participate may be vulnerable to exclusionary zoning litigation or a builder’s remedy, which is a litigation tool that can grant a developer the right to construct what is typically multifamily development on land that was not zoned to permit that use or density.

This amended Housing Plan addresses the Borough of Pennington’s fourth round affordable housing obligation consisting of a present need (rehabilitation) of 4 units and a prospective need (new construction) of 58 units. As the Borough did not participate in the third round process and never received a judgment of compliance and repose relative to that obligation, this plan also addresses the third round obligation determined in accordance with the Jacobsen methodology. As part of this amended plan, the Borough will meet its entire fourth round obligation while also addressing more third round Unmet Need as compared to the plan adopted in June of 2025.

Pennington is a one square mile Borough that lies entirely within Hopewell Township. It is a mature suburb that for all intent and purposes is built out, with no significant vacant land remaining and a Realistic Development Potential (RDP) of only 3 units as discussed later in this plan. Based on this lack of available vacant land, the Borough has provided analysis that demonstrates it is entitled to a vacant land adjustment. There are, however, a number of redevelopment opportunities in Pennington that will create affordable units and help reduce Unmet Need.

This Plan supersedes all previously adopted housing plans and will serve as the foundation for the Borough’s compliance with its affordable housing obligations and a request to Superior Court of Mercer County for a judgment of compliance and repose. As detailed in this Plan, the Borough – like all New Jersey municipalities – has four components of its affordable housing obligation. Each component of the Borough’s obligation is identified on the following page and further detail is provided in later sections of this plan.

- **Rehabilitation Obligation: 4 units**

The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Pennington that are occupied by low- and moderate-income households. This component is also referred to as “present need”.

- **First & Second Rounds Obligation: 52 units**

The first and second round obligations can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. This component is often referred to as the “prior round” obligation.

- **Third Round Obligation: 134 units**

The third round obligation can be defined as the 1999 through 2025 new construction affordable housing obligation.

- **Fourth Round Obligation: 58 units**

The fourth round obligation can be defined as the 2025-2035 new construction affordable housing obligation. The current round of affordable housing, now the fourth round, is also referred to as the “prospective need”.

AFFORDABLE HOUSING IN NEW JERSEY

In its landmark 1975 decision, now referred to as “Mount Laurel I,” the NJ Supreme Court ruled that developing municipalities have a constitutional obligation to provide variety and choice of housing types affordable to low- and moderate-income households. In its 1983 “Mount Laurel II” decision, the NJ Supreme Court extended the regional fair share obligation to all municipalities with any “growth area” as designated in the State Development Guide Plan (NJDCG 1978) and determined that each municipality would have to establish its fair share obligation and provide zoning strategies to create a realistic opportunity for fulfillment of that fair share obligation. Mount Laurel II also gave developers, in certain situations, the opportunity to secure a builder’s remedy, a litigation tool that grants a developer the right to develop what is typically a multi-family development on land that was not zoned to permit the use or the residential density desired by the developer provided a “substantial” percentage of the units are reserved for low and moderate income households. Pennington seeks to avoid this possibility and preparation of this fourth round plan along with those previously adopted are evidence of that.

In 1985, the Legislature enacted the Fair Housing Act in response to Mount Laurel II. The Fair Housing Act created the Council on Affordable Housing (hereinafter “COAH”) as an administrative alternative to compliance in a court proceeding. The Legislature conferred “primary jurisdiction” on COAH and charged COAH with promulgating regulations to establish housing regions, to estimate the state’s low- and moderate-income housing needs, set criteria and guidelines for municipalities to determine and satisfy their affordable housing obligation, and to create a process for the review and approval of appropriate housing elements and fair share plans. Approval of a municipal housing element and fair share plan by COAH was referred to as “substantive certification” and it provided protection from builder’s remedy litigation during the period which the housing element and fair share plan addresses (i.e. the round).

COAH created the criteria and guidelines for municipalities to determine and address their respective affordable housing obligations. COAH originally established a formula for determining municipal affordable housing obligation for the six-year period between 1987 and 1993 (*N.J.A.C. 5:92-1 et seq.*), which became known as the “first round.” These rules established the first round rehabilitation obligation (also referred to as the “present need”) and the first round new construction obligation.

The first round formula was superseded by COAH regulations in 1994 (*N.J.A.C. 5:93-1.1 et seq.*). The 1994 regulations recalculated a portion of the first round 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 U.S. Census data. The regulations COAH adopted in 1994 to identify a municipality’s “cumulative” obligations for the first and second rounds are known as “the second round” regulations. Under regulations adopted for the third round, the obligation of municipalities to create new affordable housing for the first and second rounds was referred to as the “prior round” obligation.

On December 20, 2004, COAH’s first version of the third round rules became effective some five years after the end of the second round in 1999. At that time, the third round was defined as the time from 1999 to 2014 but condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The third round rules marked a significant departure from the methods utilized in COAH’s earlier rounds by creating a “growth share” approach that linked the production of affordable housing to residential and non-residential development within a municipality.

The growth share approach and the rules under which it was created was the subject of significant litigation and ultimately overturned by the New Jersey Appellate Court. On January 25, 2007, the New Jersey Appellate Court decision, In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1, invalidated key elements of the first version of the third round rules, including the growth share approach. COAH issued revised rules on June 2, 2008 (as well as a further rule revision effective on October 20, 2008). Included in the 2008 rules was a recalculation of the cumulative first and second rounds obligation to account for updated data addressing secondary sources (filtering, demolitions, and residential conversions). Just as various parties challenged COAH’s initial third round regulations, parties challenged COAH’s 2008 revised third round rules. On October 8, 2010, the Appellate Division issued its decision, In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462, with respect to the challenge to the second iteration of COAH’s third round regulations. The Appellate Division upheld the COAH regulations that assigned rehabilitation and first and second rounds obligations to each municipality but invalidated the regulations by which the agency assigned housing obligations in the third round, finding that the Agency continued to utilize a growth share approach, albeit an amended one.

COAH sought a stay from the NJ Supreme Court of the deadline to issue new third round housing rules set forth by the Appellate Division. Additionally, there were various challenges to the Appellate Division’s 2010 decision. On September 26, 2013, the NJ Supreme Court upheld the Appellate Court decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013), and ordered COAH to prepare the necessary rules. Subsequent delays in COAH’s rule preparation and ensuing litigation led to the NJ Supreme Court, on March 14, 2014, setting forth a schedule for adoption.

Although ordered by the NJ Supreme Court to adopt revised new rules on or before October 22, 2014, COAH deadlocked 3-3 at its October 20th meeting and failed to adopt the draft rules it had issued on April 30, 2014. In response, Fair Share Housing Center (hereinafter “FSHC”) filed a motion in aid of litigant’s rights with the NJ Supreme Court.

On March 10, 2015, the NJ Supreme Court issued a ruling on the Motion In Aid of Litigant's Rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1, aka "Mount Laurel IV"). This long-awaited decision provided a new direction for how New Jersey municipalities were to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges. The implication was that municipalities were required to apply to Superior Court with a Declaratory Judgment Action, instead of to COAH, if they wished to be protected from exclusionary zoning litigation, including builder's remedy. These trial judges, with the assistance of an appointed Special Adjudicator to the Court, reviewed municipal plans much in the same manner as COAH previously did.

While the NJ Supreme Court's decision set a process in motion for Boroughs to address their third round obligations, it did not assign those obligations. Instead, the task was completed by the trial courts. However, the NJ Supreme Court did direct that the method of determining municipal affordable housing obligations were to be "similar to" the methodologies used in the first and second round rules and municipalities should rely on COAH's 1993 second round rules (*N.J.A.C. 5:93*) and certain components of COAH's 2008 regulations that were specifically, as well as the Fair Housing Act (*N.J.S.A. 52:27D – 301 et seq.*), in their preparation of third round housing elements and fair share plans.

FSHC, the only public interest advocacy organization in New Jersey devoted exclusively to promoting the production of housing affordable to low and moderate income households, was permitted to serve as an interested party in every municipal Declaratory Judgment Action. In this role the organization calculated municipal affordable housing obligations and offered to settle with municipalities. Such settlements addressed the municipal affordable housing obligation, compliance strategies and other terms intended to promote affordable housing production. Most municipalities that filed a Declaratory Judgment Action settled with FSHC, finding it to be in their best interest. The typical alternative to settlement with FSHC was conducting a trial in Superior Court to determine the municipal affordable housing obligation.

In addition to the State agency activity and judicial decisions through 2015, the New Jersey Legislature amended the Fair Housing Act in 2008 (P.L. 2008, c. 46, often referred to as the "Roberts Bill", or "A500"). This amendment established a statewide 2.5% nonresidential development fee, prohibited new regional contribution agreements (hereinafter "RCAs"), required that 13% of all new affordable housing units be restricted to very low income households (30% of median income), and added a requirement that municipalities had to commit to spend development fees within four (4) years of the date of collection. Additionally, the Fair Housing Act was amended in 2013 (P.L. 2013, c. 6) to permit municipalities to enter into an agreement with a developer or development owner to provide a preference for veterans who served in time of war or other emergency to occupy up to 50% of the affordable units in a particular development. The preference is applicable to the first 90 of the 120 days of initial marketing and thereafter may on a special waiting list for future available affordable units in the development. These amendments to the Fair Housing Act are not promulgated in any valid COAH regulations.

On March 20, 2024, an amendment to the Fair Housing Act was adopted by the Legislature (P.L. 2024, c.2.). This amendment created significant changes to the fourth round of affordable housing and all subsequent rounds going forward. Such changes include the process in which municipalities obtain protection from builder's remedy litigation – including but not limited to the elimination of COAH and the creation of the Affordable Housing Dispute Resolution Program, the methodology to calculate municipal prospective need obligations, and the administration of affordable housing units. However, the Fair Housing Act does not create or direct the creation of new rules that would provide further guidance,

instead it states municipalities shall rely on rules adopted by COAH, unless contradicted by statute or binding court decisions, for municipal crediting, adjustments and compliance strategies. One notable example of contradiction is the generation of and use of bonus credits. See the sections that follow for additional information regarding this amendment to the Fair Housing Act.

The Affordable Housing Dispute Resolution Program (hereinafter the “Program”) resides within the judiciary and is made up of an odd number of Judges with a minimum of 3 and not more than 7. The Program, in its discretion and in accordance with the Rules of Court, may consult or employ services of one or more special adjudicators or staff to assist it in rendering determinations, resolving disputes, and facilitating communication among municipalities and interested parties. The Program is responsible for reviewing municipal affordable housing obligations, housing plans, and conducting mediation. However, final determinations of compliance, disputes, and other issues, as well as Court orders may only be issued by a County-level housing judge.

In addition to changes addressing the compliance process and elimination of COAH, the amendment also revised minimum affordability controls for rental units from 30 years to 40 years and those for extension of affordability controls from 30 years to as little as 20 years, provided the total control period is not less than 60 years. It also created new roles for the Department of Community Affairs (hereinafter “DCA”), including calculation of non-binding rehabilitation and prospective need affordable housing obligations, oversight and adoption of rules regulating municipal affordable housing trust funds, municipal housing liaisons and affordable housing administrative agents, as well as oversight of affordable unit administration. The amendment also directed the New Jersey Housing and Mortgage Finance Agency to revise the Uniform Housing Affordability Control Rules (*N.J.A.C. 5:80-26.1 et seq.*).

The Compliance Process

The first step in a municipality’s compliance process is to establish the affordable housing obligation. The first, second and third round obligations are already established by COAH or Superior Court, as applicable. Only the rehabilitation obligation and current prospective need, the fourth round obligation, are subject to the current determination.

The methodology and formulas each municipality must rely upon to determine its rehabilitation and fourth round obligation (as well as subsequent round obligations) are set forth within *N.J.S.A. 52:27D-304.1* thru *-304.3* of the Fair Housing Act. The March 8, 2018 unpublished decision of the Superior Court, Law Division, Mercer County, *In re Application of Municipality of Princeton* (“Jacobson Decision”) is also to be referenced as to datasets and methodologies that are not explicitly addressed in *N.J.S.A. 52:27D-304.3*. Notwithstanding the methodology set forth in the Fair Housing Act, the Act also required the DCA to release a non-binding report calculating obligations for each municipality in the State.

The following provides an overview of the process and deadlines associated with fourth round compliance.

- Establishing the Affordable Housing Obligation
 - October 20, 2024: DCA Regional and Municipal Fair Share Obligation Report Issued.
 - January 31, 2025: Deadline for municipalities to adopt a binding committing to the affordable housing obligation and seeking a Compliance Certification through participation in the Program.

- February 28, 2025: Deadline for an interested party to challenge the municipality's determination of its obligation to the Program. It shall apply "an objective assessment standard".
- March 1, 2025: The municipality's determination of its obligation will be established by default if no challenge.
- March 31, 2025: The Program must issue a decision on the obligation challenge.
- Obtaining a Compliance Certification
 - June 30, 2025: Municipality shall adopt a Housing Plan and propose drafts of ordinances and resolutions to implement the plan. If a municipality does not adopt a Housing Element and Fair Share Plan by June 30, 2025, the Rules of Court may permit the Program or County Level Judge to allow the municipality to secure a grace period. If a municipality does not adopt a Housing Plan by June 30, 2025 and does not secure a grace period, the municipality will have its immunity revoked.
 - August 31, 2025: Deadline for an interested party to file a challenge to the Housing Plan with the Program. If there is no challenge by this date the Program will begin review of the Housing Plan for consistency with the FHA.
 - December 31, 2025: Deadline for a municipality to settle any challenge or provide an explanation as to why it will not make all, or some of the changes brought by the challenge.
 - March 15, 2026: Municipality to amend the Housing Plan and implement the agreed upon revisions resulting from a challenge and adopt all pertinent ordinances. The Housing Plan and adopted ordinances shall be immediately filed with the Program.
- Ongoing Compliance
 - Midpoint (2030): Action by municipality or interested party filed to seek a realistic opportunity review of any developments that have not moved forward.

Affordability Requirements

Affordable housing is defined under New Jersey's Fair Housing Act as a dwelling, either for sale or rent, that is within the financial means of households of low- or moderate-income, as is measured within each housing region. Pennington is in Region 4, which includes Mercer, Monmouth and Ocean counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of the regional median income. Low-income households are those with annual incomes that are 50% or less of regional median income and very low-income households are a subset of low-income households and are defined as those with incomes 30% or less than of regional median income.

The Uniform Housing Affordability Controls (hereinafter "UHAC") at N.J.A.C. 5:80-26.4(c) and (d) requires that the maximum rent for a qualified unit be affordable to households with incomes 70% or less than the median income for the region, provided the development includes 13% or more very low income units. The number of units priced at 70% of regional median income cannot exceed the number of very low income units plus one additional unit. The average rent must be affordable to households with incomes no greater than 52% of the median income. The maximum sale prices for affordable units must be

affordable to households with incomes 70% or less than the median income. The average sale price must be affordable to a household with an income of 55% or less than the median income.

The regional median income is defined using the federal income limits established by Department of Housing and Urban Development (hereinafter “HUD”) on an annual basis. In the spring of each year, HUD releases updated regional income limits, and it is from these income limits that rents and sale prices for affordable units are derived. The table below reflects the 2025 affordable housing regional income limits for Region 4, prepared by NJHMFA.

2025 Income Limits for Region 4					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Median	\$94,300	\$107,700	\$121,200	\$134,600	\$145,400
Moderate	\$75,440	\$86,160	\$96,960	\$107,680	\$116,320
Low	\$47,150	\$53,850	\$60,600	\$67,300	\$72,700
Very Low	\$28,290	\$32,310	\$36,360	\$40,380	\$43,620
<i>Source: 2025 Income Limits prepared by NJHMFA, effective May 16, 2025.</i>					

Overview of Compliance Requirements

There are extensive requirements that municipalities must meet to ensure their affordable housing strategies result in a Compliance Certification. Further, those requirements vary by round. The following provides a brief overview of the requirements.

- **Rental Obligation.** Not less than 25% of affordable units addressing the obligation of a round must be rental housing units.
- **Family Obligation.** Not less than 50% of affordable units addressing the obligation of a round must be available to families, meaning they are not restricted to a particular population. This obligation does not apply to the first and second rounds.
- **Family Rental Obligation.** Not less than 50% of the units meeting the rental obligation of a round must be available to families, meaning they are not restricted to a particular population. This obligation does not apply to the first and second rounds.
- **Senior Maximum.** Up to 30% of affordable units addressing the obligation of a round may be reserved for seniors. The maximum was 25% for the first, second and third rounds.
- **Income Distribution of Affordable Units**
 - **Very Low Income Obligation.** Not less than 13% of affordable units created or approved on or after July 1, 2008 must be reserved for very low income units (30% or less than the regional median income). Very low income units are a subset of low income units.

- Family Very Low Income Obligation. Not less than 50% of the units meeting the very low income obligation must be available to families, meaning they are not restricted to a particular population.
- Low Income Obligation. Not less than 50% of affordable units in any development must be reserved for low income households (50% or less than the regional median income, which includes very low income units). The remaining may be available to moderate income households (51-80% of regional median income).
- Bedroom Distribution of Affordable Units
 - The total bedrooms within the affordable units in any development must be not less than twice the number of affordable units. This requirement does not apply to the first, second or third round.
 - Studio and 1-bedroom Units. Not more than 20% of units in any development.
 - 2-bedroom Units. Not less than 30% of units in any development.
 - 3-bedroom Units. Not less than 20% of units in any development.
 - The above requirements do not apply to special needs housing or senior housing.
 - Senior developments are subject to a modified bedroom distribution such that the total bedrooms within the affordable units must be not less than the number of affordable units.
 - Senior and supportive housing developments with 20 or more affordable units shall have not less than 5% 2-bedroom and 3-bedroom affordable units. This requirement does not apply to the first, second or third round.
- Bonus Credits
 - No more than 25% of the obligation for each round.
 - Only one type of bonus credit may be applied to a unit.
 - Rental bonus credits (1.0) are only applicable to the first, second and third rounds.
 - The following unit types are eligible for 1.0 bonus credit in the fourth round.
 - Supportive and special needs bedrooms.
 - Market to affordable (conversion of a market rate unit to an affordable unit).
 - 100% affordable developments: Units within 100% development provided the municipality supplies the land or a minimum of 3% of the development costs.
 - The following unit types are eligible for 0.5 bonus credit in the fourth round.
 - Partnership with non-profit.
 - Proximity to transit: units within ½ mile of transit (rail, bus, ferry).
 - Senior: limited to 10% of the affordable age-restricted units proposed but capped at 30% of the obligation.

- Units with at least three bedrooms above the minimum number required by the bedroom distribution requirements in UHAC.
- Redevelopment for units on land previously utilized for retail, office or commercial use.
- Extension of affordability controls on rental housing only, provided the municipality funds the cost for extension.
- Very Low-Income units above the 13% required.

AFFORDABLE HOUSING IN PENNINGTON

The Borough adopted its first housing plan in 2002, addressing its obligation from 1987 to 1999, a plan that was certified by COAH on June 5, 2002. As part of that plan, Pennington received a vacant land adjustment with a RDP of 20 units and Unmet Need of 32 units; the plan included a development fee ordinance and overlay inclusionary zoning on the landfill property as required by COAH at that time.

In December of 2008, the Planning Board adopted a housing plan addressing the Borough's third round obligation from 1987 to 2018 which was based on the growth share approach in COAH's rules at the time. The amended plan was never certified by COAH and as noted previously, litigation surrounding the third round rules delayed the process until the Supreme Court's decision in March of 2015. The Borough never completed a third round plan and never received a judgment of compliance and repose from the courts.

In the fourth round, the Borough adopted a binding resolution accepting its affordable housing obligations as calculated by DCA and committing to participation in the Affordable Housing Dispute Resolution Program (hereafter "AHDRP" or "the Program"). Upon timely filing of its Housing Element and Fair Share Plan with the AHDRP, a challenge was filed by Fair Share Housing Center, although it did not formally challenge the compliance mechanisms but rather sought additional information relative to those mechanisms. One request in that challenge was to provide additional mechanisms to address Unmet Need, which this amended Plan addresses.

CONSIDERATION OF LANDS MOST APPROPRIATE FOR AFFORDABLE HOUSING

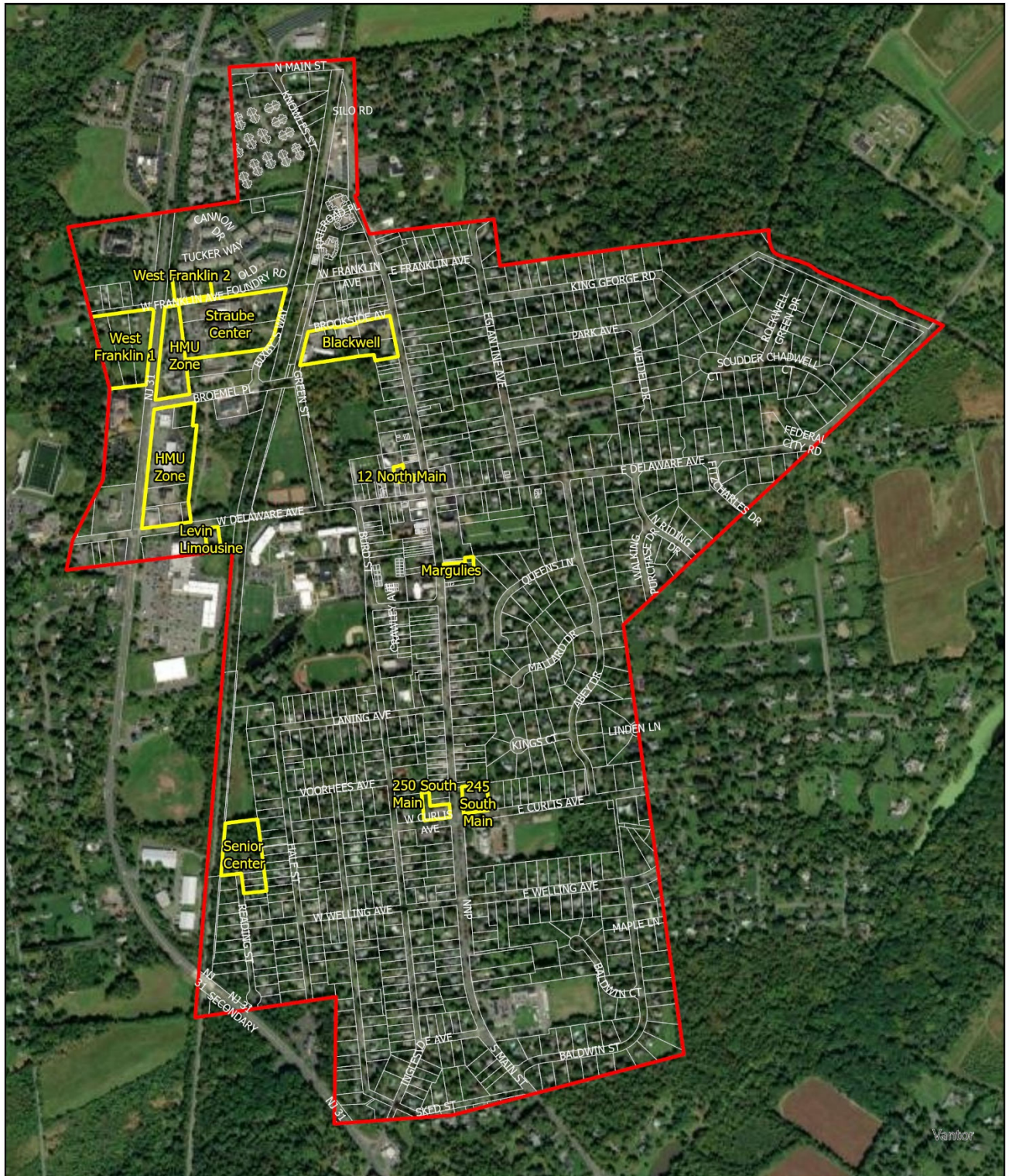
Pennington Borough is a largely built out suburban community of approximately 1 square mile. As noted earlier in this plan, there is limited vacant land to support opportunities for the construction of significant additional housing. There are, however, opportunities for redevelopment, although they are somewhat limited. In conjunction with preparation of a new Land Use Plan near the end of 2025, it became apparent that the zoning changes to be recommended in the new Master Plan could provide opportunity for more affordable housing than identified in the June 2025 housing plan. There was also additional property owner interest expressed after June of 2025.

In assessing lands most appropriate for affordable housing, the Borough has focused on areas that can potentially be redeveloped, as shown on the map on the following page. Each of these properties currently have structures and uses on them, but there is opportunity to develop them more efficiently and with multifamily housing to help address the Borough's Unmet Need. Two of the properties are in various stages of the redevelopment process as required by the New Jersey Local Redevelopment and

Housing Law, with the Blackwell properties along Brookside Avenue already designated as an “area in need of redevelopment” by Mayor and Council and the 12 North Main property under preliminary investigation by the Planning Board as directed by Mayor and Council.

While not yet adopted by the Planning Board, the Borough’s new Land Use Plan has been under development for the last 4 months, with the Master Plan Committee (hereafter “MPC”) formulating recommendations and reviewing them with the Planning Board at a public meeting. As part of the preparation of this amended Housing Plan, the MPC reviewed proposed zoning changes with an eye to creating opportunity for multifamily housing in a mixed-use environment as recommended in the Economic Development Plan Element, which has been conditionally adopted by the Planning Board.

The map on the following page shows the location of each of the mechanisms proposed in the Fair Share Plan.



Borough of Pennington
Potential Affordable Housing Sites

OPPORTUNITY FOR MULTIGENERATIONAL HOUSING

The Fair Housing Act requires “an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission”. As of the date of this Housing Plan, there have been no recommendations by the Multigenerational Family Housing Continuity Commission on which to provide the required analysis. However, the Commission has the primary goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity. Borough land use policies are not in conflict with this goal and much of the Borough’s housing stock is large enough to accommodate multigenerational living. Nothing in the zoning prohibits creation of additional living space consisting of a bedroom and bathroom, but inclusion of separate kitchen facilities would constitute a second dwelling unit, which is not permitted but is also not necessary to permit multigenerational living. The Planning Board has approved a number of applications permitting additional living space to accommodate multigenerational living arrangements in recent years.

DEMOGRAPHIC, HOUSING & EMPLOYMENT ANALYSIS -HOUSING PLAN ELEMENT

This analysis was provided with the Housing Plan adopted in June of 2025 and remains as adopted (June 2025 Housing Element and Fair Share Plan- Appendix 1).

AFFORDABLE HOUSING OBLIGATION & SATISFACTION – THE FAIR SHARE PLAN

Fourth round housing plans must address four components of a municipality’s affordable housing obligation. These include the rehabilitation obligation to improve substandard housing occupied by low- and moderate-income households, the first and second round obligation of new construction from 1987 to 1999, third round obligation of new construction from 1999 to 2025, and the fourth round obligation of new construction from 2025 to 2035.

Rehabilitation Obligation: 4 units

The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Pennington that are occupied by low- and moderate-income households. The Fair Housing Act, N.J.S.A. 52:27D-304.3.b., describes present need as being determined by “estimating the existing deficient housing units currently occupied by low- and moderate-income households within the municipality, following a methodology comparable to the methodology used to determine third round present need, through the use of datasets made available through the federal decennial census and the American Community Survey, including the Comprehensive Housing Affordability Strategy dataset thereof.” The DCA calculated municipal present need obligations in *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*, released on or about October 18, 2024. This DCA Report calculated a rehabilitation obligation of 4-units for the Borough, which was accepted in the Borough’s binding resolution adopted in conformance with the requirements of the law.

The Borough will address this obligation through a municipal housing rehabilitation program, which will be funded by the Borough's affordable housing trust fund. Community Grants, Planning and Housing is Pennington's Administrative Agent and they will provide an updated program manual.

First & Second Rounds Obligation: 52 units, Partially Satisfied

Pennington Borough's first and second round obligation, also referred to as the prior round obligation, is 52 units. This obligation is defined as the cumulative new construction obligation from 1987 through 1999 (1987-1993 is the first round; 1993-1999 is the second round). The Borough's obligation was published by COAH in 2008 and originally calculated in 1993-1994 pursuant to N.J.A.C 5:93 and was part of the Borough's plan that was granted substantive certification on June 5, 2002. As noted in that plan, the Borough was granted a vacant land adjustment by COAH, and RDP was determined to be 20 units resulting in Unmet Need of 32 units.

Satisfaction of the 52-unit Prior Round Obligation			
Program	Units	Bonus Credits	Total Credits
Pennington Point	6	0	6
Capital Health - Heritage	8	0	8
Accessory Apts.	6	0	6
RDP			20
Unmet Need			32
Total			52

Pennington Point

This age-restricted for-sale development was built in both Pennington and Hopewell Township in the mid-90's, with 6 of the affordable units located in the Borough. All units are 1 bedroom and restricted to moderate income households.

Capital Health- Heritage (American Properties)

This family housing project, which has a total of 80 for-sale units, ended up having 16 townhomes deed restricted for low and moderate income households instead of the 8 identified in the Borough's first housing plan, including 2 one bedroom units, 10 two bedroom units and 4 three bedroom units. Eight of the units are restricted to low income households and eight are restricted to moderate income households with deed restrictions of 30 years.

Accessory Apartments

The Borough received credit in its prior round plan for 6 proposed accessory apartments, a plan that was certified by COAH.

Third Round Obligation: 134 Units, Partially Satisfied

As noted previously, the Borough did not receive court approval of a third round plan. As an obligation was never agreed to through the declaratory judgment process and settlement with Fair Share Housing Center, Pennington relies on the March 18, 2018 report prepared by Econsult Solutions, Inc. (ESI) which calculated statewide obligations based on the methodology outlined in the 2018 court decision by the Honorable Mary C. Jacobson, J.S.C. In the Matter of the Application of the Municipality of Princeton. As calculated by ESI, Pennington Borough's third round obligation included a gap present need of 72 units and a prospective need of 62 units for a total of 134 units. The Borough has provided the below mechanisms to address its realistic development potential (RDP) of 9 units, consisting of 8 existing units at the Capital Health-Heritage site and 1 accessory apartment constructed during the third round. Since the Borough did not prepare a vacant land analysis for the third round, it relies on the 9 units that are built and occupied as the RDP for this compliance period, which results in Unmet Need of 125 units, which is addressed on the following page.

Satisfaction of the 134 Unit Third Round Obligation – RDP (9 Units)				
Program	# Units	Bonus Credits	Total Credits	Status
Capital Health – Heritage (Family for-sale)	8	0	8	Constructed
Accessory Apartment (Family rental)	1	0	1	Constructed
Units Addressing RDP			9	
Unmet Need			125	
Total			134	

Capital Health- Heritage (American Properties)

This family housing project, which has a total of 80 for-sale units, ended up having 16 townhomes deed restricted for low and moderate income households instead of 8 identified in the Borough's first housing plan, including 2 one bedroom units, 10 two bedroom units and 4 three bedroom units. Eight of the units are restricted to low income households and 8 are restricted to moderate income households with deed restrictions of 30 years. The remaining 8 units are noted as RDP and applied to the third round obligation.

Accessory Apartment

The Borough provided a \$25,000 subsidy to assist with the creation of one accessory apartment in 2012. With a deed restriction period of 10 years (which ended in 2022), the Borough is eligible for one unit of

credit for this unit, which has been included in RDP since a vacant land adjustment was not approved by the court in the third round. See Appendix 1 for documentation on this unit.

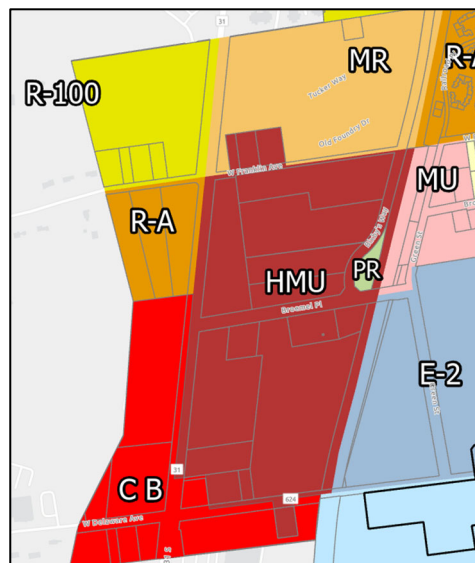
The mechanisms provided below are intended to address a portion of the 125 unit Unmet Need obligation from the third round. Each site or area of the Borough is described below the table and as Unmet need mechanisms will require a 20% seaside in accordance with COAH's rules.

Partial Satisfaction of the 125 Unit Third Round Obligation – Unmet Need				
Program	# Units	Bonus Credits	Total Credits	Status
Highway Mixed Use Zone (HMU) (Family)	22	0	22	Proposed
Howe Commons (Family)	8	0	8	Proposed
37, 41 and 43 South Main (Family)	2	0	2	Proposed
Levin Limousine (Family) – 1 of 3 units	1	0	1	Proposed
245 and 250 South Main Street (Family)	4	0	4	Proposed
Units Addressing Unmet Need			37	
Remaining Unmet Need			94	

HMU – Highway Mixed-Use District

The Economic Development Committee, in the Economic Development Plan Element conditionally adopted by the Planning Board, recommended zoning along Route 31 be consolidated into a single mixed-use zone permitting retail, retail service, restaurant and office uses in combination with residential multifamily apartments. This concept has been discussed by the Planning Board in public meetings and will be incorporated into the forthcoming update to the Land Use Plan.

The HMU district, the proposed extent of which is shown on a portion of the draft Land Use Plan Map to the right, would permit nonresidential uses on the ground floor and residential uses on upper floors with buildings no taller than 3 stories. In areas of the district that do not front directly on Route 31, multifamily apartment buildings will be permitted and encouraged. While it's difficult to predict the number of units that could be realized and whether wholesale redevelopment of sites is likely with this change in zoning, it is a mechanism sufficient to demonstrate a realistic opportunity for affordable housing in the context of Unmet Need. Conservatively a total of 106 units are possible over existing buildings in the two shopping centers fronting Route 31 on either side of Broemel Place (Pennington Square Shopping Center and Shoppes at Pennington), which would result in 22 affordable housing units under the required 20%



setaside for Unmet Need mechanisms. Redevelopment of the Pennington Square Shopping Center has the potential to yield far more housing opportunity with a more efficient layout. A draft ordinance for the HMU zone is provided in Appendix 2.

Howe Commons (Block 601, Lot 12.01)

Howe Commons is a 3.82 acre property located on the east side of South Main Street immediately opposite Academy Avenue. While the site is currently occupied by 5 two-story buildings containing office uses (see aerial photo at right), a mixed-use zoning designation will provide the opportunity for construction of as many as 40 multifamily apartments yielding as many as 8 affordable units. Given the state of the office market in Mercer County and New Jersey in general, redevelopment of this site, whether through conversion of existing office space to residential units or reconfiguration of the site, is viewed as likely with appropriate zoning. Located within a short walk of downtown and an NJ Transit but stop, this site is seen as an appropriate location for affordable housing. As part of the proposed amendment to the Land Use Plan, this property will be included in the MU Mixed-use zone and a draft of proposed zoning is included in Appendix 3.

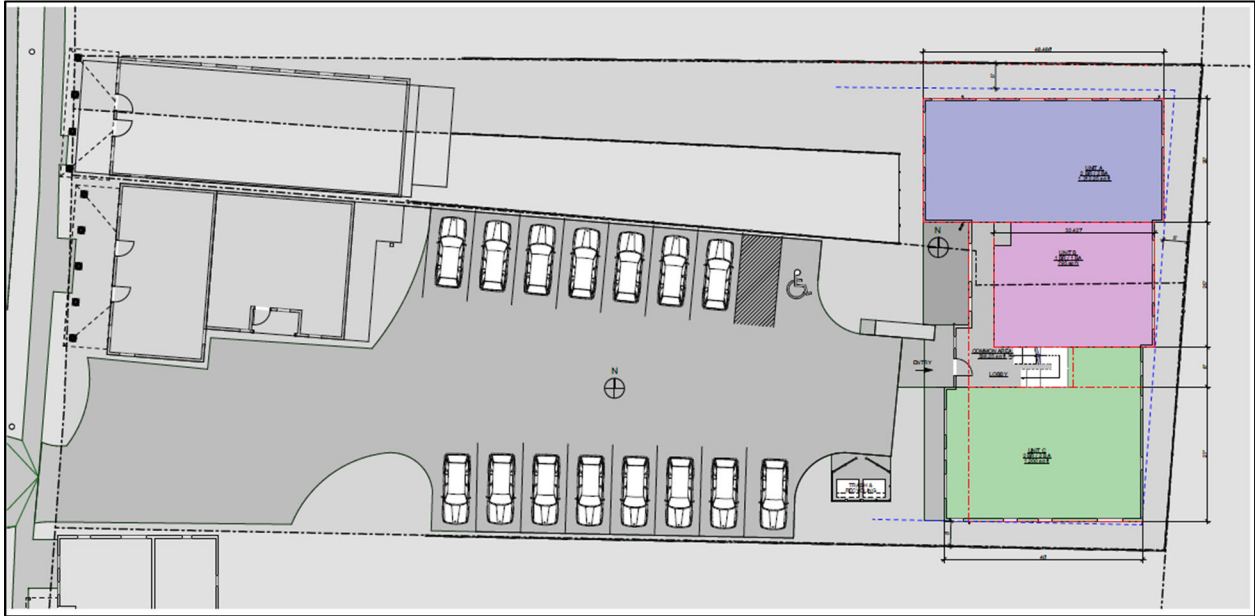


37, 41 and 43 South Main Street (Block 601, Lots 17 and 19)

The property owner submitted a concept plan proposing development of a new 9-unit building at the rear of site, which would provide a total of 2 affordable units. Currently there are three existing units in two buildings fronting South Main Street with parking located to the side and rear of those buildings as shown in the aerial image to the right.

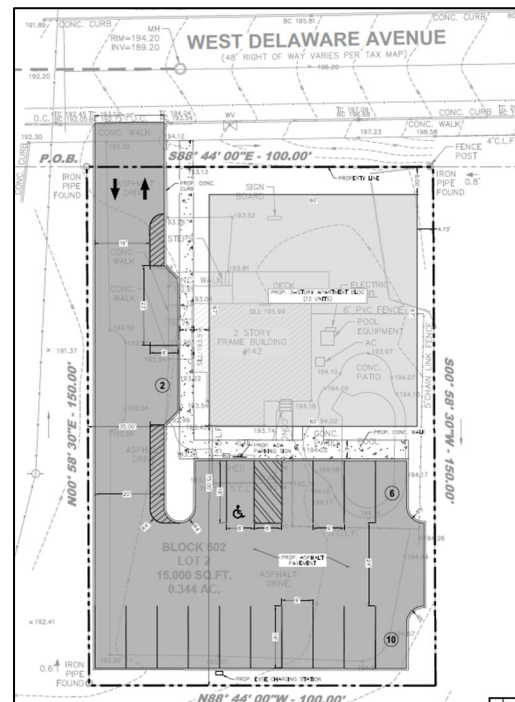


As shown on the concept on the following page, the proposed 3 story building would be situated adjacent to a portion of Howe Commons, located directly to the east. While the owner submitted a plan for 9 units, based on the size of the building proposed, it's location in the Historic District and the size and scale of surrounding buildings, it is suggested this site can accommodate no more than 8 units and the Borough work with the owner on the final configuration of the building so it is no more than 2 ½ stories. Historic Commission approval will be required under the Borough's Historic Preservation ordinance. A draft zoning ordinance for this site is provided in Appendix 4.



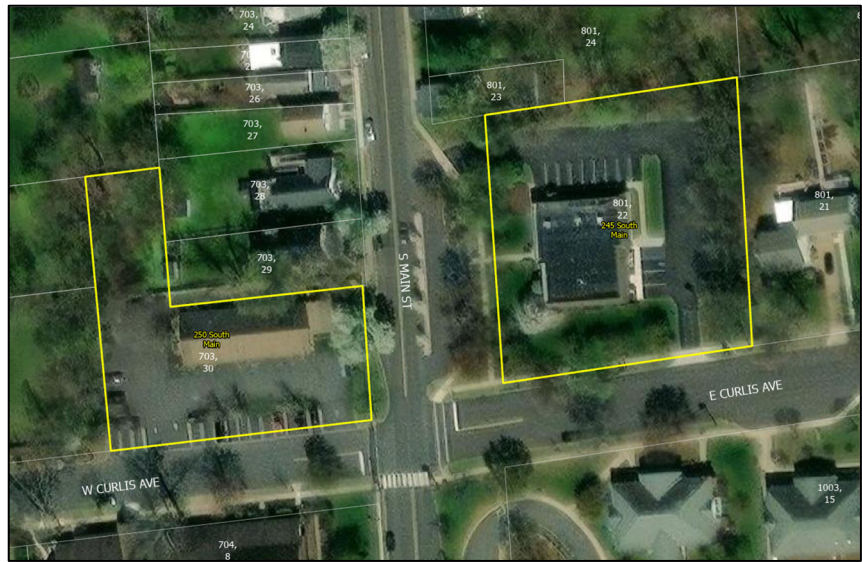
Levin Limousine (Block 502, Lot 2)

The owner of the property has submitted a concept plan that would provide a total of 12 apartment units in a new 3-story building, 3 of which would be affordable under the 20% setaside required for Unmet Need mechanisms. As shown on the concept at right, a total of 18 parking stalls can be provided. The site is adjacent to shopping and commercial services at the Pennington Center and a short walk from Main Street and Broemel Place where NJ Transit bus stops are located. One of the three affordable units from this site is applied towards third round Unmet Need. A draft zoning ordinance is included in Appendix 5.



245 and 250 South Main Street (Block 801, Lot 22 and Block 703, Lot 30)

As part of discussions related to the land use plan, the Planning Board will recommend rezoning of these two properties, currently zoned O-B, to MU-Mixed-Use. 245 South Main Street is a single-story medical office building with substantial existing parking and 250 South Main Street is an existing single-story building containing retail and service uses. Both properties have the potential to accommodate apartments on new upper floors with buildings



to be no more than 3 stories in height. 245 South Main Street could likely support upper floors added to the existing one-story structure while 250 South Main Street could include additional stories on the existing one-story structure or the site could be redeveloped with a new mixed-use structure. The aerial image at right shows the location of these properties in more detail. It is estimated that a total of 16 new units could be constructed, which would provide a total of 4 affordable housing units. A draft of the proposed MU zone standards is provided in Appendix 3.

Third Round Minimum Requirements

In addition to meeting the total 134 unit obligation, the Borough must also meet minimum and maximum requirements related to the rental obligation, maximum number of age-restricted units, minimum family unit obligation, and the minimum very low income unit obligation of 13%. Given the vacant land adjustment sought for the third round, these requirements detailed below are based on the 9 unit RDP, not the 134 unit obligation. Should unmet need mechanisms be constructed, the Borough's affordable housing ordinance will govern and the Borough will ensure compliance with the regulations below.

Minimum Rental Obligation = 3 units

.25 (obligation) = Minimum # rental units or .25 (9) = 2.25 round up to 3 units

This is not satisfied as only the accessory apartment qualifies as a rental unit. Most of the Unmet Need mechanisms proposed will likely include rental units.

Maximum Senior Units = 2 units

.25 (obligation) = Maximum # age-restricted units or .25 (9) = 2.25 round down to 2 units

None of the credits proposed are age-restricted.

Minimum Family Unit Obligation = 5 units

.50 (obligation) = Minimum # family units or .50 (9) = 4.5 round up to 5 units

This obligation is satisfied with the Heritage project, which are all family units. Mechanisms addressing Unmet Need will likely result in additional family units as no age-restricted or supportive housing is proposed.

Minimum Family Rental Obligation= 3 units

.50 (rental obligation) = Minimum # Family Rental Units or .50 (5) = 2.5 round up to 3 units.

This obligation could not be satisfied as only for-sale units were constructed in the Heritage project. Should Unmet Need mechanisms come to fruition, they will likely include family rental units.

Minimum Very Low Income Unit Obligation = 2 units

.13 (units created or approved on or after July 1, 2008) = Minimum # very low income units or .13 (9) = 1.17 units rounds up to 2 units

While the accessory apartment created was for a low income household, this falls short of the 2 units required. All projects addressing third round Unmet Need will be required to provide 13% of the units as affordable to very-low income households.

Fourth Round Obligation

Present Need (Rehabilitation Share)

As calculated by DCA and accepted by the Borough in its binding resolution, Pennington's present need for the fourth round is four (4) units. The Borough is proposing a rehabilitation program utilizing affordable housing trust funds as discussed in the spending plan. A rehabilitation manual will be provided by the Borough's administrative agent Community Grants, Planning and Housing as needed prior to marketing of the rehabilitation program.

Prospective Need

Pennington's fourth round obligation (also referred to as the prospective need) is 58 units. This obligation is defined as the new construction obligation for 2025-2035. The Fair Housing Act, N.J.S.A. 52:27D-304.3.b., describes the obligation as a "projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations".

The methodology to calculate the obligation begins with determining the need for affordable housing in which the municipality is located. That regional need is then allocated to each municipality in the region, excluding qualified urban aid municipalities, based on an average of three factors: 1) equalized nonresidential valuation factor, which serves as a proxy for the municipal share of the region's change in employment during the previous affordable housing round, 2) income capacity factor, which is the municipal share of the region's median household income, and 3) land capacity factor, which is the municipal share of the region's developable land.

The DCA calculated municipal fourth round obligations in *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*, released on or about October 18, 2024. This DCA Report calculated a fourth round obligation of 58 units for the Borough which was accepted in the binding resolution adopted by Mayor and Council.

Vacant Land Analysis

Pennington has prepared a vacant land analysis in accordance with the requirements of N.J.A.C. 5:93-4.2, first studying existing land use in the Borough as required by 5:93-4.2(a). As shown in the table below and the map in Appendix 6, the Borough consists primarily of single family detached homes, with 1,010 of its 1,152 parcels (87.7%) designated as property class 2. Only 5 parcels are classified as vacant, totaling 0.85 acres. All publicly-owned property is either listed on the Borough's ROSI and permanently restricted as open space or supports a public use such as Borough Hall, the library, public parking or is utilized as part of the Borough's public water supply. The one exception is the former Borough landfill, which is not appropriate to consider for residential development due to documented contamination as well as a host of regulatory issues related to wetlands, flood hazard areas and riparian zones on the property.

Existing Land Use				
Property Type	# Properties	% of Total Properties	Total Acreage	% Total Acreage
Vacant	5	0.43%	0.85	0.16%
Residential	1,010	87.67%	351.12	65.15%
Apartment	2	0.17%	1.19	0.22%
Commercial	61	5.3%	46.96	8.71%
Industrial	2	0.17%	7	1.30 %
Public School Property	2	0.17%	13.75	2.55%
Other School Property	4	0.17%	11.79	2.19%
Public Property	27	2.34%	30.71	5.70%
Church and Charitable	15	1.3%	13.08	2.43%
Cemetery	4	0.35%	5.53	1.03%
Other Exempt	8	0.69%	41.14	7.63%
Class I Railroad	7	0.61%	15.07	2.80%
Class II Railroad	5	0.43%	0.73	0.13%

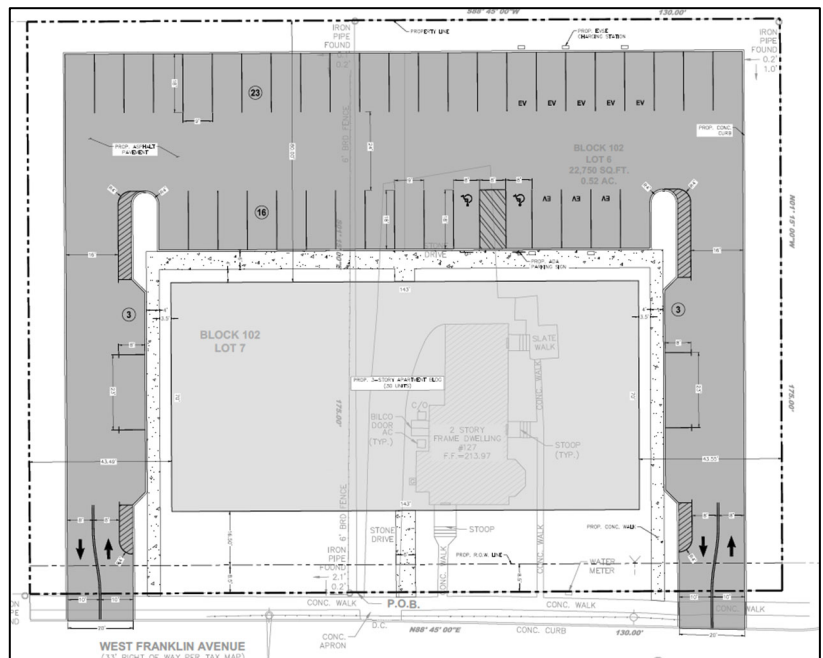
As shown in the table in Appendix 3, the Borough’s Realistic Development Potential (RDP) is 3 units, which was arrived at by applying a presumed density of 12 units per acre and a 20% setback requirement. None of the parcels identified are impacted by wetlands, streams, flood hazard areas or steep slopes. With a fourth round obligation of 58 units and RDP of 3 units, the resulting Unmet Need is 55 units. The table below details satisfaction of RDP.

Satisfaction of the 3-unit Fourth Round RDP			
Program	# Units	Bonus Credits	Total Credits
West Franklin 2 (Block 102, Lots 6, 7 and 8) (Family rental) (3 of 6 total units)	3	0	3
RDP			3

West Franklin 2 – Block 102, Lots 6, 7 and 8

This site, located on the east side of Route 31 and the north side of West Franklin Avenue, totals 1.16 acres and is currently occupied by two single family dwellings. The property owner has submitted a concept plan proposing a total of 30 units (see image at left), 6 of which would be affordable to low and moderate income households and 3 of which will be applied towards RDP.

As required by N.J.A.C. 5:93-5.3, affordable housing sites shall be available, approvable, developable, and suitable, as those terms are defined in N.J.A.C. 5:93-1.3., for the production of low and moderate income housing. As demonstrated below, the site meets these criteria.



- The site has a clear title and is free of encumbrances which could preclude development of affordable housing. Additionally, the current owner has expressed interest in developing multifamily housing at the site and has provided a concept plan (see above). The site is therefore “available”.
- The site is adjacent to compatible land uses and has access to appropriate streets. The site proposes to provide access from West Franklin Avenue, a public street, and is adjacent to the Heritage

townhome project built by American Properties and now fully occupied. The site has no steep slopes, wetlands, streams or regulated flood hazard area. The site is therefore “suitable”.

- Adequate sewer and water capacity is available and will be provided by the Borough water and sewer systems. The site is therefore “developable”.
- The site can be developed in accordance with the New Jersey Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq and will be rezoned to permit inclusionary development. The site is therefore “approvable”.

Development of the site is consistent with the State Development and Redevelopment Plan (hereinafter the “State Plan”) and the rules and regulations of all agencies with jurisdiction over the site.

- Pursuant to the recently adopted 2025 State Plan, the site is located in the Fringe Planning Area, PA-3, an area where affordable housing is encouraged within Centers, however redevelopment is encouraged, which will be the case here. While not in a Center, the site is already developed with single family dwellings and has access to water and sewer.
- The site will comply with all applicable environmental regulations. The site contains no steep slopes in the area of development, and has no wetlands, stream corridors or flood hazard within or surrounding its boundaries.
- The site will not impact any historic or architecturally important sites and districts. The site is not located in or proximate to a historic district that would preclude development of residential units.

In addition to site suitability, the project will meet the applicable requirements for affordable housing projects in the substantive rules, as well as the Uniform Housing Affordability Control rules (UHAC) (N.J.A.C. 5:80-26.1 et seq.). See below as well as supplementary documentation in support of this site in the Appendices.

- Affirmative Marketing. The affordable units will be affirmatively marketed in accordance with N.J.A.C. 5:93 et seq. and N.J.A.C. 5:80-26.
- Controls on Affordability. The affordable units will have minimum 40-year affordability controls in accordance with UHAC regulations.
- Bedroom Distribution. The project will meet the bedroom distribution requirements of UHAC.

As noted previously, the Borough’s fourth round Unmet Need obligation is 55 units, which will be fully met with the mechanisms identified in the table on the following page. Although the Borough is not entitled to bonus credits until units are constructed, deed-restricted and occupied, all mechanisms identified have developer interest and bonuses are expected to be realized during the fourth round. Based on a total obligation of 58 units and no bonus claimed relative to RDP, the Borough could take advantage of up to 15 bonus credits. The supportive housing bedrooms proposed at the Senior Center are each eligible for 1 bonus credit and all other projects addressing the fourth round obligation are within ½ mile of a NJ Transit bus stop, with stops at Main Street and Delaware Avenue, South Main Street and Curlis Avenue, West Delaware Avenue and Green Street and Route 31 and Broemel Place.

Satisfaction of the 55-unit Fourth Round Unmet Need			
Mechanism	# Units	Potential Bonus Credits	Total Credits
West Franklin 1 (Family for-sale)	6	0	6
West Franklin 2 (Family rental) – 3 of 6 units	3	2*	5
Levin Limousine (Family rental) - 2 of 3 units	2	0	3
Straube Center (Family rental)	15	7	22
12 North Main (Family rental)	4	0	4
Senior Center Supportive Housing Bedrooms	6	6	12
Blackwell (Family rental)	6	0	6
Potential Extension of Expiring Controls – Pennington Point (age-restricted for-sale)	6	0	6
Totals	49	15	64
Unmet Need Remaining			0

*** Additional bonus credit realized from 3 units addressing RDP.**

West Franklin 1 – Block 201, Lots 1, 2 and 9

These properties, located on the west side of Route 31 and the south side of West Franklin Avenue, total 3.3 acres and are currently occupied by three single family dwellings (see aerial photo at right). The Borough has been discussing development options with the current owner of Lots 2 and 9 and as a result of changes proposed to the Land Use Plan, will rezone this property to R-A Apartment-Townhouse Residence Zone which permits density up to 8 units per acre. If all three properties were developed together, a total of 26 units could be realized, providing as many as 6 units affordable to low and moderate income households.



West Franklin 2 – Block 102, Lots 6, 7 and 8

This site, located on the east side of Route 31 and the north side of West Franklin Avenue, totals 1.16 acres and is currently occupied by two single family dwellings. The property owner has submitted a concept plan proposing a total of 30 units (see prior image), 6 of which would be affordable to low and moderate income households and 3 of which will be applied towards Unmet Need.

Levin Limousine (Block 502, Lot 2)

The owner of the property has submitted a concept plan that would provide a total of 12 apartment units in a new 3-story building, 3 of which would be affordable under the 20% setaside required for Unmet Need mechanisms. As shown on the concept in the previous section addressing the third round, a total of 18 parking stalls can be provided. The site is adjacent to shopping and commercial services at the Pennington Center and a short walk from Main Street and Broemel Place where NJ Transit bus stops are located. Two of the three affordable units from this site are applied towards third round Unmet Need.

Straube Center (Block 202, Lot 2)

Recent conversations with the property owner revealed a desire to reimagine the site, which presents the opportunity for inclusion of affordable housing. The concept plan prepared by the property owner (see following page) proposes a new three-story building with a total of 75 units at the corner of West Franklin Avenue and Bixby's Way, which would yield a total of 15 affordable housing units. This replaces an existing parking area and accessory building, and residential parking would be underneath the structure, taking advantage of the grade. This site is within walking distance of the NJ Transit bus stop on Broemel Place and is within walking distance of restaurants and shops. This area is proposed for inclusion in the new HMU Highway Mixed-Use district, which would permit standalone multifamily apartment structures provided they do not front on Route 31. See Appendix 2 for draft zoning for the HMU zone.



12 North Main – Block 205, Lot 22

Located in the heart of Pennington’s Main Street corridor, this property fronts on North Main Street and extends west, abutting the Borough’s public parking lot and municipal facilities including Borough Hall, the library and the police station (see aerial photo at right). Currently the property contains a storefront with second floor apartment on North Main Street, which is attached to a one and two story office building that fronts on the Borough’s public parking lot. Sixteen spaces on the property are dedicated to the uses currently on the property. The owner has received subdivision approval to separate the storefront and apartment from the office building, although the two will remain attached. Current plans are to construct an addition to the office building, making it three stories and converting it to a minimum of 16 apartments, which would yield at least 4 affordable units under the required 20% setaside for Unmet Need mechanisms. Draft zoning for this site is provided in Appendix 7.



Senior Center – Block 701, Lots 5, 6, 7 and 8

As part of a development project proposed in Hopewell Township, the Hopewell Valley Senior Center will eventually be relocated to Hopewell Township under a shared services agreement between Hopewell Borough, Pennington Borough and Hopewell Township. Once constructed, the current Senior Center, located on 3.13 acres at the end of Reading Street, will no longer operate. Owned by Pennington Borough, the site could become available and permit conversion of the existing building into 6 supportive housing bedrooms. While no site improvement work would be necessary, the approximately 2,500 square foot single-story building would require renovation to provide 6 bedrooms and appropriate kitchen and bathroom facilities.

Blackwell – Brookside Avenue

Although these properties are encumbered by flood hazard area associated with the Lewis Brook and regulated by NJDEP, County capital and other improvements contemplated along the stream are likely to reduce the regulated area in the future. There may also be other creative solutions to meet dry access requirements in NJDEP’s flood hazard control act rules related to residential multifamily development. Areas on the west side of the site could potentially accommodate residential units with parking located off-site along Green Street or on-site if delineation of the flood hazard area is more favorable and dry access can be achieved. Conservatively and considering the opportunity for off-site parking, a total of 30 units could be built, with 6 deed restricted for low and moderate income households. The property is already within a designated area in need of redevelopment, but is proposed to be included within the MU Mixed-Use zone as part of the amended Land Use Plan (see Appendix 3). Below is a recent aerial showing the properties.



Extension of Expiring Controls – Pennington Point

With units initially deed restricted in 1995 for a period of 30 years, the 6 age-restricted for-sale units in Pennington Point are eligible for extension of expiring controls as of late 2025. According to the recently amended Uniform Housing Affordability Controls, the Borough is eligible to extend controls depending on the specific language contained in the deed restriction. While it is possible the Borough can extend the controls via ordinance, it is also possible the Borough may have to pay an amount equal to the owner's equity share in order to extend the controls. The Borough will work with its Administrative Agent, Community Grants, Planning and Housing, to review the deed restrictions and extend these controls to make them eligible for credit in the fourth round to address Unmet Need.

Additional Mechanisms to Address Unmet Need

Aside from adopting ordinances or redevelopment plans to address Unmet Need, the Borough will adopt a mandatory setaside ordinance, a draft of which is provided in Appendix 8. This will permit the Planning Board or Zoning Board to capture affordable housing units when projects of 5 or more units that are not part of the Fair Share Plan are proposed. A payment-in-lieu option is provided for fractional units of four tenths or less.

Compliance with N.J.A.C. C.52:27D-310.1

The Fair Housing Act amendments of March 2024 requires a municipality receiving a vacant land adjustment to *"identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so."* While there is some disagreement as to how this section of the Act is to be interpreted, for the purposes of this plan, it is interpreted to mean 25% of Unmet Need.

With a fourth round obligation of 58 units and RDP established at 3 units, the resulting Unmet Need is 55 units and 25% of that is 14 units (13.75 rounded up). As documented in the previous sections, the Borough

has identified redevelopment opportunities such that at least 14 affordable housing units will be created, therefore this requirement is met and in fact, far exceeded.

Fourth Round Obligation Requirements

In addition to meeting the total 58 unit fourth round obligation, the Borough must also meet the minimum rental obligation, maximum number of senior units, minimum family unit obligation, minimum very low income obligation, and maximum bonus credits, as set forth in the Fair Housing Act. Compliance with these requirements is noted for the 58 unit obligation as most of the Unmet Need mechanisms identified previously are anticipated to be constructed. Where applicable and as noted, the requirements are calculated based on the units meeting the obligation rather than the entire obligation.

Maximum Bonus = 15 credits

- Maximum bonus credits = 25% (obligation) | $25\% (58) = 14.5$ rounded up to 15 credits

Minimum Rental Units = 11 units

- Minimum rental units = 25% (of units meeting the obligation) | $25\% (43) = 10.75$ rounded up to 11 units

All of the units except the age-restricted units where expiring controls are proposed to be extended and those proposed with the West Franklin 1 project are rental units.

Maximum Senior Units = 12 units

- Maximum age-restricted units = 30% (units meeting the obligation) | $30\% (43) = 12.9$ units rounded down to 12 units

As the units in Pennington Point are age-restricted, extension of these expiring controls would result in 6 age-restricted credits in the fourth round, which complies with the maximum of 12 permitted.

Minimum Family Units = 22 units

- Minimum family units = 50% (units meeting the obligation) | $50\% (43) = 21.5$ rounded up to 22 units

With the exception of the age-restricted units at Pennington Point where controls may be extended, all units are family units.

Minimum Family Rental Units = 6 units

- Minimum family rental = 50% (rental obligation) | $50\% (11) = 5.5$ rounded up to 6 units

Other than the expiring controls proposed to be extended in Pennington Point, all other units are family rentals, satisfying this requirement.

Minimum Very Low Income Units= 6 units

- Minimum very low income units = 13% (fourth round units created or approved on or after July 1, 2008) | $13\% (43) = 5.59$, rounded up to 6 units

The Borough will require that 13% of all units constructed are available to very low income households. As detailed in the tables on the previous pages, the total number of units currently proposed is 43, and applying 13% to the individual projects results in the creation of at least 6 very low income units, meeting

the minimum required. All future projects will be required to meet the minimum 13% on an individual basis.

Minimum Family Very Low Income Units = 1 unit

- Minimum family very low income units = 50% (very low income obligation) | 13% (6) = 0.78 units rounded up to 1 unit

As noted, all but one proposed mechanism will include family units, and a minimum of 6 very low income units will be provided, meeting this requirement.

Affordability Assistance

As required, the Borough will undertake a variety of affordability assistance activities to render units more affordable. These strategies are outlined in the spending plan (Appendix 9) and a draft affordability assistance program manual is provided in Appendix 10 although a new manual will be prepared by the Borough's Administrative Agent.

CONSISTENCY WITH THE STATE DEVELOPMENT AND REDEVELOPMENT PLAN

Pennington Borough is classified as Planning Areas 3, Fringe Planning Area, in the State Plan adopted in December of 2025. General policies related to housing are aimed at promoting an adequate supply of housing affordable to all age groups and income levels with access to transit, jobs, education, services and amenities. The Plan specifically notes limiting development in environmentally sensitive and vulnerable areas, facilitating multi-generational housing opportunities, providing housing across the "traditional housing lifecycle" and expanding access to family-friendly apartments, senior residences, starter homes, condos and townhomes. More specific to Planning Area 3, the State plan encourages the siting of affordable housing within Centers.

Although Pennington is not a Center identified in the 2025 State Plan, all mechanisms proposed to meet the fair share obligation are within existing sewer service area and have access to public water. All promote the goal of providing housing with access to transit, jobs, education, services and amenities as they are located within close proximity to NJ Transit bus stops and have ready access to a multitude of commercial services and amenities, in many cases within walking distance. Pennington's Housing Element and Fair Share Plan is therefore consistent with the 2025 State Development and Redevelopment Plan.

AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING

Pennington Borough's Affordable Housing Ordinance is consistent with the Fair Housing Act, the Uniform Housing Affordability Control Rules, *N.J.A.C. 5:80-26.1 et seq.*, and the Division of Local Planning Services Fair Housing Act Rules, *N.J.A.C. 5:99*. The Borough's proposed affordable housing ordinance is provided in Appendix 11.

The Borough's Affordable Housing Ordinance, Chapter 58, governs the establishment of affordable units in the Borough as well as regulating the occupancy of such units. The Borough's Affordable Housing Ordinance addresses the phasing of affordable units, the low/moderate income split, bedroom

distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc. All newly created affordable units, with limited exceptions, will comply with the affordability control period of 30 years for sale units or 40 years for rental units, as required by the Fair Housing Act and the Uniform Housing Affordability Control Rules.

The Borough has established the position of the Municipal Housing Liaison as required by the Fair Housing Act amendments (see Appendix 12). However, the Borough will likely rely on its affordable housing administrator to conduct the administration and affirmative marketing of its affordable housing sites that will not be administered by the developers and for the rehabilitation and extension of expiring controls programs. It is expected that all developers will administer their own affordable housing units.

The Borough's affirmative marketing plan is designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region (Region 4), consisting of Mercer, Monmouth and Ocean counties.

The affirmative marketing plans include regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance with N.J.A.C. 5:80-26.1 et seq. This plan must be adhered to by all private, non-profit, and municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit. A copy of the affirmative market plan is provided in Appendix 13 but will be updated by the Borough's Administrative Agent.

AFFORDABLE HOUSING TRUST FUND

Pennington has amended its development fee ordinance, a draft of which is included in Appendix 14. The Borough has prepared a new Spending Plan, provided in Appendix 9, which discusses anticipated revenues, collection of revenues, and the use of revenues, and it has been prepared in accordance with N.J.A.C. 5:99, the Fair Housing Act Rules. All collected revenues will be placed in the Borough's Affordable Housing Trust fund and will be disbursed for the use of eligible affordable housing activities including, but not limited to:

- Affordability assistance program; and
- Extension of expiring controls program; and
- Rehabilitation program; and
- Any other activity as specified in the approved spending plan.

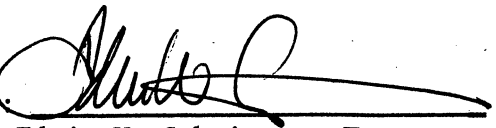
The Borough is required to fund eligible programs in a Court-approved Housing Element and Fair Share Plan, as well as provide affordability assistance. At least 30% of collected development fees, excluding expenditures made since July 17, 2008, when affordability assistance became a statutory requirement in the Fair Housing Act, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. At least one-third (1/3) of the affordability assistance must be expended on very-low income units. Additionally, no more than 20% of

the revenues collected from development fees each year shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program.

Appendix 1

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#16
Feb

Prepared by:


Edwin W. Schmierer, Esq.

Deed Restriction

To Accessory Apartment Rental Property With Covenants Restricting Rentals, Conveyances and Improvements And Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, is entered into as of this 1th day of JUNE, 2012, by and between:

Craig Lewis and Antonia Lewis, husband and wife, having an address at 20 East Welling Avenue, Pennington, New Jersey ("Owner"), and

Borough of Pennington, having an address at 30 North Main Street, Pennington, New Jersey ("Borough"),

WITNESSETH

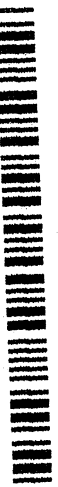
Article I. Consideration. In consideration of the subsidies received by the Owner from the Borough for the development of an accessory apartment rental unit ("Accessory Apartment") located on certain real property owned in fee simple by the Owner, described below, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed Restriction with respect to the land and improvements specifically described below.

Article II. Description of Property. The property that is the subject of this Deed Restriction consists of all of the land and a portion of the improvements thereon, that is located in the Borough of Pennington, County of Mercer and State of New Jersey, designated as Lot 23 in Block 1002 on the Pennington Borough Tax Map, and known by the street address 20 East Welling Avenue, Pennington, New Jersey. The Property is described in Exhibit A attached hereto and made a part hereof, and the Accessory Apartment is shown on Exhibit B, attached hereto and made a part hereof.

Article III. Affordable Housing Covenants. The following covenants (ACovenants@) shall run with the land for a period of ten (10) years, beginning on the date of the initial occupancy of the Accessory Apartment as stated in the initial Lease for the rental of the Accessory Apartment by an income-eligible household, and ending after the expiration of the ten (10) year period ("Control Period").

- A. Sale, rental and use of the Accessory Apartment is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, Chapter 80, Subchapter 26 (N.J.A.C. 5:80-26.1, et seq) ("Uniform Controls").
- B. The Accessory Apartment shall be used solely for the purpose of providing an affordable housing rental dwelling unit for low-income qualified households, as defined by applicable State and local laws and regulations governing affordable housing as the same may now exists or be amended and supplemented from time to

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PAULA SOLLANI COVELLO COUNTY CLERK, MERCER COUNTY NEW JERSEY



time, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Borough or its administrative agent. For as long as the Property remains within the Control Period, sale of the Property shall be expressly subject to this Deed Restriction. Deeds of conveyance for the Property must have this Deed Restriction appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Borough or its administrative agent.

- C. No improvements may be made to the Accessory Apartment that would affect the bedroom configuration of the dwelling unit, and any improvements to the Accessory Apartment must be approved in advance and in writing by the Borough or its administrative agent.
- D. The Owner shall notify the Borough of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
- E. The Owner shall notify the Borough within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.
- F. At the expiration of the Control Period the Accessory Apartment shall cease to exist unless Owner continues to use the Accessory Apartment as an affordable housing rental dwelling unit for low-income qualified households.

Article IV. Foreclosure. This Deed Restriction shall not be terminated in the event of a Judgment of Foreclosure on the Property that includes the Accessory Apartment. An Execution of Foreclosure Sale shall not result in a release of the Accessory Apartment from the provisions and restrictions of this Deed Restriction.

Article V. Remedies for Breach of Affordable Housing Covenants. A breach of the Covenants will cause irreparable harm to the Borough and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest or other owner of the Property, the Borough shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Owner, or any successor in interest or other owner of the Property, the Borough shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Borough and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

Witness/Attest:

BOROUGH OF PENNINGTON, a municipal corporation of the State of New Jersey

Elizabeth Sterling
Elizabeth Sterling, Clerk

Anthony Persichilli
By: Anthony Persichilli, Mayor

Mary W. Mustetta

Craig Lewis
Craig Lewis, Owner

Mary W. Mustetta

Antonia Lewis
Antonia Lewis, Owner

ACKNOWLEDGMENTS

STATE OF NEW JERSEY)
COUNTY OF MERCER)SS.

I CERTIFY that on JUNE 7, 2012,

Elizabeth Sterling, personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk of THE BOROUGH OF PENNINGTON, a municipal corporation of the State of New Jersey, the corporation named in this deed;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Anthony Persichilli, Mayor;
- (c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its governing body;
- (d) this person knows the proper seal for the corporation which was affixed to this deed;
- (e) this person signed this proof to attest to the truth of these facts.

Elizabeth Sterling
Elizabeth Sterling, Clerk

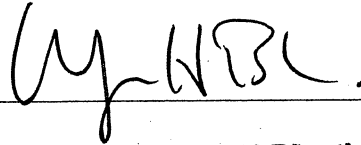
Signed and sworn to before me
on JUNE 7, 2012.

Wayne H Blauth
Notary Public

Wayne H Blauth
Notary Public
State of New Jersey
My Commission Expires 04-14-2014

STATE OF NEW JERSEY)
COUNTY OF MERCER)SS.

I CERTIFY that on JUNE 8, 2012, Craig Lewis and Antonia Lewis, husband and wife, personally came before me and acknowledged under oath, to my satisfaction, that this person: (a) is named in and personally signed this document; and (b) signed, sealed and delivered this document as his act and deed.

A handwritten signature in black ink, appearing to read "Wayne H Blauth", written over a horizontal line.

Wayne H Blauth
Notary Public
State of New Jersey
My Commission Expires 04-14-2014

EXHIBIT A

Land Surveyors
777 Alexander Road
P.O. Box 3227
Princeton, New Jersey 08543-3227

Order No. 35958-400-11
Pennington Borough Tax Map
Sheet 8
Block 28.05
Lot 18

DESCRIPTION OF LOT 18 IN BLOCK
28.05 AS SHOWN ON SHEET 8 OF THE
PENNINGTON BOROUGH TAX MAP
SITUATE LYING AND BEING IN THE
BOROUGH OF PENNINGTON, COUNTY
OF MERCER, STATE OF NEW JERSEY.
October 6, 2004

BEGINNING at a **POINT** in the southerly right-of-way line of East Welling Avenue a 70 foot wide right-of-way, said point being S 88 degrees 50 minute 00 seconds E from the intersection of the easterly right-of-way line of South Main Street a 100 foot wide right-of-way with the said southerly right-of-way line of East Welling Avenue and from said **BEGINNING POINT** running, thence;

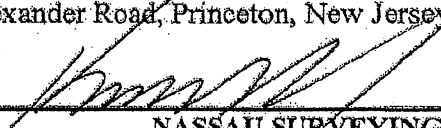
- (1) Along the said southerly right-of-way line of East Welling Avenue, S 88 degrees 50 minutes 00 seconds E, 80.00 feet to a point corner to Lot 19.01 Block 28.05 lands N/F Donald E. Blankenbush, thence;
- (2) Along the westerly line of said lands, S 03 degrees 35 minutes 00 seconds W, 200.00 feet to a point corner to Lot 64 Block 28.05 lands N/F John A. & Linda M. Oliver, thence;
- (3) Along the northerly line of said lands and continuing along the northerly line of Lot 63 Block 28.05 lands N/F Jacques G. Ruch, N 88 degrees 50 minutes 00 seconds W, 80.00 feet to a point corner to Lot 17 Block 28.05 lands N/F Norah F. Ducharme, thence;
- (4) Along the easterly line of said lands, N 03 degrees 35 minutes 00 seconds E, 200.00 feet to the **POINT** and **PLACE** of **BEGINNING**.

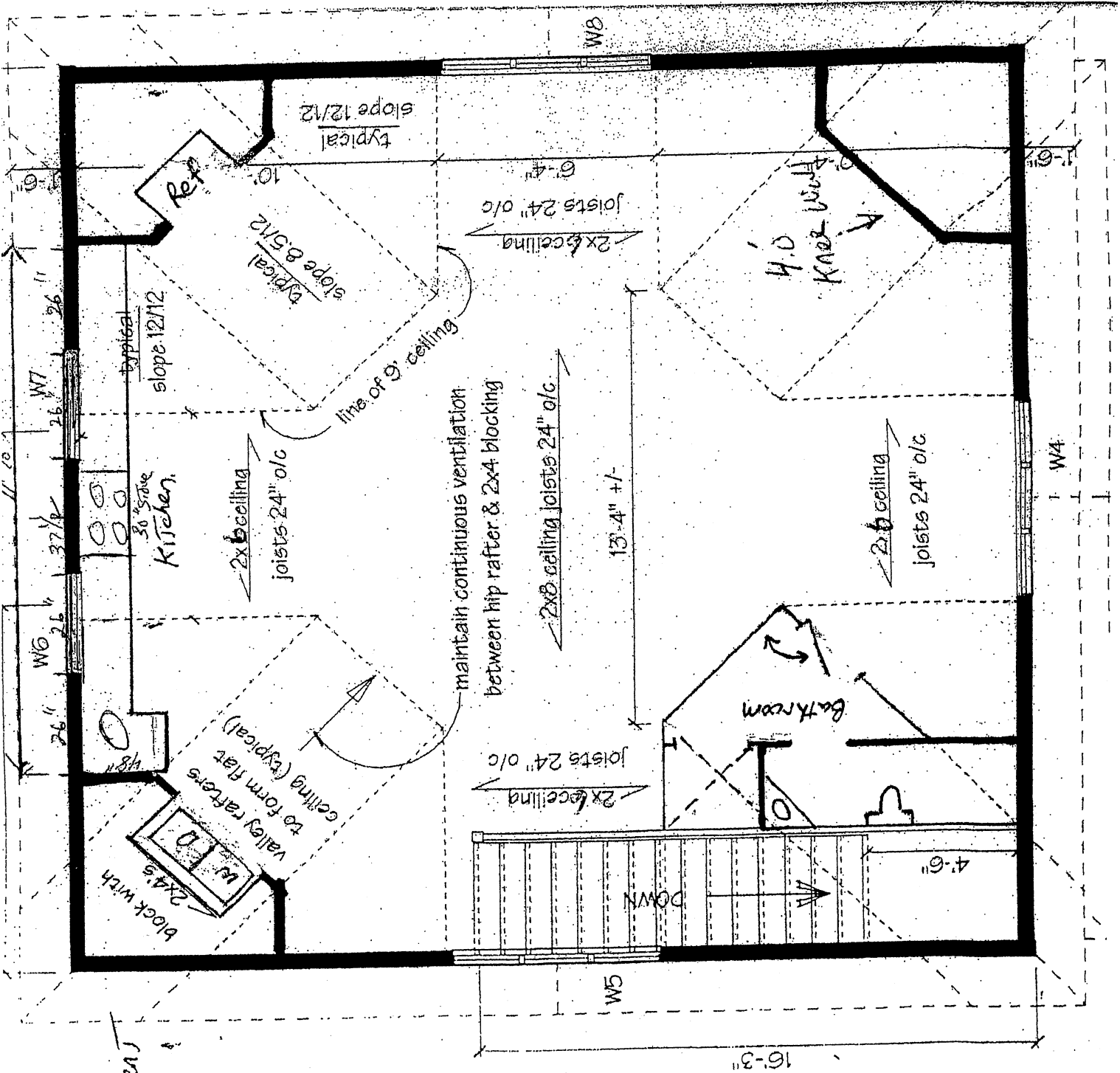
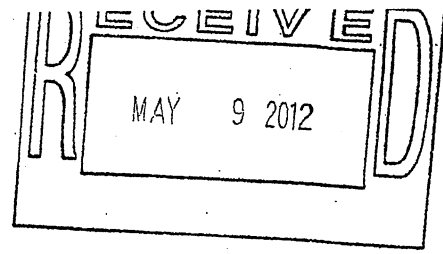
Containing 15,986 square feet or 0.37 acres of land more or less.

The above described premises being subject to and/or together with any easements and/or declarations of record.

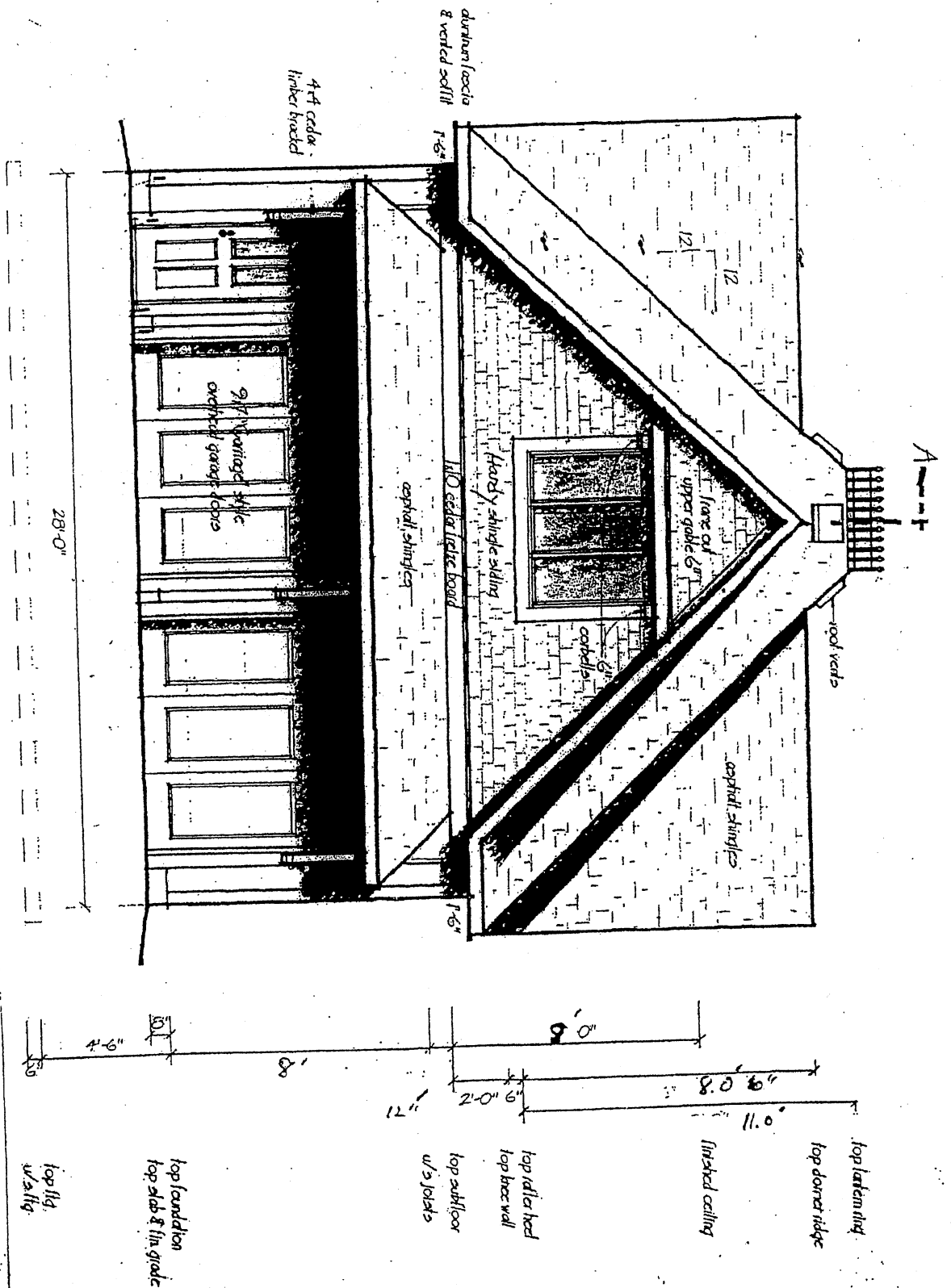
The above described premises as being shown on a plan entitled, "Plan of Survey of Lot 18, Block No. 28.05 of property for Craig and Antonia Lewis, situate in Pennington Borough, Mercer County, New Jersey, Scale 1"=20', dated October 5, 2004" prepared by Van Note-Harvey Associates, P.C., Land Surveyors, 777 Alexander Road, Princeton, New Jersey, 08540.

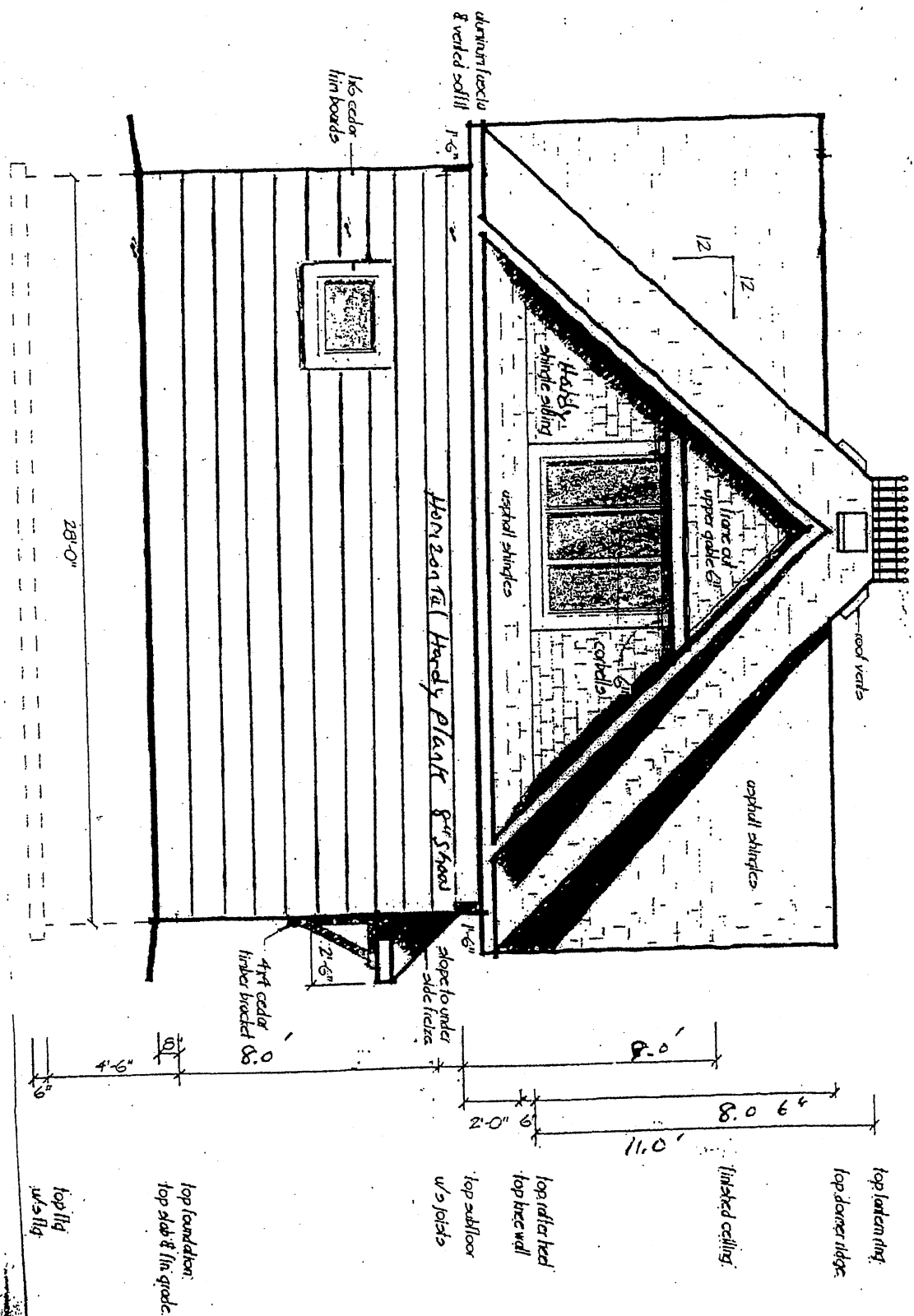
According to a legal description by Nassau Surveying, a Division of Van Note-Harvey Associates, P.C., Land Surveyors, 777 Alexander Road, Princeton, New Jersey, 08540.

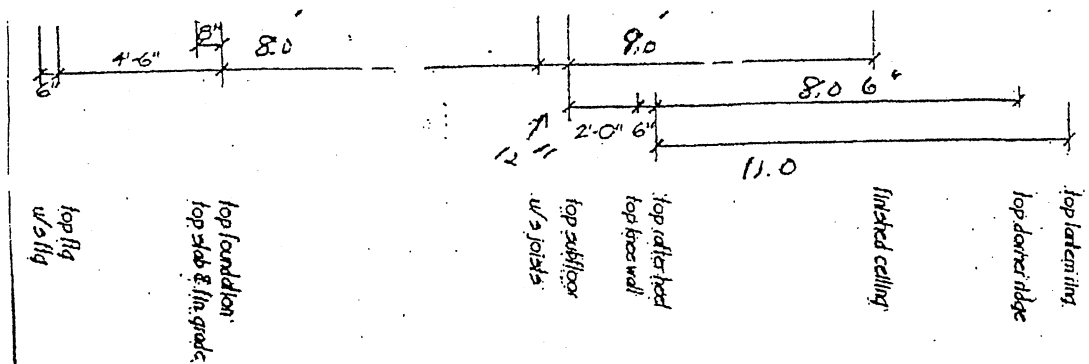
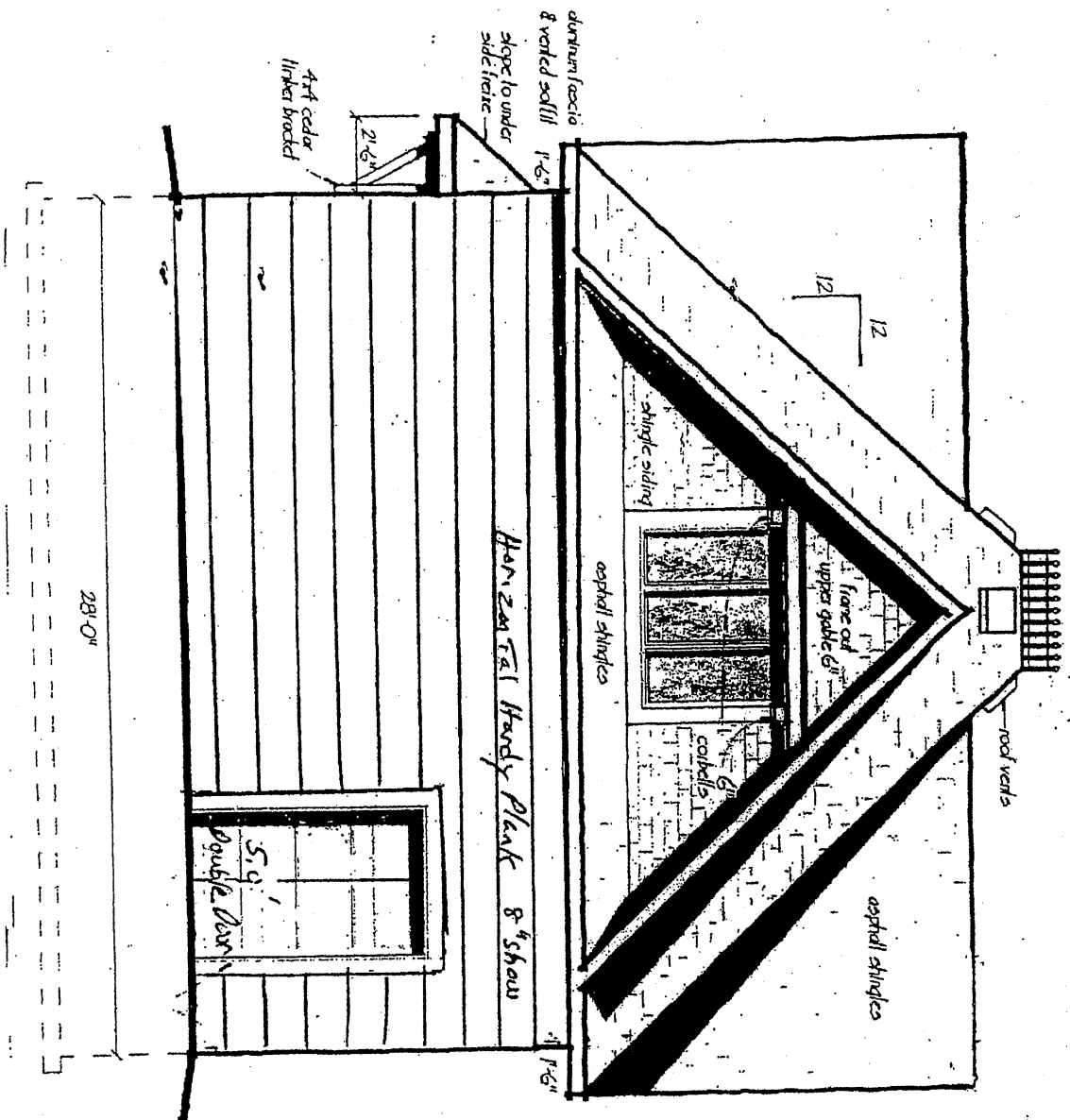

NASSAU SURVEYING
DIVISION OF VAN NOTE-HARVEY ASSOCIATES, P.C.
KENNETH R. RAIKE
NEW JERSEY PROFESSIONAL LAND SURVEYOR #36753

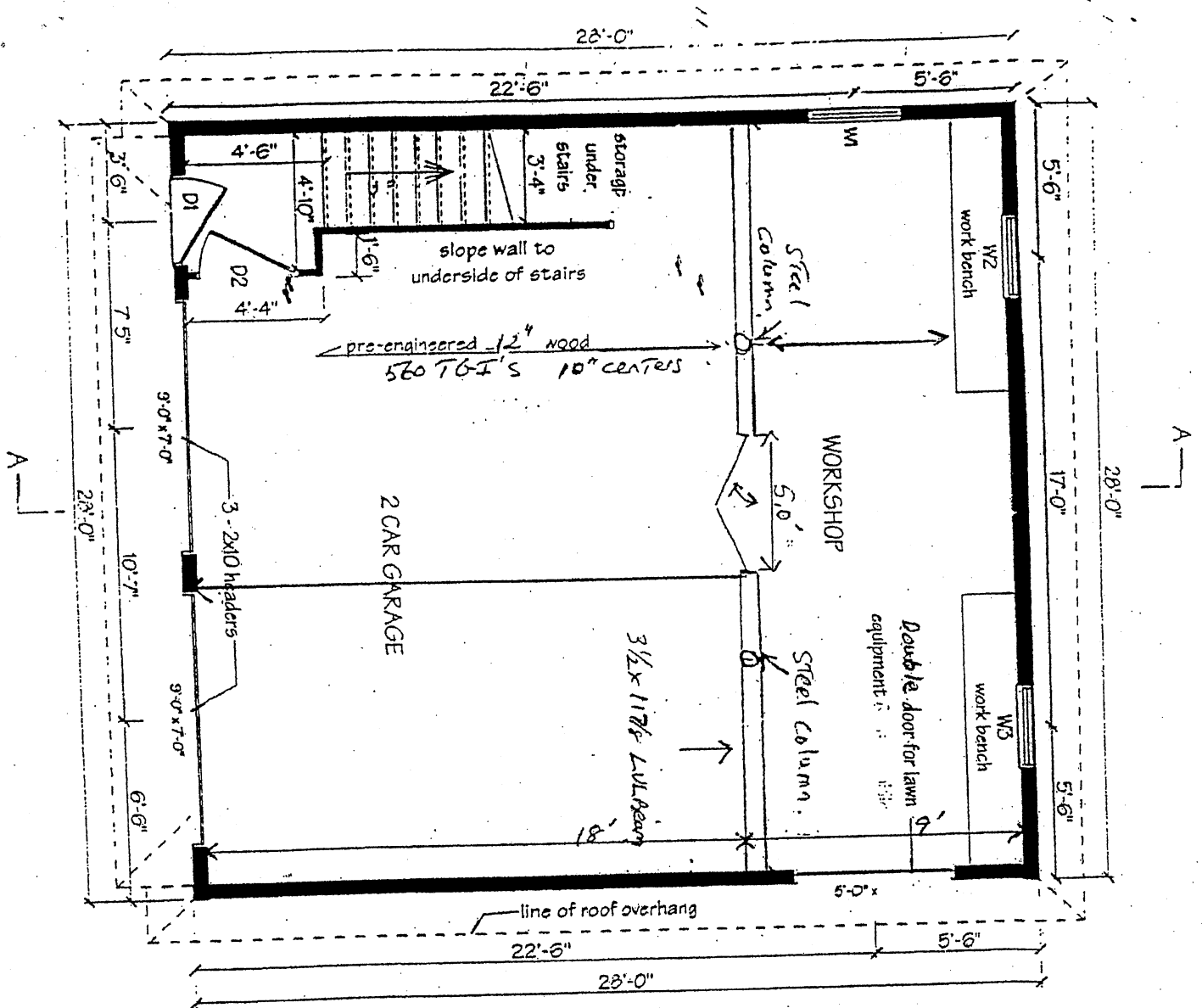


New Apartment

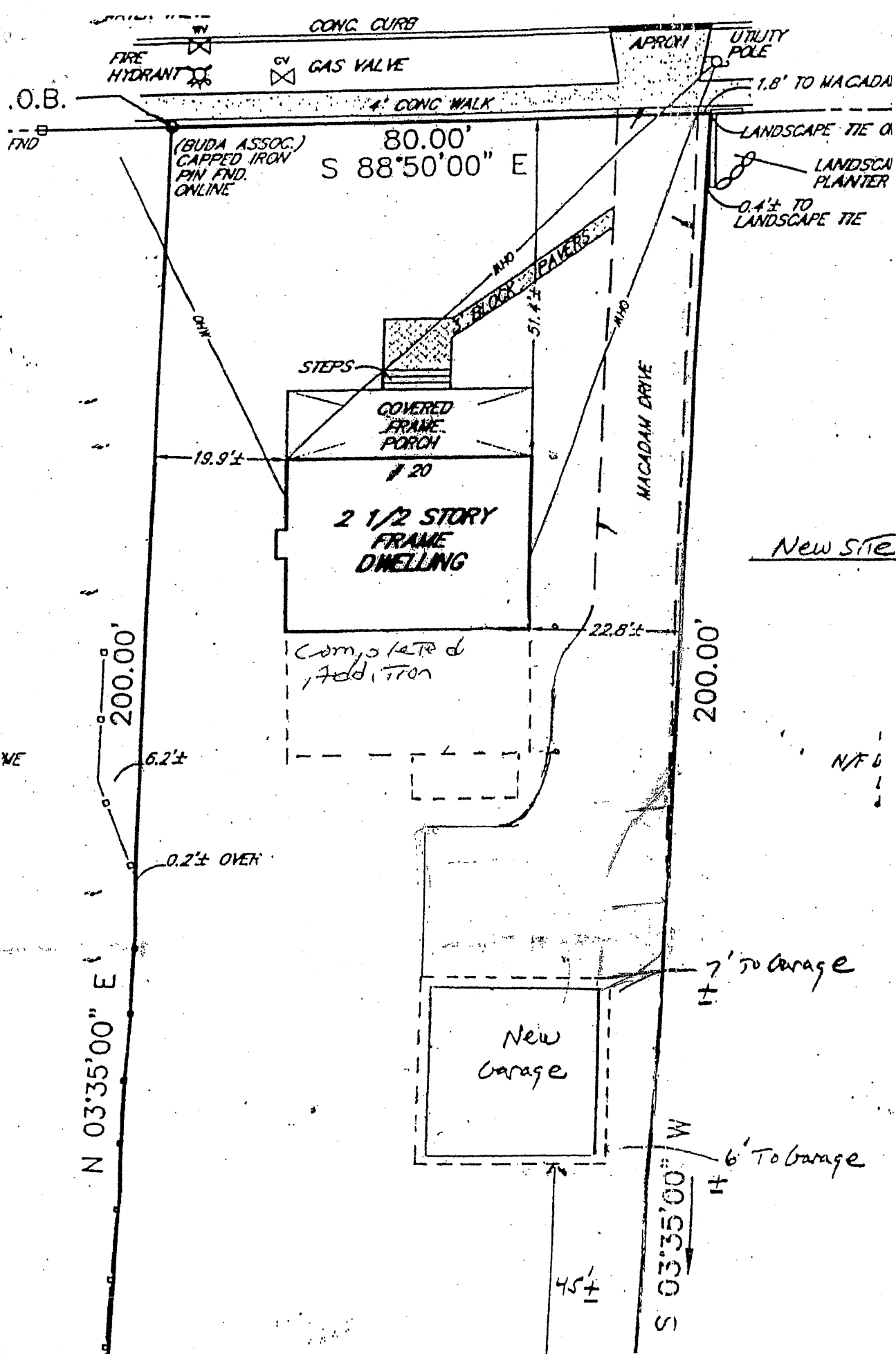








- NOTES:
1. All exterior wall widths nominal 6"
 2. All interior wall widths nominal 4"
- except as noted otherwise



New Site Plan

DEED RESTRICTION

Dated: June 7th, 2012

CRAIG LEWIS and ANTONIA LEWIS,
husband and wife,

Owner,

AND

BOROUGH OF PENNINGTON,

Borough.

Record and Return to:
Mason, Griffin & Pierson, P.C.
101 Poor Farm Road
Princeton, NJ 08540

Appendix 2

§ 215-xx H-MU Highway Mixed Use Zone, Draft 1

- A) Purpose. The purpose of this zone is to steadily transform the area covered by the previous commercial-only § 215-72 Business Highway B-H and § 215-73 Office Business O-B zones into a mixed-use zone that integrates a variety of housing and commercial uses. It is envisaged that the housing will be in high density, attached, multi-story buildings providing opportunities for deed-restricted affordable housing to help meet the Borough's fourth round obligation and non-restricted housing that is affordable to new residents wishing to join the Pennington community. It will also replace § 215-78.2 Route 31 Corridor Business Overlay zone which attempted to diversify the area it covered from large lots (65,000 sq.ft.) to smaller lots (10,000 sq.ft.) and permit uses that would create a pedestrian-oriented shopping environment consistent with the character of the surrounding community. The Overlay zone did not include housing.
- B) Building configurations permitted.
- 1) Mixed commercial and attached residences, with a maximum height of 45 feet.
 - a) No more than 3 stories
 - b) Retail and other public-facing businesses allowed only on the first (ground) floor, subject to the permitted primary, secondary, conditional, and prohibited uses in sections below.
 - c) Executive or administrative, general business and professional offices allowed on first and second floors.
 - d) No more than 24 residences per floor.
 - 2) Attached residences, including those with ground floor indoor parking
 - a) No more than 3 stories, in addition to the parking floor, with a maximum height of 45 feet.
 - b) No business or commercial uses allowed.
 - c) Not permitted to front directly on State Route 31.
 - 3) Commercial and business use only
 - a) Existing commercial and business-use buildings in the zone as of the date of approval of this ordinance may continue as they are, or be modified in the future, subject to the permitted primary, secondary, conditional, and prohibited uses in sections C, D, E and F below.
 - b) Where substantial modifications to sites are contemplated, the owner of the site is encouraged to create residential, or mixed residential and commercial buildings, on the site to help the Borough move towards a more diversified and affordable supply of housing.
- C) Design and other regulations for all buildings
- 1) All lands and uses in the H-MU Zone shall comply with the regulations set forth in the Schedule of Area, Yard and Building Regulations.
 - 2) More than one building shall be permitted on a lot, provided that the total floor area ratio and total lot coverage of the combined uses/buildings on the lot do not exceed the maximums specified for the zoning district for a use/building on an individual lot.

- 3) All portions of all buildings on one lot shall be compatibly designed with a common architectural motif, whether constructed all at one time or in stages over a period of time. The architectural design and material surface and color of all building walls on all sides of all buildings shall be suitably finished for aesthetic purposes and shall be compatible in design and scale with the surface materials existing within the neighborhood.
- 4) Subject to section A above, certain buildings may contain more than one principal permitted use, provided that the total floor area ratio and total building and lot coverages of the combined uses do not exceed the maximums specified for the zoning district, that each use occupies a minimum gross floor area of 500 square feet and that the combined off-street parking requirements for all uses are met.
- 5) All buildings shall be separated by a minimum of 30 feet where any part of such separation is to be used for parking or vehicular circulation.
- 6) Unless otherwise specifically approved by the Board as part of a site plan application, no merchandise, product, equipment or similar material or objects shall be displayed or stored outside, except where otherwise permitted by this chapter or the code of the Borough of Pennington. Where merchandise, products, equipment or similar material or objects are approved by the Board to be displayed or stored outside, the materials shall be suitably screened to be obscured from view from any adjacent residential uses and must be situated within the property lines of the principal use.
- 7) All portions of a lot not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs and trees and shall be maintained in good condition. In any case, no less than 35% of the area of any lot shall be so landscaped, and the landscaped area may include approved detention and/or retention basins.
- 8) Landscaping. Any front or side yard with a parking area visible from the street shall be screened with a row of shrubs at least two feet high when mature. Street trees shall be planted along any street frontage 30 to 40 feet on center, and foundation plantings shall be included along the building facade. A landscaped or grass strip at least five feet wide shall be provided along the front and side yard property lines
- 9) On-site circulation. Driveways with appropriate cross easements providing access between adjacent lots shall be permitted and provided where feasible. On-site circulation systems and parking areas shall be designed to accommodate the interconnection between adjacent lots.
- 10) Pedestrian access. Adequate and safe pedestrian access between uses or separate buildings in the development or on adjacent lots shall be provided, and the design of the development shall promote nonvehicular, pedestrian-friendly access, inclusive of bicycle racks, benches or other such amenities. Sidewalks shall be provided along street frontages and throughout the development.
- 11) Sign requirements. All signage shall be in accordance with the requirements specified in Article III, Sign Regulations, and specifically § 215-44 of this chapter.
- 12) Fences, walls and retaining walls should be in accordance with the provisions of § 215-24.
- 13) Roof-mounted solar panels are allowed and will be encouraged.
- 14) Geothermal heating is allowed and will be encouraged.

- D) Permitted business and commercial primary uses. In buildings or on sites where business or commercial use is permitted, the primary uses allowed shall be as follows:
- 1) Retail business and personal service establishments which are clearly of a community service character, such as restaurants, retail shops, studios, exercise facilities, barber and beauty salons.
 - 2) Restaurants, including those of a quick serve nature without a drive through window.
 - 3) Executive or administrative, general business and professional offices.
 - 4) Animal hospitals.
 - 5) Hardware stores.
 - 6) Wholesale business establishments other than cannabis wholesalers.
 - 7) Technical training centers provided all instruction is conducted indoors.
 - 8) Educational uses, other than schools and institutions of higher learning
 - 9) Child-care centers licensed by the Department of Human Services pursuant to P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.).
 - 10) Municipal services, emergency response services and Post Office
 - 11) Other business uses which in the opinion of the Planning Board acting as a Board of Adjustment are similar in scale and service nature to those permitted above.
- E) Permitted secondary and accessory uses. For buildings and sites where business or commercial use is permitted, the secondary uses allowed shall be as follows:
- 1) Municipal parks, playgrounds and buildings deemed appropriate and necessary by the Borough Council of the Borough of Pennington.
 - 2) Garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises in conjunction with a permitted use.
 - 3) Off-street parking for the use of employees, customers and visitors.
 - 4) Sidewalk sales by adjacent retail merchandise stores when authorized by a permit issued by the Borough Clerk.
 - 5) Signs as permitted by Article III, Sign Regulations, and specifically § 215-44.
 - 6) Make ready infrastructure and electric vehicle charging stations.
 - 7) Outdoor dining associated with a permitted restaurant use.
 - 8) Outdoor recreation areas for permitted residential uses.
 - 9) Dog parks.
- F) Conditional business and commercial uses. The conditional uses allowed shall be as follows and shall be subject to the provisions of the indicated ordinances in Borough Code Chapter 215 Article VIII.
- 1) Public utility uses as a conditional use under N.J.S.A. 40:55D-67 (§ 215-80)
 - 2) Cannabis retailers, medical cannabis dispensaries and cannabis delivery services (§ 215-81)
 - 3) Schools and institutions of higher learning (§ 215-82)
 - 4) Scientific or research laboratories (§ 215-90)
 - 5) Health care facilities (§ 215-91)
 - 6) Banks (§ 215-95).
 - 7) Banks and financial institutions with drive-through facilities.
 - a) The drive-through facility shall be located to the rear of the building.

- b) For queuing purposes, room for at least two automobiles per drive-through window shall be provided.
- G) Prohibited uses. Any use not hereby specifically permitted is prohibited unless approved by the Planning Board acting as a Board of Adjustment. The following uses are hereby specifically prohibited:
- 1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants.
 - 2) Drive through facilities associated with a quick serve restaurant.
 - 3) No retail sales use may operate after 11:00 p.m. at night, and all site lights and signage shall be turned off at the close of business, except for a minimal amount of low-intensity security lighting specifically approved by the Planning Board.
- H) Permitted Residential Uses.
- 1) Objectives. The provisions of this subsection are intended to encourage the planning and construction of attached dwelling unit development within the H-MU Zone that meet the special needs of suburban families and at the same time protect and promote the health, safety and general welfare of the public and the Borough of Pennington.
 - 2) Qualifications. In order to qualify for consideration under the terms of this subsection, the site for any attached dwelling unit development shall be composed of a single tract of land, consisting of one or more contiguous lots. The physical conditions of the site, including soil type, ground water level, drainage and topography, shall be such as not to create hazards to the property or to the occupants, and the site shall not be subject to the possibility of subsidence or the reasonable probability of flooding or serious erosion.
 - 3) General requirements.
 - a) Access to site. Any attached dwelling unit site shall abut or have permanent access to an approved or existing public street. Private streets within the site of an attached dwelling development shall be permitted but shall be protected by a permanent easement and shall provide for safe and suitable vehicular circulation in the development at all times. Dead-end or cul-de-sac streets shall include adequate turning space.
 - b) Access to buildings. Convenient vehicular access to all buildings on the attached dwelling unit development site shall be provided for emergency equipment, furniture moving vans, fuel trucks where required, garbage collection, general deliveries of goods and snow removal. Pedestrian access to the rear of all buildings fronting on a public street shall be provided.
 - c) Access to dwelling units. A safe and convenient means for pedestrian access to all dwelling units shall be provided in such manner as not to require passage through any other dwelling unit.
 - d) Services and facilities. The development of the site shall be designed so that it does not infringe upon adjoining properties. Utilities and other similar facilities shall be provided for the development without dependence upon the availability of such services on adjoining properties. All attached dwelling unit developments shall be connected to and serviced by public systems for the provision of water and disposal of sanitary and storm sewage. Such public systems shall have been determined

adequate to serve the proposed development by competent authority designated by the Borough Council.

- e) Occupancy of dwelling units. No dwelling unit shall be occupied until all other dwelling units in the same building are completed and ready for occupancy, having all utility connections completed, pedestrian and vehicular accessways improved and parking areas paved and drained as designed and a certificate of occupancy having been issued.
- f) Compliance with other ordinances and regulations. The attached dwelling unit development shall conform to the recommendations of the Borough Master Plan regarding the creation of new streets, the widening of existing streets, drainage rights-of-way and conservation areas. Where subdivision of lands is required or desired by the developer of the attached dwelling unit development, in accordance with the provisions of Chapter 181, Subdivision of Land, the receipt of subdivision approval prior to proceedings under this chapter shall not in any way be construed to imply approval of the proposed attached dwelling unit development. Where the review and/or approval of the various elements or features of the proposed attached dwelling unit development is required to be received from any municipal, county or state agency or official, other than the Planning Board and Zoning Officer, such review and/or approval shall be obtained prior to proceedings hereinafter.
- 4) Design requirements. At a minimum, all attached dwelling unit developments shall comply with the following design requirements and standards:
 - a) Site area. Site areas shall not be less than 20,000 square feet of usable land.
 - b) Floor area. Total floor area shall not exceed an amount equal to 80% of site area.
 - c) Coverage. Building area and related impervious surface coverage (parking areas, roads, walks, etc.) shall not exceed an amount equal to 60% of the site area.
 - d) Recreation area. Outdoor recreation space shall be provided in all developments of 30 or more units. Such outdoor recreation space shall not be less in area than an amount equal to 10% of the gross floor area of the development.
 - e) Parking spaces required. The Planning Board shall determine the number of off-street parking spaces required based on dwelling unit mix and size and related factors. Maximum requirement shall not exceed two spaces per unit nor shall be less than one and one half spaces per unit. The developer may elect, subject to the approval of the body conducting the site plan review, to improve only a portion of the area which has been designated for parking on the plan.
 - f) Buildings. Buildings shall not exceed 3 stories or 45 feet in height. Buildings shall not contain dwelling units above the third story nor below grade. Buildings shall be designed so that an offset of at least four feet shall occur between building segments containing no more than four dwelling units.
 - g) Dwelling unit mix and density. Each development shall contain a mixture of dwelling unit types in a ratio approved by the Planning Board. Maximum gross residential density shall not exceed twenty four (24) units per acre.
 - h) Building setbacks. Building setbacks shall provide adequate distance between buildings on the site and the abutting properties. However, no such setback need exceed a distance of 50 feet.

- i) Streets, roads, curbs, parking areas and sidewalks. All streets, roads, curbs, parking areas and sidewalks shall be constructed in accordance with Borough specifications furnished by the Borough Engineer.
 - j) Plantings. The character and appeal of the site shall be enhanced by retaining and protecting existing trees and other natural features of the site whenever possible and through the addition of new planting materials for privacy, shade, beauty of buildings and grounds, and to screen objectionable features. Plant materials to be provided shall be in scale with the composition of the buildings, the site and its various uses and surroundings. Plant materials shall be arranged to harmonize in size, shape, color, texture and winter characteristics with the buildings and development of the grounds. Plant location and spacing shall be determined by ultimate mature growth. Plant materials shall be indigenous to the area or be readily adaptable to the local climate and soil conditions. Plant materials shall not be excessively weedy in habit or growth characteristics nor be unduly subject to noxious pests or plant diseases.
 - k) Outdoor lighting. Attractive lighting fixtures for walks, steps, parking areas, streets and other facilities shall be provided at locations to assure the safe and convenient use of such facilities. Fixtures shall be placed and designed in keeping with the character of the development and be adequately shaded to screen the windows of dwelling units from the direct rays from the light fixtures.
 - l) Electric and telephone lines. All electric power and telephone transmission lines shall be installed underground at a depth and at such location as will minimize risk of interruption of services.
 - m) Screening. Fences, walls, shrubbery or other appropriate screening devices shall be installed around garbage and trash storage areas, parking areas, service areas and at such other locations deemed desirable or necessary by the Planning Board.
 - n) Laundry facilities. Each residential unit shall have its own laundry facilities.
- I) Off-street parking and loading requirements
- 1) Parking areas may be located within any of the required yard area, provided that they are not within 25 feet of the boundary of a residence zone or street line. Driveways shall be limited to two for each 200 feet of frontage on a public street.
 - 2) No parking, loading area, driveway or other structure (except for approved accessways, signs and fencing) shall be permitted within 5 feet of any property line and within 10 feet of any street line or residential zoning district, and such perimeter area shall be planted and maintained in lawn areas or ground cover and landscaped with shrubbery, except that;
 - a) No parking, loading area, driveway or other structure (except for approved accessways, signs and fencing) shall be permitted in the front yard area between the principal building.
 - b) The Planning Board may approve off-street parking in front yard areas between principal buildings and State Highway Route 31 where the existing development on the subject property (e.g., an existing building set back an excessive distance from the abutting street right-of-way) creates a practical difficulty in locating the required off-street parking in rear and/or side yard areas, provided that:

- (i) A minimum parking setback of 5 feet to any street line shall be provided, where feasible, and shall be planted and maintained in lawn area or ground cover and shall be landscaped with trees and shrubbery as approved by the Board; and
 - (ii) When approving the location of off-street parking in front yard areas, the Planning Board must find that parking may be located within the front yard area without adversely affecting neighboring properties.
- c) Driveways with appropriate cross-easements providing access between adjacent lots shall be permitted and provided, where feasible; on-site circulation systems and parking areas shall be designed to accommodate the interconnection between adjacent lots.
- 3) Each individual use shall provide parking spaces according to the following minimum provisions. Where a permitted use includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together:
 - a) Retail business uses: one space for each 300 square feet of sales floor area.
 - b) Personal and business service establishments: one space for each 300 square feet of floor area.
 - c) Professional and business offices, laboratories and technical training centers: one space for each 250 square feet of floor area or part thereof.
 - d) Restaurants: one space for each four seats, plus one space for each two employees.
 - e) Theaters and other similar places of public assembly: one space for each three seats.
 - f) Wholesale business establishments: one space for each 500 square feet of building area.
 - g) Offices, laboratories and technical training centers shall provide parking at the ratio of one parking space per 250 square feet of gross floor area or part thereof
 - h) Child-care centers shall provide parking at a ratio of one parking space per employee, plus one additional parking space for every eight children.
 - i) Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together
- 4) Parking areas for individual uses shall be designed to be interconnected with adjacent properties and shall utilize common entrance(s) and exit(s), where feasible, to minimize access points to the street.
- 5) Shared parking. Nothing in the above requirements shall be construed to prevent the employment of shared parking, which may be implemented in one of two manners:
 - (i) On-site shared parking. For parcels containing a multiple-occupant building or two or more buildings with different permitted uses, on-site shared parking may be implemented.
 - (a) A shared parking allowance of 50% shall be permitted for combining weekday uses with evening/weekend uses in the same building or in separate buildings on the same parcel. Office and retail uses are considered to be weekday uses, while residential and restaurant uses are considered to be evening/weekend uses.

- (b) Fifty percent of the parking requirement of the evening/weekend use of the building may be met through parking already provided for the weekday use. For example, a building contains office space that requires 20 parking spaces and residential units that require eight parking spaces. The residential parking is permitted to be reduced by 50% or four parking spaces. Therefore, the development would only be required to construct 24 parking spaces instead of 28.
 - (ii) Off-site shared parking. For parcels that cannot accommodate all or a portion of their required parking spaces, the differential parking requirement may be shifted to an adjacent property determined by the Zoning Officer to have parking in excess of zoning requirements or parking that is demonstrated to be unused during normal hours of operation. This would require the submission of a memorandum of agreement between the two property owners, which demonstrates the shifting of parking spaces from one site to an adjacent site.
- J) Off-street loading requirements and provision for garbage pickup.
 - 1) Each principal building or group of buildings shall provide at minimum one off-street loading space on site at the side or rear of the building or within the building. Any loading area shall have adequate ingress and egress from a public street and adequate space for maneuvering. There shall be no loading or unloading from the street or front yard area. Such space shall not infringe upon area required for off-street parking
 - 2) There shall be at least one trash and garbage pickup location on site within convenient access of the building being served, including provisions for the separation and collection of recyclable materials in accordance with the recycling requirements of Mercer County and in accordance with the following:
 - a) The trash and garbage pickup location shall be provided either within the building being served or in a pickup location outside the building;
 - b) If located within the building, the doorway may serve both the loading and trash/garbage functions, and if located outside the building, it may be located adjacent to or within the general loading area(s), provided the container in no way interferes with or restricts loading and unloading functions;
 - c) If located outside the building, the trash and garbage pickup location shall include a fully enclosed trash and garbage container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of all three. Enclosures shall be constructed of masonry material consistent with the architectural design of the buildings.

Appendix 3

§ 215-xx MU Highway Mixed Use Zone, Draft 1

- A) Purpose. The purpose of this zone is to provide opportunities for small-scale mixed-use developments in locations other than the Route 31 corridor. It is envisaged that the housing will be in high density, attached, multi-story buildings providing opportunities for deed-restricted affordable housing to help meet the Borough's fourth round obligation and non-restricted housing that is affordable to new residents wishing to join the Pennington community.
- B) Building configurations permitted.
- 1) Mixed commercial and attached residences, with a maximum height of 45 feet.
 - a) No more than 3 stories
 - b) Retail and other public-facing businesses allowed only on the first (ground) floor, subject to the permitted primary, secondary, conditional, and prohibited uses in sections below.
 - c) No more than 8 residences per floor.
 - 2) Attached residences, including those with ground floor indoor parking
 - a) No more than 3 stories, in addition to the parking floor, with a maximum height of 45 feet.
 - b) No business or commercial uses allowed.
 - c) Not permitted to front directly on public street.
- C) Design and other regulations for all buildings
- 1) All lands and uses in the MU Zone shall comply with the regulations set forth in the Schedule of Area, Yard and Building Regulations.
 - 2) More than one building shall be permitted on a lot, provided that the total floor area ratio and total lot coverage of the combined uses/buildings on the lot do not exceed the maximums specified for the zoning district for a use/building on an individual lot.
 - 3) All portions of all buildings on one lot shall be compatibly designed with a common architectural motif, whether constructed all at one time or in stages over a period of time. The architectural design and material surface and color of all building walls on all sides of all buildings shall be suitably finished for aesthetic purposes and shall be compatible in design and scale with the surface materials existing within the neighborhood.
 - 4) Subject to section A above, certain buildings may contain more than one principal permitted use, provided that the total floor area ratio and total building and lot coverages of the combined uses do not exceed the maximums specified for the zoning district, that each use occupies a minimum gross floor area of 500 square feet and that the combined off-street parking requirements for all uses are met.
 - 5) All buildings shall be separated by a minimum of 30 feet where any part of such separation is to be used for parking or vehicular circulation.
 - 6) Unless otherwise specifically approved by the Board as part of a site plan application, no merchandise, product, equipment or similar material or objects shall be displayed or stored outside, except where otherwise permitted by this chapter or the code of the Borough of Pennington. Where merchandise, products, equipment or similar material or

objects are approved by the Board to be displayed or stored outside, the materials shall be suitably screened to be obscured from view from any adjacent residential uses and must be situated within the property lines of the principal use.

- 7) All portions of a lot not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs and trees and shall be maintained in good condition. In any case, no less than 35% of the area of any lot shall be so landscaped, and the landscaped area may include approved detention and/or retention basins.
 - 8) Landscaping. Any front or side yard with a parking area visible from the street shall be screened with a row of shrubs at least two feet high when mature. Street trees shall be planted along any street frontage 30 to 40 feet on center, and foundation plantings shall be included along the building facade. A landscaped or grass strip at least five feet wide shall be provided along the front and side yard property lines
 - 9) On-site circulation. Driveways with appropriate cross easements providing access between adjacent lots shall be permitted and provided where feasible. On-site circulation systems and parking areas shall be designed to accommodate the interconnection between adjacent lots.
 - 10) Pedestrian access. Adequate and safe pedestrian access between uses or separate buildings in the development or on adjacent lots shall be provided, and the design of the development shall promote nonvehicular, pedestrian-friendly access, inclusive of bicycle racks, benches or other such amenities. Sidewalks shall be provided along street frontages and throughout the development.
 - 11) Sign requirements. All signage shall be in accordance with the requirements specified in Article III, Sign Regulations, and specifically § 215-44 of this chapter.
 - 12) Fences, walls and retaining walls should be in accordance with the provisions of § 215-24.
 - 13) Roof-mounted solar panels are allowed and will be encouraged.
 - 14) Geothermal heating is allowed and will be encouraged.
- D) Permitted business and commercial primary uses. In buildings or on sites where business or commercial or use is permitted, the primary uses allowed shall be as follows:
- 1) Retail business and personal service establishments which are clearly of a community service character, such as restaurants, retail shops, studios, exercise facilities, barber and beauty salons.
 - 2) Restaurants, excluding those of a quick serve nature.
 - 3) Executive or administrative, general business and professional offices.
 - 4) Hardware stores.
 - 5) Child-care centers licensed by the Department of Human Services pursuant to P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.).
 - 6) Other business uses which in the opinion of the Planning Board acting as a Board of Adjustment are similar in scale and service nature to those permitted above.
- E) Permitted secondary and accessory uses. For buildings within the MU zone, the secondary uses allowed shall be as follows:

- 1) Municipal parks, playgrounds and buildings deemed appropriate and necessary by the Borough Council of the Borough of Pennington.
 - 2) Garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises in conjunction with a permitted use.
 - 3) Off-street parking for the use of employees, customers and visitors.
 - 4) Sidewalk sales by adjacent retail merchandise stores when authorized by a permit issued by the Borough Clerk.
 - 5) Signs as permitted by Article III, Sign Regulations.
 - 6) Make ready infrastructure and electric vehicle charging stations.
 - 7) Outdoor dining associated with a permitted restaurant use.
 - 8) Outdoor recreation areas for permitted residential uses.
 - 9) Dog parks.
- F) Conditional business and commercial uses. The conditional uses allowed shall be as follows and shall be subject to the provisions of the indicated ordinances in Borough Code Chapter 215 Article VIII.
- 1) Public utility uses as a conditional use under N.J.S.A. 40:55D-67 (§ 215-80)
- G) Prohibited uses. Any use not hereby specifically permitted is prohibited unless approved by the Planning Board acting as a Board of Adjustment. The following uses are hereby specifically prohibited:
- 1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, cannabis retailers, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants.
 - 2) Drive through facilities of any kind.
 - 3) No retail sales use may operate after 11:00 p.m. at night, and all site lights and signage shall be turned off at the close of business, except for a minimal amount of low-intensity security lighting specifically approved by the Planning Board.
- H) Permitted Residential Uses.
- 1) Objectives. The provisions of this subsection are intended to encourage the planning and construction of attached dwelling unit development within the MU Zone that meet the special needs of suburban families and at the same time protect and promote the health, safety and general welfare of the public and the Borough of Pennington.
 - 2) Qualifications. In order to qualify for consideration under the terms of this subsection, the site for any attached dwelling unit development shall be composed of a single tract of land, consisting of one or more contiguous lots. The physical conditions of the site, including soil type, ground water level, drainage and topography, shall be such as not to create hazards to the property or to the occupants, and the site shall not be subject to the possibility of subsidence or the reasonable probability of flooding or serious erosion.
 - 3) General requirements.
 - a) Access to site. Any attached dwelling unit site shall abut or have permanent access to an approved or existing public street. Private streets within the site of an attached dwelling development shall be permitted but shall be protected by a permanent easement and shall provide for safe and suitable vehicular circulation in the

- development at all times. Dead-end or cul-de-sac streets shall include adequate turning space.
- b) Access to buildings. Convenient vehicular access to all buildings on the attached dwelling unit development site shall be provided for emergency equipment, furniture moving vans, fuel trucks where required, garbage collection, general deliveries of goods and snow removal. Pedestrian access to the rear of all buildings fronting on a public street shall be provided.
 - c) Access to dwelling units. A safe and convenient means for pedestrian access to all dwelling units shall be provided in such manner as not to require passage through any other dwelling unit.
 - d) Services and facilities. The development of the site shall be designed so that it does not infringe upon adjoining properties. Utilities and other similar facilities shall be provided for the development without dependence upon the availability of such services on adjoining properties. All attached dwelling unit developments shall be connected to and serviced by public systems for the provision of water and disposal of sanitary and storm sewage. Such public systems shall have been determined adequate to serve the proposed development by competent authority designated by the Borough Council.
 - e) Occupancy of dwelling units. No dwelling unit shall be occupied until all other dwelling units in the same building are completed and ready for occupancy, having all utility connections completed, pedestrian and vehicular accessways improved and parking areas paved and drained as designed and a certificate of occupancy having been issued.
 - f) Compliance with other ordinances and regulations. The attached dwelling unit development shall conform to the recommendations of the Borough Master Plan regarding the creation of new streets, the widening of existing streets, drainage rights-of-way and conservation areas. Where subdivision of lands is required or desired by the developer of the attached dwelling unit development, in accordance with the provisions of Chapter 181, Subdivision of Land, the receipt of subdivision approval prior to proceedings under this chapter shall not in any way be construed to imply approval of the proposed attached dwelling unit development. Where the review and/or approval of the various elements or features of the proposed attached dwelling unit development is required to be received from any municipal, county or state agency or official, other than the Planning Board and Zoning Officer, such review and/or approval shall be obtained prior to proceedings hereinafter.
- 4) Design requirements. At a minimum, all attached dwelling unit developments shall comply with the following design requirements and standards:
- a) Site area. Site areas shall not be less than 20,000 square feet of usable land.
 - b) Floor area. Total floor area shall not exceed an amount equal to 80% of site area.
 - c) Coverage. Building area and related impervious surface coverage (parking areas, roads, walks, etc.) shall not exceed an amount equal to 60% of the site area.
 - d) Recreation area. Outdoor recreation space shall be provided in all developments of 30 or more units. Such outdoor recreation space shall not be less in area than an amount equal to 10% of the gross floor area of the development.
 - e) Parking spaces required. The Planning Board shall determine the number of off-street parking spaces required based on dwelling unit mix and size and related factors.

Maximum requirement shall not exceed two spaces per unit nor shall be less than one and one half spaces per unit. The developer may elect, subject to the approval of the body conducting the site plan review, to improve only a portion of the area which has been designated for parking on the plan.

- f) Buildings. Buildings shall not exceed 3 stories or 45 feet in height. Buildings shall not contain dwelling units above the third story nor below grade. Buildings shall be designed so that an offset of at least four feet shall occur between building segments containing no more than four dwelling units.
 - g) Dwelling unit mix and density. Each development shall contain a mixture of dwelling unit types in a ratio approved by the Planning Board. Maximum gross residential density shall not exceed twenty four (24) units per acre.
 - h) Building setbacks. Building setbacks shall provide adequate distance between buildings on the site and the abutting properties. However, no such setback shall exceed a distance of 25 feet.
 - i) Streets, roads, curbs, parking areas and sidewalks. All streets, roads, curbs, parking areas and sidewalks shall be constructed in accordance with Borough specifications furnished by the Borough Engineer.
 - j) Plantings. The character and appeal of the site shall be enhanced by retaining and protecting existing trees and other natural features of the site whenever possible and through the addition of new planting materials for privacy, shade, beauty of buildings and grounds, and to screen objectionable features. Plant materials to be provided shall be in scale with the composition of the buildings, the site and its various uses and surroundings. Plant materials shall be arranged to harmonize in size, shape, color, texture and winter characteristics with the buildings and development of the grounds. Plant location and spacing shall be determined by ultimate mature growth. Plant materials shall be indigenous to the area or be readily adaptable to the local climate and soil conditions. Plant materials shall not be excessively weedy in habit or growth characteristics nor be unduly subject to noxious pests or plant diseases.
 - k) Outdoor lighting. Attractive lighting fixtures for walks, steps, parking areas, streets and other facilities shall be provided at locations to assure the safe and convenient use of such facilities. Fixtures shall be placed and designed in keeping with the character of the development and be adequately shaded to screen the windows of dwelling units from the direct rays from the light fixtures.
 - l) Electric and telephone lines. All electric power and telephone transmission lines shall be installed underground at a depth and at such location as will minimize risk of interruption of services.
 - m) Screening. Fences, walls, shrubbery or other appropriate screening devices shall be installed around garbage and trash storage areas, parking areas, service areas and at such other locations deemed desirable or necessary by the Planning Board.
 - n) Laundry facilities. Each residential unit shall have its own laundry facilities.
- I) Off-street parking and loading requirements
- 1) Parking areas may be located within any of the required yard area, provided that they are not within 10 feet of the boundary of a residence zone or street line. Driveways shall be limited to two for each 200 feet of frontage on a public street.

- 2) No parking, loading area, driveway or other structure (except for approved accessways, signs and fencing) shall be permitted within 5 feet of any property line and within 10 feet of any street line or residential zoning district, and such perimeter area shall be planted and maintained in lawn areas or ground cover and landscaped with shrubbery, except that;
 - a) No parking, loading area, driveway or other structure (except for approved accessways, signs and fencing) shall be permitted in the front yard area between the principal building.
 - b) The Planning Board may approve off-street parking in front yard areas between principal buildings and a public street where the existing development on the subject property (e.g., an existing building set back an excessive distance from the abutting street right-of-way) creates a practical difficulty in locating the required off-street parking in rear and/or side yard areas, provided that:
 - (i) A minimum parking setback of 5 feet to any street line shall be provided, where feasible, and shall be planted and maintained in lawn area or ground cover and shall be landscaped with trees and shrubbery as approved by the Board; and
 - (ii) When approving the location of off-street parking in front yard areas, the Planning Board must find that parking may be located within the front yard area without adversely affecting neighboring properties.
 - c) Driveways with appropriate cross-easements providing access between adjacent lots shall be permitted and provided, where feasible; on-site circulation systems and parking areas shall be designed to accommodate the interconnection between adjacent lots.
- 3) Each individual use shall provide parking spaces according to the following minimum provisions. Where a permitted use includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together:
 - a) Retail business uses: one space for each 300 square feet of sales floor area.
 - b) Personal and business service establishments: one space for each 300 square feet of floor area.
 - c) Professional and business offices, laboratories and technical training centers: one space for each 250 square feet of floor area or part thereof.
 - d) Restaurants: one space for each four seats, plus one space for each two employees.
 - e) Child-care centers shall provide parking at a ratio of one parking space per employee, plus one additional parking space for every eight children.
 - f) Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together
- 4) Parking areas for individual uses shall be designed to be interconnected with adjacent properties and shall utilize common entrance(s) and exit(s), where feasible, to minimize access points to the street.
- 5) Shared parking. Nothing in the above requirements shall be construed to prevent the employment of shared parking, which may be implemented in one of two manners:

- (i) On-site shared parking. For parcels containing a multiple-occupant building or two or more buildings with different permitted uses, on-site shared parking may be implemented.
 - (a) A shared parking allowance of 50% shall be permitted for combining weekday uses with evening/weekend uses in the same building or in separate buildings on the same parcel. Office and retail uses are considered to be weekday uses, while residential and restaurant uses are considered to be evening/weekend uses.
 - (b) Fifty percent of the parking requirement of the evening/weekend use of the building may be met through parking already provided for the weekday use. For example, a building contains office space that requires 20 parking spaces and residential units that require eight parking spaces. The residential parking is permitted to be reduced by 50% or four parking spaces. Therefore, the development would only be required to construct 24 parking spaces instead of 28.
 - (ii) Off-site shared parking. For parcels that cannot accommodate all or a portion of their required parking spaces, the differential parking requirement may be shifted to an adjacent property determined by the Zoning Officer to have parking in excess of zoning requirements or parking that is demonstrated to be unused during normal hours of operation. This would require the submission of a memorandum of agreement between the two property owners, which demonstrates the shifting of parking spaces from one site to an adjacent site.
- J) Off-street loading requirements and provision for garbage pickup.
 - 1) Each principal building or group of buildings shall provide at minimum one off-street loading space on site at the side or rear of the building or within the building. Any loading area shall have adequate ingress and egress from a public street and adequate space for maneuvering. There shall be no loading or unloading from the street or front yard area. Such space shall not infringe upon area required for off-street parking
 - 2) There shall be at least one trash and garbage pickup location on site within convenient access of the building being served, including provisions for the separation and collection of recyclable materials in accordance with the recycling requirements of Mercer County and in accordance with the following:
 - a) The trash and garbage pickup location shall be provided either within the building being served or in a pickup location outside the building;
 - b) If located within the building, the doorway may serve both the loading and trash/garbage functions, and if located outside the building, it may be located adjacent to or within the general loading area(s), provided the container in no way interferes with or restricts loading and unloading functions;
 - c) If located outside the building, the trash and garbage pickup location shall include a fully enclosed trash and garbage container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of all three. Enclosures shall be constructed of masonry material consistent with the architectural design of the buildings.

Appendix 4

Borough of Pennington

ORDINANCE NO. ____

**AN ORDINANCE AMENDING CHAPTER 215 “ZONING”, ARTICLE VII “ZONE REGULATIONS” TO INCLUDE
NEW SECTION 215-78.6 ENTITLED “AH-4 AFFORDABLE HOUSING ZONE”**

WHEREAS, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has identified property appropriate for rezoning to provide the opportunity for the construction of new multifamily dwellings, including a setaside of units affordable to low and moderate income households; and

WHEREAS, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing the mechanism identified in that fourth round, which requires rezoning of the property.

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

Section I. **The following section shall be added to the Code, to read as follows:**

Section 215-78.6 “AH-4 Affordable Housing Zone”

- A. Intent. It is the intent of the AH-4 Affordable Housing Zone to provide the opportunity for the construction of new multifamily housing, including a setaside of units affordable to low and moderate income households.
- B. Low and moderate income housing requirements. Where residential dwelling units are proposed, a minimum of 20% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Thirteen percent (13%) of the total affordable housing units proposed shall be deed restricted for very low income households. All units shall comply with the Borough’s affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.
- C. Permitted uses on the land and in the buildings.
 - (1) The following are principal permitted uses in the district:
 - (a) Garden apartments.
 - (b) More than one principal building.
 - (2) Accessory uses permitted.
 - (a) Off-street parking
 - (b) Signs
 - (c) Fences and walls
 - (d) Outdoor recreation facilities for use by residents.
 - (e) Stormwater management facilities
 - (f) Utilities including but not limited to transformers

- (g) Solar panels mounted to the roof of a building
 - (h) Electric vehicle charging infrastructure and electric vehicle charging stations
- D. Bulk standards.
- (1) The following bulk standards are required for garden apartments:
 - (a) Minimum tract area: 10,000 square feet
 - (b) Minimum front yard setback: 8 feet
 - (c) Minimum side yard setback: 10 feet
 - (d) Minimum rear yard setback: 10 feet
 - (e) Minimum setback of parking from tract boundary: 5 feet
 - (f) Maximum permitted building coverage: 40%
 - (g) Maximum permitted impervious coverage: 80%
 - (h) Maximum permitted building height: 38 feet and 2 ½ stories
 - (i) Minimum landscaped buffer adjacent to existing public streets: 5 feet
 - (j) Minimum distance from building to parking spaces: 5 feet
- E. Facilities for recyclable materials.
- (1) There shall be included in any new multifamily housing development an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the Township's Recycling Coordinator and shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13) and any applicable requirements of the Township's Master Plan.
 - (2) The recycling area shall be conveniently located for the residential disposition of source-separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
 - (3) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area and the bins and containers placed therein against theft of recyclable materials, bins or containers.
 - (4) The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard and which are located in an outdoor area shall be equipped with a lid or otherwise covered so as to keep the paper or cardboard dry.
 - (5) Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
 - (6) Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

Section II. ***Severability***

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Township of Mantua declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. ***Effective Date.***

This ordinance shall take effect immediately upon passage and publication according to law.

APPROVED: _____
Mayor

ATTEST: _____
Borough Clerk

Introduced:

Adopted:

Appendix 5

Borough of Pennington

ORDINANCE NO. ____

**AN ORDINANCE AMENDING CHAPTER 215 "ZONING", ARTICLE VII "ZONE REGULATIONS" TO INCLUDE
NEW SECTION 215-78.5 ENTITLED "AH-3 AFFORDABLE HOUSING ZONE"**

WHEREAS, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has identified property appropriate for rezoning to provide the opportunity for the construction of new multifamily dwellings, including a setaside of units affordable to low and moderate income households; and

WHEREAS, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing the mechanism identified in that fourth round, which requires rezoning of the property.

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

Section I. **The following section shall be added to the Code, to read as follows:**

Section 215-78.5 "AH-3 Affordable Housing Zone"

- A. Intent. It is the intent of the AH-3 Affordable Housing Zone to provide the opportunity for the construction of new multifamily housing, including a setaside of units affordable to low and moderate income households.
- B. Low and moderate income housing requirements. Where the affordable housing units proposed are for-rent, a minimum of 15% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Where the affordable housing units proposed are for-sale, a minimum of 20% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Thirteen percent (13%) of the total affordable housing units proposed shall be deed restricted for very low income households. All units shall comply with the Borough's affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.
- C. Permitted uses on the land and in the buildings.
 - (1) The following are principal permitted uses in the district:
 - (a) Garden apartments.
 - (2) Accessory uses permitted.
 - (a) Off-street parking
 - (b) Signs
 - (c) Fences and walls
 - (d) Clubhouse and other typical amenities including but not limited to fitness centers, business centers, community rooms and libraries for use by residents

- (e) Recreation facilities including but not limited to a pool for use by residents, tennis courts, bocce ball courts and dog parks.
- (f) Stormwater management facilities
- (g) Utilities including but not limited to transformers
- (h) Solar panels mounted to the roof of a building
- (i) Electric vehicle charging infrastructure and electric vehicle charging stations

D. Bulk standards.

- (1) The following bulk standards are required for garden apartments:
 - (a) Minimum tract area: 10,000 square feet
 - (b) Minimum front yard setback: 8 feet
 - (c) Minimum side yard setback: 3 feet
 - (d) Minimum rear yard setback: 50 feet
 - (e) Minimum setback of parking from tract boundary: 2 feet
 - (f) Maximum permitted building coverage: 35%
 - (g) Maximum permitted impervious coverage: 80%
 - (h) Maximum permitted building height: 45 feet and 3 stories
 - (i) Maximum building length: 80 feet
 - (j) Minimum landscaped buffer adjacent to existing public streets: 5 feet
 - (k) Minimum distance from building to parking spaces: 10 feet

E. Facilities for recyclable materials.

- (1) There shall be included in any new multifamily housing development an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the Township's Recycling Coordinator and shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13) and any applicable requirements of the Township's Master Plan.
- (2) The recycling area shall be conveniently located for the residential disposition of source-separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
- (3) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area and the bins and containers placed therein against theft of recyclable materials, bins or containers.
- (4) The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard and which are located in an outdoor area shall be equipped with a lid or otherwise covered so as to keep the paper or cardboard dry.
- (5) Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
- (6) Landscaping and/or fencing shall be provided around any outdoor recycling area and shall

be developed in an aesthetically pleasing manner.

Section II. ***Severability***

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Township of Mantua declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. ***Effective Date.***

This ordinance shall take effect immediately upon passage and publication according to law.

APPROVED: _____
Mayor

ATTEST: _____
Borough Clerk

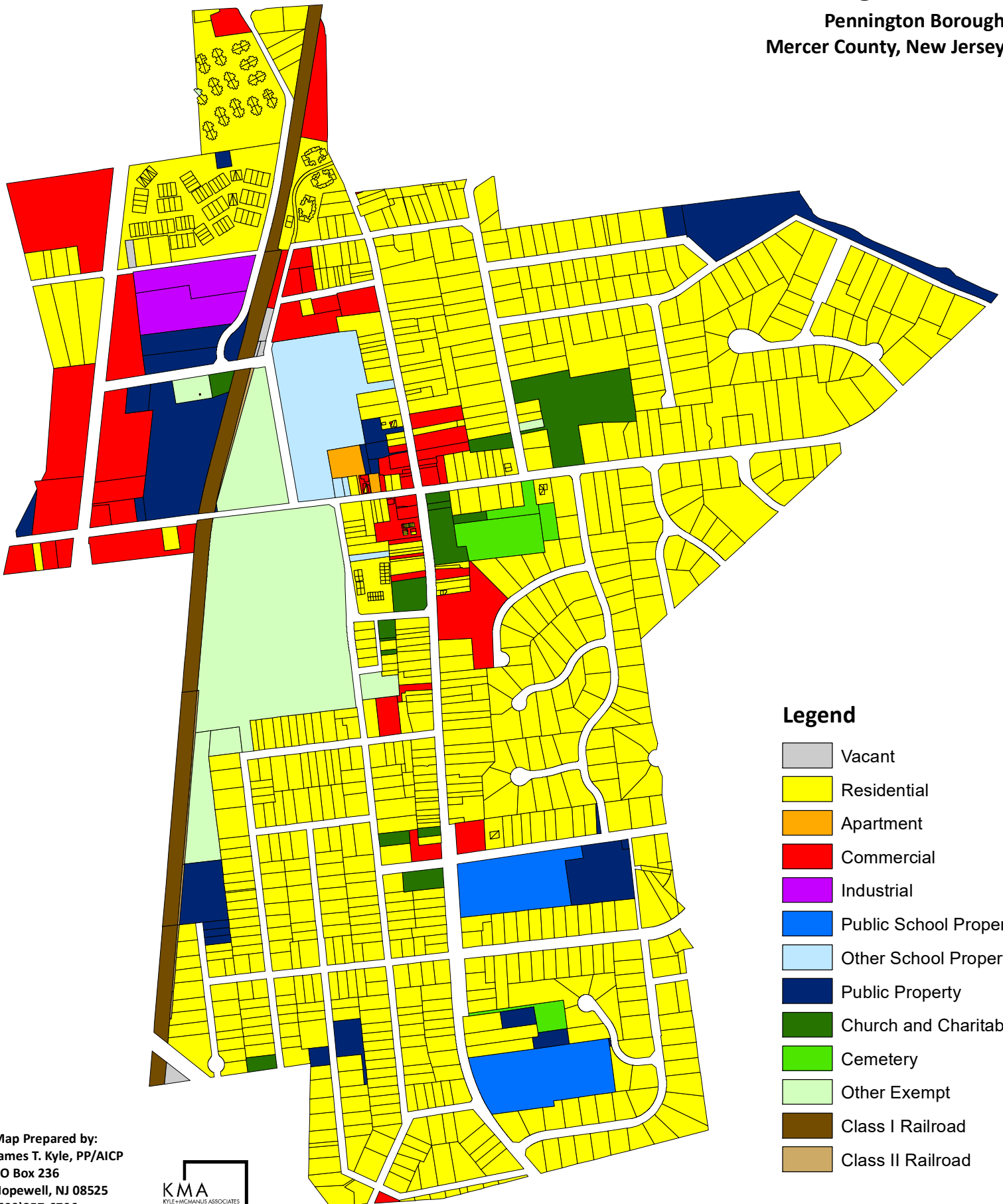
Introduced:

Adopted:

Appendix 6

Existing Land Use

Pennington Borough
Mercer County, New Jersey



Legend

- Vacant
- Residential
- Apartment
- Commercial
- Industrial
- Public School Property
- Other School Property
- Public Property
- Church and Charitable
- Cemetery
- Other Exempt
- Class I Railroad
- Class II Railroad

Map Prepared by:
James T. Kyle, PP/AICP
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Hopewell, NJ 08525
(609)257-6706
jkyle@kylemcmanus.com

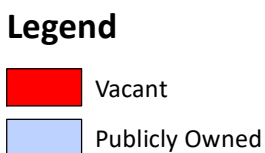


Data Sources:
NJ Office of Information Technology, Office of
Geographic Information Systems



Map Scale = 1:10,000

**Pennington Borough
Mercer County, New Jersey**



Map Scale = 1:10,000

Map Prepared by:
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(609)257-6706
jkyle@kylemcmmanus.com

Data Sources:
NJ Office of Information Technology, Office of
Geographic Information Systems



Borough of Pennington Vacant Land Analysis

Map ID	Block	Lot	Prop. Class	Acres	Comments	Developable Acres	RDP
0	404	1	15C	6.95	Listed on ROSI; Kunkel Park	0	0
1	701	5	15C	2.55	Hopewell Valley Senior Center	0	0
2	201	7	15C	0.43	County -owned; stormwater for Library	0	0
3	905	8	15C	1.07	Listed on ROSI; Sked St. Park	0	0
4	1002	45	15C	0.52	Listed on ROSI	0	0
5	205	36	15C	0.16	Borough hall/library/public parking	0	0
6	206	4	15C	0.58	Vacant/Borough-owned/Developable	0.58	1.39
7	205	16	15C	0.58	Borough hall/library/public parking	0	0
8	302	16	15C	0.58	Listed on ROSI; Kunkel Park	0	0
9	901	2	1	0.27	Too small to develop 5 units	0	0
10	701	7	15C	0.20	Hopewell Valley Senior Center	0	0
11	701	6	15C	0.20	Hopewell Valley Senior Center	0	0
12	701	8	15C	0.20	Hopewell Valley Senior Center	0	0
13	206	12	15C	0.21	Public drinking supply well	0	0
14	904	14	15C	0.35	Well house; public water system	0	0
15	205	37	15C	0.37	Borough hall/library/public parking	0	0
16	102	8	1	0.21	Too small to develop 5 units	0	0
17	203	3	1	0.25	Too small to develop 5 units	0	0
18	206	11	15C	0.01	Too small to develop 5 units	0	0
19	1003	16	15C	0.06	Well house; public water system	0	0
20	205	38	15C	0.13	Water tank	0	0
21	203	5	1	0.04	Too small to develop 5 units	0	0
22	203	4	1	0.08	Too small to develop 5 units	0	0
23	102	2	15C	0.23	Public drinking supply well	0	0
24	206	5	15C	7.81	Former landfill; contaminated	0	0
25	801	12	15C	0.08	Sliver of right-of-way; too small to develop 5 units	0	0
26	202	5	15C	1.26	Post office	0	0
27	203	6	15C	0.49	Vacant/Borough-owned/Developable	0.49	1.18
28	202	4	15C	1.66	Post office	0	0
29	1002	42	15C	0.01	Sliver of right-of-way; too small to develop 5 units	0	0
30	1003	15.02	15C	3.42	Listed on ROSI	0	0
31	1002	12.02	15C	0.57	Listed on ROSI	0	0
Notes:							2.57

1. RDP calculated based on 12 units per acre and a 20% setback.
2. Any parcel less than 0.42 acres is too small to support development of 5 units at 12 units per acre.

Appendix 7

Borough of Pennington

ORDINANCE NO. ____

**AN ORDINANCE AMENDING CHAPTER 215 "ZONING", ARTICLE VII "ZONE REGULATIONS" TO INCLUDE
NEW SECTION 215-78.7 ENTITLED "AH-5 AFFORDABLE HOUSING ZONE"**

WHEREAS, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has identified property appropriate for rezoning to provide the opportunity for the construction of new multifamily dwellings, including a setaside of units affordable to low and moderate income households; and

WHEREAS, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing the mechanism identified in that fourth round, which requires rezoning of the property.

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

Section I. **The following section shall be added to the Code, to read as follows:**

Section 215-78.7 "AH-5 Affordable Housing Zone"

- A. Intent. It is the intent of the AH-4 Affordable Housing Zone to provide the opportunity for the construction of new multifamily housing, including a setaside of units affordable to low and moderate income households.
- B. Low and moderate income housing requirements. Where residential dwelling units are proposed , a minimum of 20% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Thirteen percent (13%) of the total affordable housing units proposed shall be deed restricted for very low income households. All units shall comply with the Borough's affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.
- C. Permitted uses on the land and in the buildings.
 - (1) The following are principal permitted uses in the district:
 - (a) Garden apartments.
 - (2) Accessory uses permitted.
 - (a) Off-street parking
 - (b) Signs
 - (c) Fences and walls
 - (d) Clubhouse and other typical amenities including but not limited to fitness centers, business centers, community rooms and libraries for use by residents
 - (e) Outdoor recreation facilities for use by residents.
 - (f) Stormwater management facilities

- (g) Utilities including but not limited to transformers
- (h) Solar panels mounted to the roof of a building
- (i) Electric vehicle charging infrastructure and electric vehicle charging stations

D. Bulk standards.

- (1) The following bulk standards are required for garden apartments:
 - (a) Minimum tract area: 10,000 square feet
 - (b) Minimum front yard setback: 0 feet
 - (c) Minimum side yard setback: 0 feet
 - (d) Minimum rear yard setback: 0 feet
 - (e) Minimum setback of parking from tract boundary: 0 feet
 - (f) Maximum permitted building coverage: 80%
 - (g) Maximum permitted impervious coverage: 90%
 - (h) Maximum permitted building height: 45 feet and 3 stories
 - (i) Maximum building length: 150 feet
 - (j) Minimum distance from building to parking spaces: 0 feet

E. Facilities for recyclable materials.

- (1) There shall be included in any new multifamily housing development an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the Township's Recycling Coordinator and shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13) and any applicable requirements of the Township's Master Plan.
- (2) The recycling area shall be conveniently located for the residential disposition of source-separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
- (3) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area and the bins and containers placed therein against theft of recyclable materials, bins or containers.
- (4) The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard and which are located in an outdoor area shall be equipped with a lid or otherwise covered so as to keep the paper or cardboard dry.
- (5) Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
- (6) Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

Section II. *Severability*

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Township of Mantua declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. ***Effective Date.***

This ordinance shall take effect immediately upon passage and publication according to law.

APPROVED: _____
Mayor

ATTEST: _____
Borough Clerk

Introduced:

Adopted:

Appendix 8

Borough of Pennington

ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 215 "ZONING", ARTICLE II "GENERAL REGULATIONS" TO INCLUDE NEW SECTION 215-9.1 ENTITLED "MANDATORY SETASIDE OF AFFORDABLE HOUSING UNITS"

WHEREAS, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has applied a vacant land adjustment to a portion of both its third and fourth round affordable housing obligations; and

WHEREAS, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing a mechanism to capture affordable housing units in projects that are not planned at this time but may be proposed in the future.

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

Section I. **The following section shall be added to the Code, to read as follows:**

Section 215-9.1 "Mandatory Setaside of Affordable Housing Units"

- A. All residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units shall be required to setaside a minimum of 20% of the residential units be set aside for very low, low, and moderate income households, as set forth below.
- B. This requirement 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.
- C. The developer shall provide that half of the affordable units constructed be reserved for low-income households and that the remaining half be reserved for moderate-income households. At least 13 percent of all restricted units shall be very low-income units (affordable to a household earning 30 percent or less of median income). The very-low income units shall be counted as part of the required number of low-income units within the development.
- D. Subdivision and/or site plan approval shall not be granted by the reviewing board unless the developer complies with the requirements to provide very low-, low-, and moderate-income housing pursuant to the provisions of this section. A property shall not be permitted to be subdivided so as to avoid meeting this requirement. The board may impose any reasonable conditions to ensure such compliance.

- E. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
- F. This requirement shall not apply to sites or zoning districts identified in the Fair Share Plan where standards for the set-aside of affordable housing units have already been established.
- G. In the event application of the required set-aside percentage (15% or 20%) to the total number of residential units proposed does not result in a full integer, the developer shall round the required set-aside upward and construct a whole affordable unit when 0.5 unit or more is the resulting fraction of a unit.
- H. In the event application of the required 20% set-aside does not result in a full integer, the developer may round the required set-aside downward and make a payment-in-lieu of providing the affordable unit when 0.4 unit or less is the resulting fraction of a unit. The resulting fractional unit shall be multiplied by \$235,000 to determine the required payment-in-lieu. All payments-in-lieu of providing fractional units meeting the requirements of this section shall be deposited into the Borough of Pennington Affordable Housing Trust Fund.
- I. Any developer subject to the requirements of this section and who provides an affordable housing setaside shall not be subject to payment of residential development fees.
- J. All affordable housing units created shall comply with Chapter 58 of the Borough Code, Affordable Housing, the Uniform Housing Affordability Controls and any other ordinance or regulation applicable to affordable housing.

Section II. ***Severability***

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Pennington declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. ***Effective Date.***

This ordinance shall take effect immediately upon passage and publication according to law.

APPROVED: _____
Mayor

ATTEST: _____
Borough Clerk

Introduced:

Adopted:

Appendix 9

Borough of Pennington

Mercer County, NJ

Spending Plan

January 2, 2026

James T. Kyle, PP, AICP
New Jersey Professional Planning License No. 5667
Kyle McManus Associates
PO Box 236, Hopewell, NJ 08525

The original copy has been signed and sealed in accordance with N.J.A.C. 13:41-1.3

INTRODUCTION

The Borough of Pennington has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.).

Pennington has collected development fees since its first development fee ordinance was approved by COAH in the second round. As of May 30, 2025, the Borough has a balance of \$491,665.65 in its affordable housing trust fund account.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the remainder period the Fourth Round, Pennington considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the Land Use Board for development approvals that may apply for building permits and certificates of occupancy; and
3. Anticipated future development.

(b) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current annual percentage yield earned of 0.76% .

Table I												
Source of Funds	Projected Revenues - Affordable Housing Trust Fund - 2025 through 2035											
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
(a) Development Fees												
1. Development Pending Approval												\$0
2. Development Projected												\$0
(b) Interest	\$3,737	\$2,514	\$2,237	\$1,929	\$1,618	\$1,305	\$1,195	\$1,084	\$972	\$860	\$746	\$18,198
Total	\$3,737	\$2,514	\$2,237	\$1,929	\$1,618	\$1,305	\$1,195	\$1,084	\$972	\$860	\$746	\$18,198

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Pennington:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Mantua's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules, P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7) and P.L. 2009, c. 90 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

The Mayor and Council will review all requests/proposals for funding from the Borough's Housing Trust Fund to determine consistency with the approved Housing Element / Fair Share Plan and approved Spending Plan. All distributions from the Housing Trust Fund shall be authorized by a Resolution adopted by the governing body.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Rehabilitation program (N.J.A.C. 5:93-5.2)**

Rehabilitation program: Pennington intends to satisfy its rehabilitation obligation through a rehabilitation program. The Borough will dedicate a minimum of \$25,000 per unit from the Trust Fund to subsidize the rehabilitation program for a total of \$100,000.

(b) **Affordability Assistance (N.J.A.C. 5:93-8.16(c))**

- Affordability assistance: \$116,959 (includes the "very low" assistance requirement of \$35,088). As shown in Table II below.

Table II Minimum Affordability Assistance - 2025-2035	
Actual Development Fees Through 6/5/2025	\$491,666
Development Fees Projected Through 6/30/2035	\$0
Interest Projected 2025-2035	\$18,198
Total	\$509,864
Less money collected for specific mechanisms	\$120,000
Total	\$389,864
30% Affordability Assistance	\$116,959
Projected Minimum Very-Low Income Affordability Assistance	\$35,088

The Borough will dedicate a total of \$116,959 from the affordable housing trust fund to render units more affordable, including a minimum of \$35,088 to render units more affordable to households earning 30 percent or less of median income by region, with the following affordability assistance programs:

- i. Down payment assistance
- ii. Payment of closing costs
- iii. Payment of lender fees
- iv. Security deposit assistance
- v. First month's rent assistance
- vi. Payment of homeowner's association fees

The Borough will work with its administrative agent to prepare an affordability assistance manual for the fourth round.

(c) **Administrative Expenses (N.J.A.C. 5:97-8.9)**

Table III Administrative Expenses Maximum - 2025-2035	
Actual Development Fees Through 6/5/2025	\$491,666
20% Maximum	\$98,333

As shown in the expenditure schedule in Table IV, the Borough does not anticipate administrative costs exceeding \$33,000, which is well below the 20% maximum of \$99,333 identified in Table III.

4. EXPENDITURE SCHEDULE

Pennington intends to use affordable housing trust fund revenues to support its housing rehabilitation program, extension of expiring controls and to render units more affordable through offering of affordability assistance. The Borough proposes to allocate its Housing Trust Funds to the mechanisms in Table IV on the following page, within the required time period subsequent to the Court's approval of this Spending Plan.

The projected revenues from interest (Table I) combined with the present balance of \$491,665.65 in the Borough's Housing Trust Fund will, if development projections are reasonably accurate, provide an estimated total of \$509,864 over the course of the fourth round period through June 2035. Table IV, on the following page, presents an estimated schedule for expenditure of the projected revenues.

Table IV													
Program	Expenditure Schedule - Affordable Housing Trust Fund - 2025 through 2035												
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total	
Affordability Assistance	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$173,756	
Rehabilitation Program		\$25,000	\$25,000	\$25,000	\$25,000							\$100,000	
Extension of Expiring Controls	\$120,000											\$120,000	
Administrative Expenses	\$25,000	\$2,000	\$2,000	\$2,000	\$2,000							\$33,000	
Total	\$160,796	\$42,796	\$42,796	\$42,796	\$42,796	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$15,796	\$426,756	

Appendix 10

(to be added upon completion by Administrative Agent)

Appendix 11

(to be added)

Appendix 12

(to be added upon adoption by Borough Council)

Appendix 13

(to be added upon completion by Administrative Agent)

Appendix 14

(to be added)