

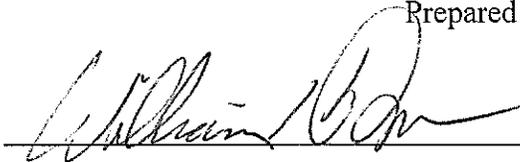
**2014  
HOUSING PLAN ELEMENT  
&  
FAIR SHARE PLAN**

**TOWN OF WESTFIELD  
Union County, New Jersey**



**ADOPTED  
NOVEMBER 3, 2014**

Prepared by:

  
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William H. Drew, PP, AICP, Town Planner

License No. 3971

A signed and sealed copy of this Master Plan is on file with the Planning Board Secretary and Town Clerk

**2014  
HOUSING PLAN ELEMENT  
&  
FAIR SHARE PLAN  
OF THE  
MASTER PLAN**

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# TOWN OF WESTFIELD MASTER PLAN

**2014**

## *Housing Plan Element & Fair Share Plan*

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## INTRODUCTION

The Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-62a, requires every municipality with a zoning ordinance to have adopted a master plan containing at least a land use plan element and a housing plan element. The Fair Housing Act, N.J.S.A. 52:27D-310, requires that the housing plan element contain certain sub-elements, and regulations adopted in accordance with the Fair Housing Act, N.J.A.C. 5:94-2.1 et seq. and N.J.A.C. 5:97-2.3 et seq., further details those sub-elements, including a fair share plan.

The Town of Westfield Planning Board first adopted a Housing Plan Element & Fair Share Plan in 1990 with subsequent updates. The Planning Board then adopted a new Plan in 2009 with an amendment adopted in February 2013. Then, on April 10, 2013 the Planning Board adopted a comprehensive revision of the amended 2009 Plan pursuant to a settlement of Mount Laurel litigation captioned Sunnyside Senior Housing v. Westfield, Docket No. Docket N. UNN-L-135-09 (the "Sunnyside Settlement"), which revised Plan took into account the then current status of state rules governing the provision of affordable housing. The revised Plan, consisting of a Housing Plan Element & Fair Share Plan (the "2013 Compliance Plan") was reviewed and approved by the Superior Court as creating the realistic opportunity to achieve the Town's affordable housing obligation under Mt. Laurel II, as memorialized in a Judgment of Compliance and Repose filed by the Court on October 7, 2013 (the "2013 Judgment").

On April 30, 2014 COAH approved for publication new affordable housing regulations to determine Third Round municipal affordable housing obligations, with a scheduled adoption date of November 17, 2014 (the "2014 Third Round Rules"). This 2014 Housing Plan Element and Fair Share Plan (the "2014 Compliance Plan") has been prepared for the purpose of identifying how the Town will address its "third round" affordable housing obligation of 93 units in compliance with the 2014 Third Round Rules. This 2014 Compliance Plan is presented in two parts. Part 1, the Housing Plan Element, contains information on the Town's housing stock, demographics, employment characteristics, and a determination of the Town's affordable housing obligation, as required by the MLUL. Part 2, the Fair Share Plan, describes how the Town provides a realistic opportunity for the rehabilitation and construction of affordable housing consistent with the Fair Housing Act, state regulations, and sound planning principles.

### Goals & Objectives

The goal of this plan is to comply with the Mount Laurel constitutional affordable housing mandate consistent with the Town's limited ability to accommodate growth. The following objectives are intended to fulfill this important goal.

1. Apply the credits granted by the Court in the 2013 Judgment to help fulfill the Town's Third Round affordable housing obligation.
2. Provide a realistic opportunity for property owners to rehabilitate deficient housing located within the community.

3. Provide a realistic opportunity for the construction of new affordable housing within the community to satisfy the Town's Third Round affordable housing obligation based on available land capacity, in accordance with the Fair Housing Act.

### **HISTORICAL OVERVIEW OF WESTFIELD'S AFFORDABLE HOUSING OBLIGATION**

Pursuant to the New Jersey Fair Housing Act, adopted in 1985, the NJ Council on Affordable Housing (COAH) was established to estimate municipal affordable housing ("fair share") obligations on a periodic basis - originally every six years - then every ten years (typically referred to as "cycles" or "rounds"). The affordable housing requirement is comprised of the need for rehabilitation of substandard housing located within the community plus the municipality's fair share of the region's need for new affordable housing units.

#### **Westfield's First Round Obligation & Court-approved Compliance Plan**

In 1986, COAH determined that the Town of Westfield had a fair share obligation ("pre-credited need") of 414 units for the first round, which covered the period from 1987 to 1993. The obligation was comprised of two components: 105 housing units in Westfield that were in need of rehabilitation (known then as "indigenous need") plus 309 new affordable units. Pursuant to a Judgment of Repose issued by the Superior Court Order on November 8, 1991, the Town received credit for 89 units of completed rehabilitation. In addition, the new construction component was adjusted from 309 to 51 units, referred to as the Town's "realistic development potential" (or "RDP") to accommodate inclusionary housing, because the Court found that there was insufficient vacant developable land (known as a "vacant land adjustment" or "VLA"). Notwithstanding the adjusted obligation requiring provision for 51 affordable units, the Town proposed to implement, and the Court approved in the Judgment of Repose, a Compliance Plan<sup>1</sup> to address significantly more affordable housing, as outlined below.

The Court-approved Compliance Plan centered on four components. Credit for 89 units of rehabilitation already completed and a 16-unit rehabilitation program satisfied the indigenous need requirement. The 51-unit adjusted new construction obligation was to be satisfied by transferring 21 units via a Regional Contribution Agreement, the construction of 133 units of senior citizens housing (13 units in satisfaction of the 51-unit adjusted obligation), and the rezoning of two sites for new non-age-restricted inclusionary housing to produce 17 affordable units. In all, 187 new units were to be provided under the Town's Compliance Plan.

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<sup>1</sup> A "Compliance Plan" is a Housing Plan Element and Fair Share Plan, together with all implementing ordinances, resolutions and other documents required for a municipality to comply with its Mount Laurel affordable housing obligation.

<b>1991 COURT-APPROVED COMPLIANCE PLAN</b>	
<b>Court-adjusted First Round Fair Share Obligation</b>	<b>Affordable Units Required</b>
Rehabilitation (after 89 credits)	16
New construction – realistic development potential or “RDP” (based on developable vacant land)	51
<b>Court-approved First Round Compliance Plan</b>	<b>Affordable Units Addressed</b>
Rehabilitation Program	16
Regional Contribution Agreement	21
100% Affordable Senior Citizens Housing	133
Inclusionary Zoning:	
Tract 1 (Williams): 52 total units	10
Tract 2 (Myrtle Ave): 34 total units	7
<b>Total Affordable Units</b>	<b>187</b>

To implement the first round Compliance Plan, the Town participated in the County’s rehabilitation program to address the 16-unit rehabilitation obligation and accomplished the following: (1) a Regional Contribution Agreement transferring 21 affordable units was entered into with the City of Elizabeth; (2) a senior citizens development consisting of 131 rental units<sup>2</sup> was constructed by the Westfield Senior Citizens Housing Corporation (WSCHC) on a Town-owned site; and (3) two areas in Westfield were rezoned to provide for the construction of 86 dwelling units, including a total of 17 affordable units. The Judgment granted the Town repose until November 8, 1997.

### **Second Round Obligation**

In 1993, COAH published “second round” fair share obligations for all New Jersey municipalities. The obligation was combined with the first round and covered the cumulative period from 1987-1999. The agency evaluated the 1990 Census and growth that took place during the preceding years and adjusted many municipal obligations, including that of Westfield, because growth levels were generally below previously predicted levels.

COAH determined that Westfield’s cumulative first and second round obligation was 143 units of rehabilitation and 139 units of new construction. The cumulative second round new

<sup>2</sup> Although 133 units were originally proposed in this project, 131 units were constructed, of which 130 are affordable rental units with one unit reserved for an on-site superintendent.

construction obligation was *significantly less* than the actual number of new affordable units (187 units displayed in the table above) approved by the Court in the first round. In publishing the cumulative obligation, COAH also acknowledged that the Town had been granted a vacant land adjustment. COAH's second round rules broke down the obligation of adjusted communities into realistic development potential and "unmet need." For Westfield, the cumulative first and second round obligation was therefore based on the RDP of 51 units and unmet need of 88 units. The Court's Judgment of Repose and the units approved therein surpassed the COAH-determined cumulative first and second round obligation (see "Executive Summary of Westfield's 2013 Affordable Housing Compliance Plan").

### **Events after the Second Round**

Although the second round ended in 1999, COAH delayed issuing third round fair share obligations so that it could evaluate the 2000 Census. The agency also considered potential methodologies for determining affordable housing goals. In 2004, COAH adopted new rules establishing the "growth share" methodology by which affordable housing obligations would be projected for each municipality and accrue in proportion to new development as certificates of occupancy are issued. As a result of court challenges filed by developers and others in early 2005, many important aspects of the rules were invalidated by the Appellate Court in a decision handed down on January 25, 2007 [In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1 (App. Div. 2007)].

In response to the 2007 Appellate Court Decision, COAH adopted new regulations in 2008 establishing its own growth projections for municipalities throughout the state and higher growth share ratios. Under COAH's revised 2008 third round rules, the Town's obligation was to be comprised of three components:

1. The 139-unit prior round obligation (the combined first and second round new construction component) remained as a continuing obligation.
2. The rehabilitation share was determined by COAH to be 41 units, based on the 2000 Census.
3. The growth share obligation, calculated by COAH to be 180 affordable units (before adjustment), based on COAH's projection of growth from 2004 through 2018.

These three components were addressed by the Town of Westfield in its 2009 Housing Element & Fair Share Plan (dated April 6, 2009), which was adopted by the Westfield Planning Board on May 27, 2009. The plan proposed to: (1) address the prior round obligation with assorted credits for completed housing; (2) address the rehabilitation obligation with a local home improvement program; and (3) adjust the growth share obligation down to 90 units, based on another review of vacant land as allowed by the 2008 COAH rules. The Plan proposes to satisfy the reduced obligation with completed housing for individuals with special needs and for senior citizens, and inclusionary zoning. The plan was submitted to the Superior Court in connection with Mount Laurel litigation filed in 2009 against the Town.<sup>3</sup>

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<sup>3</sup> Sunnyside Senior Housing of Westfield v. Westfield, Docket No. UNN-L-135-09.

### **Growth Share Methodology Invalidated**

On October 8, 2010, the Appellate Division invalidated important aspects of COAH's revised third round rules [In re N.J.A.C. 5:96 & 5:97, 416 N.J. Super. 462 (App. Div. 2010)]. In particular, the Appellate Division invalidated the growth share methodology and implementing rules. The New Jersey Supreme Court heard argument on November 14, 2012. On September 26, 2013, the State Supreme Court affirmed, in part, the Appellate Division decision, which struck down the 2008 regulations. This decision struck down "growth share" as a means by which COAH can determine municipal affordable housing requirements, and the Supreme Court gave COAH until February 26, 2014 (subsequently extended to May 1, 2014) to promulgate new regulations which would comply with the Fair Housing Act. The Court further established a deadline of October 22, 2014 for COAH to adopt the new regulations November 17, 2014 to have them published in the New Jersey Register. On April 30, 2014, COAH approved for publication new affordable housing regulations to determine municipal affordable housing obligations. The Supreme Court also ordered that if regulations were not adopted by November 17, 2014, the Supreme Court would then entertain applications for relief, including requests to lift protections provided to municipalities by NJSA 52:27D-313.

Since 2009, the New Jersey Legislature has considered various bills designed to overhaul the municipal "fair share" approach, although no solution has yet been enacted. An Administration Reorganization Plan abolished COAH and transferred its staff to the Department of Community Affairs to administer the Fair Housing Act. The reorganization plan was challenged and invalidated [In re Plan for the Abolition of the Council on Affordable Housing, 424 N.J. Super. 410 (App. Div. 2012)]. That decision was appealed before the New Jersey Supreme Court, which heard argument on January 28, 2013. On July 10, 2014 the Court issued its ruling in a 5-2 decision, which held that because the Council on Affordable Housing is "in, but not of" the Department of Community Affairs, the Governor under the Executive Reorganization Act of 1969 does not have the statutory authority to abolish the independent agency.

### **Westfield's 2013 Affordable Housing Compliance Plan with Amendments**

The 2009 Housing Plan Element & Fair Share Plan was amended on February 4, 2013, after and in accordance with the Sunnyside Settlement, to include the plaintiff's property (the "Sunnyside property") as an inclusionary housing site. The 2009 Housing Plan Element & Fair Share Plan and the 2013 Amendment were reviewed by a Court-appointed Special Master for compliance with affordable housing requirements. The Special Master recommended revisions to the Town's 2009 Plan to include an update to reflect the 2010 Census and, since third round affordable housing rules and legislation were then in a state of flux, an update of the compliance plan and crediting of affordable housing to address the prior round obligation. It was then determined that affordable housing units in excess of those needed to satisfy the prior round would be available to satisfy a future (at that time undetermined) affordable housing obligation. This 2013 Housing Plan Element & Fair Share Plan was further amended December 2, 2013 and was reviewed and found acceptable by the Court Master. This 2013 plan, as amended, is structured in accordance with the Sunnyside Settlement and the Special Master's recommendations, to address the Town's affordable housing obligation as follows:

1. **Prior Round Obligation:** Since Westfield is a developed community, the Court-approved first round vacant land adjustment remains valid. In 1991, the Court established that Westfield's realistic development potential ("RDP") was 51 units. The entire prior round (cumulative first and second round) obligation, which was determined by COAH to be 139 units (the 51-unit RDP and 88 units of "unmet need"), is satisfied with credits for housing that has been established for individuals with special needs, the regional contribution agreement completed in 1994, senior citizens housing completed in 1995, and applicable rental bonuses.
2. **Rehabilitation:** A plan to address the need for the rehabilitation of 41 substandard units in Westfield will be continued in this 2013 Plan.
3. **Credits to Address a Future Obligation:** Any future obligation should take into account the fact that the Town is virtually fully developed. Credits were approved by the Court to be applied to the future round obligation consisting of 73 units as follows:
  - Housing for Individuals with special needs and permanent supportive housing;
  - Senior citizens housing (surplus Westfield Senior Citizens Housing credits);
  - Inclusionary zoning for prior round sites not yet developed;
  - Inclusionary housing as part of future transit-oriented developments; and
  - Inclusionary housing to implement the Sunnyside Settlement.  
(Zoning in accordance with this plan was adopted on May 7, 2013)

### **Court Decision and Judgment of Repose**

After holding a hearing and considering the recommendations of the Court-appointed Master with respect to the Sunnyside Settlement and the Town's 2013 Plan and supporting exhibits (taken together, referred to as the "compliance plan"), the Court issued an oral decision on September 9, 2013. On October 7, 2013, a Judgment was entered granting Westfield repose and immunity from Mount Laurel litigation until such time as a deadline for filing a third round affordable housing plan is established by new legislation or future Court decision.

The Court found that the previously approved vacant land adjustment remains valid and that the Town has fully addressed its prior round obligation, consisting of the 51-unit realistic development potential and 88 units of unmet need. The Court determined that the Town's rehabilitation obligation was 41 units, addressed by participation in the Union County rehabilitation program with respect to single-family home rehabilitation and by establishing a local program to address substandard multifamily housing. The Court also approved 55 additional credits that will be available to address any future affordable housing obligation. The Town will be awarded credit for affordable rental units associated with the Sunnyside site and credit for the New Street and North Avenue TOD sites as and when preliminary site plan approval is granted for each inclusionary development.

**Amended 2013 Housing Plan  
Element & Fair Share Plan**

Based on all of the above, the 2013 Housing Plan Element & Fair Share Plan adopted on April 10, 2013 was amended on December 2, 2013 and November 3, 2014 to 1) delete the South Avenue TOD as a designated inclusionary zoning site; and 2) amend the zone boundary, the permitted density, the required set-aside percent and some of the bulk standards for the New Street TOD. All other aspects of the 2013 Plan remain in place.

The table below displays 139 affordable housing credits addressing the prior round obligation (51 plus 88 units) and 73 credits toward the Town’s future affordable housing obligation, as approved by the Court.

<b>OVERVIEW OF UNITS AND CREDITS ADDRESSING WESTFIELD’S AFFORDABLE HOUSING OBLIGATIONS</b>			
<b>Type of Project</b>	<b>Units/Credits Addressing Prior Round 139-unit Affordable Housing Obligation</b>		<b>Units/Credits “Banked” for Future Affordable Housing Obligation</b>
	<b>Realistic Development Potential – RDP: 51 Units</b>	<b>Unmet Need: 88 Units</b>	
Special Needs and Permanent Supportive Housing	10		10
Prior Round Rental Bonus	6		
Regional Contribution Agreement w/ City of Elizabeth	21		
Westfield Senior Citizens (Court-approved first round plan - 130 affordable units)	12	88	30
Prior Round Rental Bonus	2		
Inclusionary zoning:			
• Court-approved first round plan inclusionary sites (15 units)			15
• Future Credits Transit-oriented development (14 units)			18
• Sunnyside property (4 units)			
<b>Subtotal Units/Credits</b>	<b>139</b>		<b>73</b>
<b>TOTAL UNITS/CREDITS</b>	<b>212</b>		

### **Third Round Obligation**

Previously in this report, the history of the various attempts to adopt third round rules by COAH and the ensuing litigation pertaining to various aspects of those issued regulations is set forth. These current regulations extend back in time to capture the period from 1999 to 2014 and also extend the third round period forward ten years to 2024. The salient differences between these third round rules as found in Section 5:99 1.1 and the previous rules are as follows:

- (c) These rules emphasize the core focus of the Mt. Laurel doctrine by requiring zoning to be the preferred means of meeting a municipality's fair share obligation and the elimination of bonus credits. Alternate means of achieving a municipality's obligation are only permitted where a municipality's available land capacity is insufficient.
- (d) Given that production of affordable housing relies primarily on the private sector, these rules are designed to ensure that the sites selected by a municipality to meet its affordable housing obligation are realistic from an economic perspective through an Economic Feasibility Study. In the past, unreasonably high mandatory set asides and unrealistic site selections have created barriers to the actual production of affordable housing.
- (e) These rules establish a set aside of 10 percent, subject to appropriate adjustments. Inclusionary developments with reasonable set asides and appropriate compensatory benefits, assessed for economic feasibility, should result in an increase in the production of affordable housing units to meet the needs of low- and moderate-income households.

### **Executive Summary of Westfield's 2014 Affordable Housing Compliance Plan**

The 2014 Housing Plan Element and Fair Share Plan has been prepared in accordance with COAH's Third Round Substantive Rules for the period beginning November 17, 2014, and follows on the heels of Westfield's 2013 Housing Plan Element and Fair Share Plan and Westfield obtaining a Judgment granting Westfield repose and immunity from Mount Laurel litigation until such time as a deadline for filing a third round affordable housing plan is established by new legislation. New Third Round Rules were published June 2, 2014, and were scheduled for adoption October 20, 2014. However, in a three/three vote, the Council on Affordable Housing did not adopt the regulations. At this time, the outcome from this is uncertain.

This Housing Plan Element and Fair Share Plan is structured to meet the most recent proposed affordable housing requirements, comprised of three components as follows:

1. **Rehabilitation Share**: A plan to address the need for the rehabilitation of 48 substandard units in Westfield.

2. **Unanswered Prior Round Obligation:** Westfield's obligation under this category is zero, in recognition that the Town is virtually fully developed.
3. **Fair Share of Prospective Need:** A plan comprised of the 73 credits received in the Town's Judgment of Repose granted October 7, 2013, with an additional 20 credits to be achieved with amendments to two previously established inclusionary affordable housing zone districts to increase permitted density and the resulting number of affordable units, the rezoning of property to establish a new inclusionary zoning district, and the marketing of Town-owned properties for special needs housing, all of which is intended to meet the future obligation of 93 affordable housing units.

**PART 1:**  
**HOUSING PLAN ELEMENT**

A municipal master plan’s housing plan element must contain information on the municipality’s housing stock, demographics, and employment characteristics. The sections below present data based on the 2010 Census, largely taken from the American Community Survey, which is available on the United States Census Bureau’s website.

**Inventory of Housing Stock**

**Housing Types & Occupancy Characteristics**

The American Community Survey indicates that there are a total of 10,554 housing units in the Town of Westfield. There were 8,229 detached single-family residential units, comprising 78% of total housing stock, and 2,325 attached single-family and multifamily dwellings, representing 22% of the housing stock. The following table displays the types of housing available in the Town in 2010.

<b>HOUSING TYPES: 2010</b>		
<b>Units in Structure</b>	<b>Number</b>	<b>Percent</b>
<b>Single Family</b>		
1 Unit, Detached	8,229	78.0
1 Unit, Attached	344	3.3
<b>Multi-Family</b>		
2 Units	678	6.4
3-4 Units	427	4.0
5-9 Units	208	2.0
10-19 Units	164	1.6
20-49 Units	461	4.4
Mobile Home	43	0.4
<b>Other</b>		
Boat, RV, Van, etc.	0	0.00
<b>Total</b>	<b>10,554</b>	<b>100.00</b>

Source: US Census Bureau, American Community Survey, DP04 5-yr. estimates.  
Percentages may not sum exactly 100% due to rounding.

According to the American Community Survey, 10,090 units (95.6%) in the Town were occupied at the time of the census, while the remaining 464 housing units (4.4%) were vacant. Amongst occupied housing units, 8,172 (81%) were owner-occupied and 1,918 (19%) were renter-occupied.

**Age of Housing**

The age of residential structures in Westfield reflects the character of an older community, with most development occurring during the early settlement of the Town, the housing expansion of the post-WWII years, the “baby boom” era, and growth that occurred throughout the 1960s. The American Community Survey indicates that 37.5% of Westfield’s housing was constructed prior to 1940 (see table below). Only about 11.5% (1212 units) of Westfield’s housing stock is less than 30 years old.

<b>AGE OF HOUSING</b>		
<b>Year Built</b>	<b>Number</b>	<b>Percent</b>
Built 2005 or later	224	2.1
Built 2000 to 2004	225	2.1
Built 1990 to 1999	250	2.4
Built 1980 to 1989	513	4.9
Built 1970 to 1979	643	6.1
Built 1960 to 1969	1,085	10.3
Built 1950 to 1959	2,719	25.8
Built 1940 to 1949	9,42	8.9
Built 1939 or earlier	3,953	37.5
<b>Total</b>	<b>10,554</b>	<b>100.0%</b>

Source: US Census Bureau, American Community Survey, DP04 5-yr estimates. Percentages may not sum exactly 100% due to rounding.

**Housing Values**

The American Community Survey reports that based on the 2010 Census, the median owner-occupied housing unit value in Westfield was \$649,800. Median gross rent for renter-occupied housing units in Westfield was \$1,425 in 2010. The following tables display housing values and rents.

<b>VALUES OF OWNER-OCCUPIED HOUSING UNITS: 2010</b>		
<b>Value</b>	<b>Number</b>	<b>Percent</b>
Less than \$50,000	25	0.3
\$50,000 to \$99,999	57	0.7
\$100,000 to \$149,999	18	0.2
\$150,000 to \$199,999	105	1.3
\$200,000 to \$299,999	272	3.3
\$300,000 to \$499,000	1,750	21.4
\$500,000 to \$999,000	4,801	58.7
\$1,000,000 or more	1,144	14.0
<b>Total Units</b>	<b>8,172</b>	<b>100.0</b>
<b>Median Owner-occupied Home Value: \$649,800</b>		

Source: US Census Bureau, American Community Survey, DP04 5-yr estimates. Percentages may not sum exactly 100% due to rounding.

<b>MONTHLY RENTS OF RENTER-OCCUPIED HOUSING UNITS: 2010</b>		
<b>Gross Rent</b>	<b>Number</b>	<b>Percent</b>
Less than \$200	13	0.7
\$200 to \$299	19	1.0
\$300 to \$499	103	5.7
\$500 to \$749	55	3.0
\$750 to \$999	249	13.7
\$1,000 to \$1,499	580	32.0
\$1,500 or more	795	43.8
No Rent Paid	104	n/a
<b>Total Units Paying Rent</b>	<b>1,814</b>	<b>100.0</b>
<b>Median Rent: \$1,425</b>		

Source: US Census Bureau, American Community Survey, DP04 5-yr estimates.  
Percentages may not sum exactly 100% due to rounding.

### **Condition of Housing & Substandard Dwellings in Need of Rehabilitation**

Generally, the condition of housing in Westfield is excellent. However, the US Census reveals that a small number of dwelling units exhibit indicators of housing deficiency, such as the overcrowding of older units and units lacking complete plumbing or kitchen facilities. According to the municipal level data contained in Appendix B of COAH's 2014 rules,<sup>4</sup> in 2000 there were 18 overcrowded dwelling units built before 1960; 14 dwelling units lacked complete plumbing facilities, and 49 units had incomplete kitchens. COAH determined at that time that there were a total of 48 units in Westfield in need of rehabilitation. This is the number of units addressed by the Town in Part 2 of this Plan.

### **Number of Existing Affordable Housing Units in Westfield**

There are two 100% affordable housing developments in Westfield, which are subject to affordability controls. Westfield Senior Citizens Housing Corporation (WSCHC) developed its first project, comprised of 172 units, in 1977. In implementing the first round Court-approved compliance plan, the Town supported WSCHC in the construction of an additional 131 units (130 of which are affordable rentals), which was completed in 1995. In addition, as described in detail in Part 2 of this Plan, there are a number of organizations providing Special Needs Housing serving 20 individuals in Westfield, which housing constitutes affordable housing.

### **Demographic Characteristics**

#### **Population Trends**

According to the US Census Bureau, Westfield's population saw a slight increase over the 1990's, rising from 28,870 in 1990 to 29,644 by the year 2000. Since 2000, the Census Bureau

<sup>4</sup> Appendix B, Council on Affordable Housing, Rehabilitation Share Methodology; December 10, 2007; page 124.

indicates the Town's population increased by approximately 2.3%. The increase is the second consecutive increase in Westfield's population since the declines reported in 1980 and 1990 as displayed in the table below.

<b>POPULATION GROWTH: 1930-2010</b>			
<b>Year</b>	<b>Population</b>	<b>Numerical Change</b>	<b>Percent Change</b>
1930	15,801		
1940	18,458	2,657	16.8
1950	21,243	2,785	15.1
1960	31,447	10,204	48.0
1970	33,720	2,273	7.2
1980	30,447	-3,273	-9.7
1990	28,870	-1,577	-5.2
2000	29,644	744	2.7
2010	30,316	672	2.3

Source: US Census Bureau. Percentages may not sum exactly 100% due to rounding.

### **Household Size & Type**

According to the American Community Survey, the average household size in Westfield is now 2.93 persons, while the average family size is 3.39 persons. Household size has increased in Westfield since 2000 (see table below). The declines of prior decades attributed to aging of the population, lower fertility rates, later marriages, and increasing divorce rates appear to have come to an end.

<b>HOUSEHOLD SIZE: 1960-2010</b>		
<b>Year</b>	<b>Total Population</b>	<b>Persons per Household</b>
1960	31,447	3.55
1970	33,720	3.42
1980	30,447	2.95
1990	28,870	2.78
2000	29,644	2.77
2010	30,316	2.93

Source: US Census Bureau.

### **Population Age Characteristics**

Westfield's 2010 population as reported by the US Census Bureau was 30,316 persons. The median age is 41. The male population was 14,584 while the female population was 15,732. Age data for males and females for the Town of Westfield appear below.

<b>AGE CHARACTERISTICS: MALES/FEMALES: 2010</b>						
	<b>Male</b>		<b>Female</b>		<b>Total</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Under 5 years	1,007	6.9	1,006	6.4	2,013	6.6
5 to 19 years	3,957	27.1	3,631	23.1	7,588	25.0
20 to 29 years	919	6.3	939	6.0	1,858	6.1
30 to 49 years	4,133	28.3	4,645	30.0	8,778	30.0
50 to 64 years	2,978	20.4	3,136	20.0	6,114	20.2
65 years and older	1,590	10.9	2,375	15.1	3,965	13.1
<b>Total</b>	<b>14,584</b>	<b>100.0</b>	<b>15,732</b>	<b>100.0</b>	<b>30,316</b>	<b>100.0</b>

Source: 2010 US Census. Percentages may not sum exactly 100% due to rounding.

### Income Levels

Income levels are displayed in the table below. Median household income reported for 10,121 Westfield households for 2010 was \$127,799, while median family income was \$150,797.

<b>2010 HOUSEHOLD INCOME AND BENEFITS</b>		
<b>Income</b>	<b>Number</b>	<b>Percent</b>
Less than \$10,000	204	2.0
\$10,000 to \$14,999	135	1.3
\$15,000 to \$24,999	326	3.2
\$25,000 to \$34,999	491	4.9
\$35,000 to \$49,999	550	5.4
\$50,000 to \$74,999	1,035	10.2
\$75,000 to \$99,999	1,179	11.6
\$100,000 to \$149,999	1,977	19.5
\$150,000 to \$199,999	1,139	11.3
\$200,000 or more	3,085	30.5
<b>Total Households</b>	<b>10,121</b>	<b>100.0</b>

Source: US Census Bureau, American Community Survey, DP03 5-yr estimates. Percentages may not sum exactly 100% due to rounding.

Median income for full-time, year-round male workers was \$111,762 while \$71,217 for full-time, year-round female workers (although not necessarily engaged in the same types of employment). Per capita income was \$63,498.

### Employment Characteristics of Westfield Residents

Westfield residents primarily work in the private sector. The tables below display information relative to employment by occupation and by industry. All data reflects information on employed residents who were 16 years of age or older at the time of the 2010 Census.

The Census Bureau reports that the mean travel time to work was 33.5 minutes, suggesting that the majority of residents work outside the community. Out of 13,381 residents reporting on commuting patterns, 1,956 residents reported using public transportation to commute, while the

vast majority, 9,547 residents, reported driving to work alone in a motor vehicle. Seven hundred and eighty-six residents reported working at home.

<b>OCCUPATIONS OF WESTFIELD RESIDENTS: 2010</b>		
<b>Occupation</b>	<b>Number</b>	<b>Percent</b>
Management, business, science, and arts occupations	7,847	57.0
Service occupations	1,257	9.1
Sales and office occupations	3,591	26.1
Natural resources, construction, and maintenance occupations	415	3.0
Production, transportation, and material moving occupations	662	4.8
<b>Total</b>	<b>13,772</b>	<b>100.0</b>

Source: US Census Bureau, American Community Survey, DP03 5-yr estimates.  
Percentages may not sum exactly 100% due to rounding.

<b>EMPLOYMENT OF WESTFIELD RESIDENTS BY INDUSTRY: 2010</b>		
<b>Industry</b>	<b>Number</b>	<b>Percent</b>
Agriculture, forestry, fisheries, hunting, mining	0	0
Construction	598	4.3
Manufacturing	1,347	9.8
Wholesale trade	421	3.1
Retail trade	1,282	9.3
Transportation, warehousing, utilities	407	3.0
Information	469	3.4
Finance, insurance, and real estate	2,333	16.9
Professional, scientific, management, administrative, waste management services	2,322	16.9
Educational services, health, social assistance	2,771	20.1
Arts, entertainment, recreation, food services	781	5.7
Other services, except public administration	406	2.9
Public administration	635	4.6
<b>Total</b>	<b>13,772</b>	<b>100.0</b>

Source: US Census Bureau, American Community Survey, DP03 5-yr estimates.  
Percentages may not sum exactly 100% due to rounding.

### **Characteristics of Existing & Outlook for Future Employment in Westfield**

From a land use planning perspective, there is no significant new development potential in areas of the Town zoned for nonresidential purposes. The 2009 Housing Element & Fair Share Plan contained data on employment trends, which is displayed in the table below. The information was obtained from the NJ Department of Labor, which reported the number of jobs covered by unemployment compensation. The table clearly displays a declining trend of employment in Westfield for three years in a row: 2004, 2005, and 2006, despite a strong national economy

during that period, with a very slight increase in 2007. Overall, employment was 13.4% less in 2007 compared to 2004. The four-year period of rising unemployment evident through 2007 was followed by a severe nationwide recession and financial crisis in 2008-09. The nation and state have endured an economic slowdown since then with high unemployment – most often higher in New Jersey than the nation as a whole. The labor market is likely to experience difficulties throughout 2013, if not longer.

<b>EMPLOYMENT TREND (Jobs Covered by Unemployment Insurance)</b>				
<b>Covered Employment</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Total Annual Average Covered Employment	11,172	9,734	9,335	9,668
Annual Average Private Sector Employment	9,583	8,134	7,706	8,034
Annual Average Federal Gov't Employment	119	108	102	101
Annual Average Local/State Gov't Employment	1470	1492	1,527	1,533

Source: The above data was obtained from the NJ Department of Labor website in 2009.

### **Projection of Present & Prospective Need for Affordable Housing**

The Fair Housing Act requires that there be a determination of the municipality’s present and prospective affordable housing need in the housing plan element. COAH determined the present need, or rehabilitation share, for all communities when it developed its third round rules. Westfield’s rehabilitation share was determined to be 41 units. This is the number of units addressed in Part 2 of the 2013 Fair Share Plan.

COAH’s growth share rules have been invalidated and no new rules are anticipated to be enacted prior to the adoption of this Plan. Part 2 of this Plan provides details about the completed and proposed affordable housing that should be applied to the prior obligation and “banked” for future credit when new rules become effective. After allocating 139 units/credits to satisfy the prior round obligation 73 units will be available to address any future obligation.

### **Consideration of Land Appropriate for the Construction of Affordable Housing**

The Fair Housing Act also requires the Town to consider land that is most appropriate for the construction of low- and moderate-income housing. Since Westfield is a developed community, no realistic opportunities exist for conventional large-scale inclusionary development. When the first round Court-appointed Special Master reviewed the Town’s vacant land inventory over twenty years ago, he concluded that only five vacant parcels were of sufficient size to be suitable for inclusionary housing. The Master’s analysis led to the establishment of the Town’s realistic development potential of 51 units in the first COAH cycle.

Currently, most of the remaining vacant lots in Town are very small parcels ranging from about 2/10 to 2/3 of an acre, some of which are bisected by streams or have environmental constraints, are encumbered by easements, are very irregularly shaped, or are landlocked. For these reasons, the Town's compliance plan should involve mechanisms that provide a realistic opportunity for new affordable housing in a manner appropriate to the developed character of the community. This objective can largely be achieved by enacting zoning to encourage the re-use of land along the mass-transit corridor for residential development, including a substantial percentage of affordable housing. The Fair Share Plan also includes the increase in density and the resulting number of affordable units on two previously zoned inclusionary sites along main transportation corridors of the Town, and the retention of zoning for inclusionary sites that were approved by the Superior Court during the prior round COAH cycle, but have not yet been developed.

### **Westfield's State Plan Designation**

In 2001 the State Planning Commission adopted the *New Jersey State Development & Redevelopment Plan*, which designated the entire Town of Westfield within Planning Area 1 (PA-1), the Metropolitan Planning Area. PA-1 areas included a variety of community types ranging from densely populated urban centers to 19<sup>th</sup> Century towns shaped by commuter rail and post-WWII suburbs. Historically, these areas have received significant public investments in infrastructure, including streets and highways, schools and other public institutions, and public water and waste disposal systems.

A new state plan, the final draft of which is entitled *The State Strategic Plan*, is being considered for adoption by the State Planning Commission. The new plan will not designate planning areas in the same manner as in 2001. Instead, the plan proposes the designation of targeted "investment" areas ranging from growth areas to preservation areas to guide state investments and policy decisions. The Town of Westfield is located within a densely developed region of the state, and is served by public water and sewer systems and mass transit systems (both rail and bus lines). It is anticipated that the Town will be included in a priority growth investment area, if the new State Plan is adopted as proposed, and that the development of new inclusionary housing, particularly on the TOD sites, will be consistent with state planning policies.

**PART 2:**  
**FAIR SHARE PLAN**

This Fair Share Plan describes the projects and programs that satisfy the Town's rehabilitation requirement, and the housing units to meet the future housing obligation. The plan is organized in several subparts, numbered A through F covering the topics listed below.

- A. Subpart A describes how the plan satisfies the **rehabilitation obligation**.
- B. Subpart B addresses the unanswered prior obligation.
- C. Subpart C describes how the plan proposes to address its **Third Round obligation** including the previously approved projects and credits available to apply to the **future obligation**.
- D. Subpart D is a **Spending Plan**, which details the use of available funds dedicated to fund the Town's affordable housing program.
- E. Subpart E is a summary of the **actions required to implement the plan**.

The table on the following page is a composite analysis of all of the completed and credited affordable housing. Displayed are the credits satisfying its combined first and second round obligation for which a Judgment of Repose was granted on October 7, 2013; also listed are the 73 units that have been credited by the Court toward the Town's Third Round obligation. All ordinances necessary to implement the 2013 Plan were adopted on May 7, 2013 and became effective following the Declaratory Judgment of Compliance and Repose. The Town provided a total of 204 affordable units, the majority of which are rental units. Together with eight prior round rental bonus credits, the 2013 Plan addressed a total of **212 total units/credits**. This more than satisfies the **139-unit prior round obligation**, with **73 surplus units** available to apply to any future obligation. Maps displaying inclusionary housing sites are included in the Appendix at the end of this plan.

TOWN OF WESTFIELD AFFORDABLE HOUSING							
Project, Date Established, and Location	No. of Afford. Units	Rental Hsg.	Population Served	Prior Round RDP Credits	Prior Round Rental Bonus	Prior Round Unmet Need	Credits for Future Round
<b>Special Needs and Permanent Supportive Housing ( 20 units - all housing is occupied)</b>							
ARC - 1982 478 Whittier (Poet's Place)	4 (BR)	Yes	Develop. Disabled	4			
ARC - 1989 56 Mohawk Trail	4 (BR)	Yes	Develop. Disabled	4	4		
Our House - 2001 506 Boulevard	6 (BR)	Yes	Develop. Disabled	2	2		4
Homefirst Interfaith Hsg - 2009 550 Trinity Place	2	Yes	Homeless Disabled				2
Homefirst Interfaith Hsg - 2010 706 Central Avenue	2	Yes	Homeless Disabled				2
Homefirst Interfaith Hsg - 2011 710 Central Avenue	2	Yes	Homeless Disabled				2
<b>Regional Contribution Agreement (Terms Fulfilled by Westfield)</b>							
RCA with the City of Elizabeth - 1993	21		n/a	21			
<b>Senior Citizens Housing (Constructed in 1995 and Occupied)</b>							
Westfield Senior Citizens	130	Yes	Seniors	12	2	88	30
<b>Inclusionary Zoning (Proposed Affordable Housing)</b>							
Court-approved First Round <b>Williams Property:</b> 52 total units/10 affordable)	10	No	Families				10
Court-approved First Round <b>Myrtle Avenue Tract:</b> Zoning permits 34 total units/7 affordable	5	No	Families				5
<b>Credits Granted by Court Order/Judgment of Repose on October 7, 2013</b>				<b>51</b>		<b>88</b>	<b>55</b>
<b>Future Credits: Sunnyside Settlement:</b> 24 total units/4 affordable	4	Yes	Families				4
<b>Future Credits: New Street and North Avenue Transit-oriented Development (TOD):</b> 67 total units/14 affordable	14	Option	Families				14
<b>GRAND TOTAL OF UNITS &amp; CREDITS</b>	<b>204</b>			<b>51</b>		<b>88</b>	<b>73</b>

\*For a detailed description and analysis of the various prior round components, refer to the 2013 Town of Westfield Housing Plan Element and Fair Share Plan with Amendments dated 12/2/13 and 11/3/14.

## **A. The Rehabilitation Obligation**

The Fair Housing Act of 1985 established that every community must address the indigenous need (rehabilitation) component of its affordable housing obligation. Communities may address the obligation either by providing new units or by conducting a local rehabilitation program providing funds for home improvements. The purpose of the rehabilitation program is to facilitate the renovation of deficient housing units in the community that are occupied by low and moderate income households.

### **Rehabilitation Program Requirements**

Rehabilitation programs must satisfy a number of requirements, summarized below, in order to receive credit for affordable housing purposes. For complete details on these requirements, see N.J.A.C. 5:97-6.1 and 6.2.

1. Minimum Average per Unit Cost of \$10,000: The amount expended on the “hard costs” of physical repairs must average at least \$10,000 per unit. Administrative costs required to conduct the program are over and above the hard costs allocated to repairs, and if funded from an affordable housing trust fund, the administrative expense is limited by the amounts prescribed in the community’s “Spending Plan” consistent with state regulations (funds expended on administration cannot exceed 20% of the revenue in a trust fund).
2. Repairs Must Include a Major System: Repairs to deficient units must include the rehabilitation of a major system. Examples include roof or structural repairs, heating, electrical and plumbing systems. Each housing unit participating in a rehabilitation program must be brought up to code standard [the New Jersey State Housing Code (N.J.A.C. 5:28)].
3. Eligible Applicants: Applicant and/or tenant households must be certified to be income-eligible (i.e. having a total household income of less than 80% of median) pursuant to the state’s Uniform Housing Affordability Controls (UHAC), except that owner-occupants are exempt from the asset limit.
4. Owner-occupied and Rental Units are Eligible: All rehabilitation programs must be structured to enable income-eligible owner-occupants and owners of rental properties to apply for program funding, subject to the affordability controls described below.
5. Affordability Controls: All units must comply with the following controls on affordability:
  - a. Owner-occupied units: Affordability controls, in the form of a lien recorded with the County Clerk shall be imposed for a minimum of 10 years. If an owner-occupied unit is sold prior to the expiration of controls, at least part of the loan

must be recaptured and used to rehabilitate another unit, unless the dwelling is sold to an income-eligible household at an affordable price.

- b. Renter-occupied units: Affordability controls, in the form of a deed restriction, which may also include a lien filed with the County Clerk, shall be imposed for a minimum of 10 years. If vacant, the initial tenant after rehabilitation (and all subsequent tenants during the control period) must be a certified low- or moderate-income household. If the unit is occupied, prior to and upon completion of the rehabilitation, the maximum rent must be set at the lesser of the current rent or the maximum allowable rent pursuant to UHAC rules. Restricted rental rates are permitted to be increased annually in accordance with UHAC rules.
6. Funding Terms: Rehabilitation funds may be structured as low interest or forgivable loans or grants. Leveraging of private financing is encouraged if the result is low interest loans that encourage rehabilitation.
7. Administration: A source of funding for the program must be documented and a schedule illustrating how the rehabilitation will be completed must be developed. An experienced administrative agent must be selected or appointed to conduct the program in accordance with a program manual and detailed procedures consistent with N.J.A.C. 5:97-6.2.
8. Participation in County Programs: COAH rules contemplate the possibility that rehabilitation programs operated by county governments in New Jersey could provide a viable means for communities to satisfy their rehabilitation needs. If a county program complies with COAH's program requirements (summarized above), the community may fulfill the rehabilitation obligation through its participation in a county-sponsored program. Some county programs do not, however, fund rental rehabilitation other than owner-occupied two-family dwellings, which contain a rental unit. In these cases, COAH rules permit the municipality to conduct an adjunct program to facilitate rental rehabilitation.

### **Participation in the Union County Home Improvement Program**

The Town of Westfield is currently an eligible community in the Union County Home Improvement Program. Westfield property owners who are income-eligible (earning less than 80% of median income) may apply for funding from the housing rehabilitation program being funded by Union County.<sup>5</sup>

The County allocates approximately \$450,000 each year to the program from its federal Community Development Block Grant (CDBG). The County's website contains a summary of the program and preliminary application form for interested applicants. The program is administered by Development Directions, LLC based in Rahway NJ, which conducts all work

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<sup>5</sup> Income-eligible residents of communities in Union County may apply under this program unless the community in which the property is situated is already conducting and funding its own program. The communities conducting their own programs are Borough of Fanwood, City of Elizabeth, City of Linden, City of Plainfield, City of Rahway, Union Township, and Winfield Township.

write-ups and inspections. Funding for rehabilitation is provided as a deferred loan and a lien is filed with the County Clerk.

Currently, the Union County program limits eligible applicants to owner-occupied one- and two-family homes. Landlords of rental units are not eligible at this time, although the County did briefly offer this type of assistance in the past. Accordingly, the Town will continue its participation in the Union County program to enable eligible homeowners to receive assistance for housing rehabilitation and provides a local program to offer assistance to property owners of rental units in need of rehabilitation (i.e. a Rental Rehabilitation Program). The Town has undertaken a marketing campaign to publicize the availability of the Union County Home Improvement Program to Westfield property owners.

To address rental rehabilitation, the Town Planner or a retained consultant will administer a Rental Rehabilitation Program to ensure that all rehabilitated units will meet the requirements outlined above. Funding under the Rental Rehabilitation Program is structured as a loan, ensuring that funds repaid will be made available for additional rehabilitation needs in the future. If, in the future, the County should decide to broaden its program eligibility to include the owners of substandard rental units, the Town will modify its program to participate fully in the County program to address all rehabilitation needs (owner-occupied and rental housing).

#### **Funding Available for Rehabilitation**

Based on 48 units and the average hard cost of physical repairs of \$10,000/unit, the total cost of rehabilitation is expected to equal approximately \$480,000. As of December 31, 2013, the Town had approximately \$639,000 in its Housing Trust Fund. In accordance with the Sunnyside Settlement, this money is required to be reserved to address Westfield's rehabilitation requirement at the rate of five units per year commencing in 2014 (see Subpart D, Spending Plan for more details about the Housing Trust Fund). The settlement acknowledged, however, that the Town may be able to benefit from county or state funding available for local rehabilitation. Accordingly, the Town will participate in the Union County Home Improvement Program with respect to owner-occupied housing and will conduct a local program for rental housing rehabilitation. With approximately \$639,000 on hand there is sufficient money to cover the cost of a program addressing just the need for the rehabilitation of rental units in the Town, including a negotiated fee for contracted administration

#### **Monitoring Rehabilitation**

Westfield's Municipal Housing Liaison will monitor all rehabilitation (undertaken in both the County Program and the local rental rehabilitation program administered by a consultant) to determine how many units qualify for credit (i.e. the sufficiency of work undertaken and average funds expended per unit). Adjustments can be made to marketing efforts as needed to heighten program awareness. All funds repaid pursuant to the terms of loans made under the local Rental Rehabilitation Program will be returned to the Housing Trust Fund and made available for future rehabilitation needs.

## **B. Unanswered Prior Obligations**

The Unanswered Prior Obligation includes the sum of the new construction obligation for the 1987-1999 period and the prior need for 1999-2014 as determined through the methodology found in Appendix D<sup>6</sup> of the COAH Third Round Rules. The result of the calculations is presented in table format for each municipality. The last column titled POSITIVE PRIOR CYCLE W/BUILDABLE LIMIT displays the obligation for this Unanswered Prior Obligation.

For the Town of Westfield, the POSITIVE PRIOR CYCLE W/BUILDABLE LIMIT is 0, in recognition of the lack of sufficient vacant developable land within the Town of Westfield. Therefore, Westfield does not have an Unanswered Prior Obligation.

## **C. Third Round Affordable Housing Obligation**

The Fair Share of Prospective Need for the Town of Westfield for the ten year period 2014-2024 is 93 units. The following methods are available for the Town to meet its obligation:

1. Rezoning for densities necessary to assure the realistic opportunity and economic viability of any inclusionary developments, through mandatory set-asides and density bonuses in addition to other incentives to the developer as may be necessary to meet all or part of the municipality's fair share.
2. Donation or use of municipally owned land or land condemned by the municipality for purposes of providing low- and moderate-income housing.
3. Provision of housing units in a community residence for the developmentally disabled, as defined in section 2 of P.L. 1977c.448 (C30:11B-2), which shall be affordable to persons of low- and moderate-income.
4. Tax abatements for purposes of providing low- and moderate-income housing.
5. Use of public monies to fund new or to substantially rehabilitate housing for low- and moderate-income persons; and
6. Utilization of municipally generated funds toward the construction of low- and moderate-income housing.

The housing units described in this section designed to meet the Town's obligation are comprised of: (a) Credits from the Judgment granted October 7, 2013; (b) Amendments to existing inclusionary zones to increase density and permit special needs housing to increase the number of affordable units; (c) New inclusionary zoning, all of which are to be applied to satisfy the Town's future affordable housing obligation.

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<sup>6</sup> Prepared by Rutgers University, Center for Urban Policy Research, the Edward J. Bloustein School of Planning and Public Policy, page 85.

## **Court Approved Credits toward Third Round**

After holding a hearing and considering the recommendations of the Court-appointed Master with respect to the Sunnyside Settlement and the Town's 2013 Plan and supporting exhibits (taken together, referred to as the "compliance plan"), the Court issued an oral decision on September 9, 2013. On October 7, 2013, a Judgment was entered granting Westfield repose and immunity from Mount Laurel litigation until such time as a deadline for filing a third round affordable housing plan is established by new legislation or future Court decision.

The Court found that the previously approved vacant land adjustment remained valid and that the Town has fully addressed its prior round obligation. The Court also approved 55 additional credits that will be available to address any future affordable housing obligation. The Town was awarded credit for affordable rental units associated with the Sunnyside site and credit for the New Street and North Avenue TOD sites as and when preliminary site plan approval is granted for each inclusionary development.

Seventy-three units were made available to apply to any future affordable housing obligation, as displayed in the table below. They include homes and permanent supportive housing established for individuals and families with special needs, credit for the surplus senior citizens housing units constructed during the prior round, and inclusionary zoning to promote the realistic opportunity for the construction of new affordable units. Inclusionary zoning for two sites approved by the Court in the first round will be continued; inclusionary zoning was adopted by the Town Council for transit-oriented development to encourage the re-use of sites adjacent to the rail corridor; and inclusionary zoning has been enacted to implement the Sunnyside Settlement. The unit of credit for special need homes is based on the number of bedrooms noted as (BR); the unit of credit for permanent supportive housing is based on the number of dwelling units in the structure. Both special needs homes and permanent supportive units are considered rental housing.

The zoning ordinances required to establish the two TOD and Sunnyside zones were adopted by the Town Council in accordance with the Declaratory Judgment entered on October 7, 2013.

## **Rental Housing Requirement**

It is worth noting that all of the housing allocated to the prior round (RDP and unmet need), with the exception of the RCA, is rental housing, which far exceeds COAH's minimum rental housing requirements under COAH's first and second round rules. First round rules only required communities with an obligation of 125 or more to address rental housing in their compliance plans. Second round rules required all communities to address rental housing; a municipality with an adjusted obligation was required to create a realistic opportunity for the construction of rental housing for at least 25% of the realistic development potential. For Westfield, the prior round rental obligation is based on the 51-unit RDP multiplied by 25%, which equals 12.75, rounded to 13 units. COAH's third round rules [N.J.A.C. 5:97-3.11(b)1] maintained this requirement for the prior round obligation. Twenty-two (43%) of the 43 units addressing the prior round RDP are rental units. One hundred percent of the unmet need (88 units) is rental housing.

<b>COURT APPROVED AFFORDABLE HOUSING ADDRESSING THIRD ROUND AFFORDABLE HOUSING OBLIGATION</b>			
<b>Affordable Housing, Year Established, and Location</b>	<b>Affordable Units</b>	<b>Rental Housing</b>	<b>Population Served</b>
<b>Special Needs and Permanent Supportive Housing</b>			
Our House - 2001 (6 BR total - 2 BRs were allocated to the prior round) 506 Boulevard	4 (BR)	Yes	Develop. Disabled
Homefirst Interfaith Housing - 2009 550 Trinity Place	2	Yes	Homeless Disabled
Homefirst Interfaith Housing - 2010 706 Central Avenue	2	Yes	Homeless Disabled
Homefirst Interfaith Housing - 2011 710 Central Avenue	2	Yes	Homeless Disabled
<b>Senior Citizens Housing</b>			
Westfield Senior Citizens Housing - 1995 (100 units allocated to prior round & unmet need)	30	Yes	Seniors
<b>Inclusionary Zoning</b>			
Court-approved First Round Inclusionary Zoning: Williams property	10	No	Families
Court-approved First Round Inclusionary Zoning: Myrtle Avenue	5	No	Families
Inclusionary Zoning for Transit- oriented Development w/ rental option	14 15	Optional	Families
Inclusionary Zoning for Sunnyside (Settlement) Property	4	Yes	Families
<b>TOTAL UNITS AVAILABLE TO SATISFY ANY FUTURE HOUSING OBLIGATION</b>	<b>73</b>		

**2008 Fair Housing Act Amendment  
Requiring 13% Very Low Income Housing**

Pursuant to 2008 amendments to the Fair Housing Act, at least 13% of the units addressing the future (third round) obligation must be reserved for occupancy by very low income households. Homes with bedrooms designated for individuals with special needs and permanent supportive housing are considered very low income housing units, providing 10 units. Sunnyside was required to provide one very low income unit, and the Town will actively market the Town-

owned lots in the Myrtle Avenue zone for special needs housing. Therefore, through a combination of existing and planned housing, the Town exceeds the 13% obligation.

### **Special Needs and Permanent Supportive Housing (10 Credits)**

Four facilities serving individuals and families with special needs are available to address a portion of the future affordable housing obligation. In all there are 10 credits associated with these properties. The group home owned by Our House, established in 2001, has six bedrooms, two of which were allocated to address the prior round obligation, leaving four bedrooms to address the future obligation. There are also three properties, each containing a two-family dwelling, that provide permanent supportive housing to the homeless disabled. The details of each facility are displayed in the previous table and described in the subsections that follow. Documentation verifying each home's eligibility for credit has been obtained from each sponsoring organization and previously submitted to the Court-appointed Special Master.

**Our House Special Needs Housing (One 6-bedroom Home - 4 Bedrooms Available to Address the Future Obligation)**: Founded in 1980, Our House, Inc., based in Murray Hill, NJ, provides residential services to individuals with developmental disabilities. The organization operates 27 homes in Union, Essex, Somerset and Morris counties. In June 2001, Our House established a 6-bedroom group home at 506 Boulevard for adults with developmental disabilities. None of the bedrooms is age-restricted (i.e. for seniors) and funding is provided by the NJ Department of Human Resources Division of Developmental Disabilities.

**Homefirst Interfaith – Permanent Supportive Housing (Three 2-family dwellings/6 units total)**: HomeFirst Interfaith Housing has over 25 years of experience in providing community housing solutions. It operates three separate facilities in Westfield. Each facility contains two dwelling units and provides housing and supportive services to the homeless disabled. According to staff of the Plainfield-based service provider, it has developed a COAH-compliant affordable housing model and obtained funding from NJHMFA to establish several homes in the region.

- 550 Trinity Place contains two dwelling units and was established in February 2009. It serves the homeless disabled with no senior citizens age restriction. Construction and permanent funding was obtained from the NJHMFA Special Needs Housing Trust Fund and HUD to establish this facility.
- 706 Central Avenue contains two dwelling units and was established in November 2010. It also provides housing for the homeless disabled with no senior citizens age-restriction. Funding was obtained from the NJHMFA Special Needs Housing Trust Fund.
- 710 Central Avenue contains two dwelling units and was established in February 2011. It serves the homeless disabled with no senior citizens age-restriction. Funding for this facility was also obtained from NJHMFA's Special Needs Housing Trust Fund.

### **Senior Citizens Housing (30 Units)**

Thirty units of the senior citizens development constructed in 1995 have not been credited against the prior obligation and are available to address any future affordable housing requirement. This development is the only age-restricted housing included in this Fair Share Plan and, as indicated previously, it was approved by the Court in 1991 despite the limitation that COAH rules placed on age-restricted housing.

### **Retention of Two First Round Court-approved Sites Zoned for Inclusionary Housing (15 units)**

Two sites (the Williams property and the Myrtle Avenue Tract) were designated in the Town's first round housing plan, and approved by the Court in 199 to be rezoned for inclusionary housing. In the 2013 Judgment, the court re-approved these sites to generate a total of 15 affordable units. These sites were rezoned in 1991, but have not yet been developed, although a development application was approved in 2013 for a portion of the Myrtle Avenue tract providing three affordable units.

The Williams property consists of one lot currently occupied as a nursery. It is 6.5 acres and zoned for a density of 8 units/acre, slated to produce 10 affordable units.

The Myrtle Avenue Tract consists of several parcels under diverse ownership, including private and public ownership as indicated below. The total number of affordable units anticipated to be developed in the 2013 approved plan was based upon the proposed development of the privately owned land and the sale for future development of two parcels owned by the Town – providing a total of five affordable units. Additional development potential may be achieved through the acquisition of state-owned land, but until its sale is approved by the State House Commission, credit for potential units is not included in this plan. The Myrtle Avenue Tract was slated to produce a total of five affordable units under the 2013 approved Plan.

In the 2013 plan, these two undeveloped affordable housing zones were evaluated to determine whether their continued inclusion in the Town's Fair Share Plan provides a realistic opportunity for the construction of affordable housing. The Court-approved Special Master determined at that time that these sites should be re-allocated to address the Town's future obligation instead of remaining in the prior round cycle. He determined that these sites continue to represent a realistic opportunity for the construction of affordable housing based upon the following site suitability criteria. The site suitability criteria has been amended slightly in the third round rules requiring more substantiation to provide information regarding size and capacity of infrastructure lines, maps showing the location of water and sewer lines, and status of the area with water quality management and wastewater management plans. This required additional information is provided for each of the sites as part of the site suitability review.

1. The site has clear title and is free of encumbrances which preclude the development of affordable housing;
2. The site is adjacent to compatible land uses and has access to appropriate streets;

3. The site has access to adequate water and sewer capacity, including the location, size and capacity of infrastructure lines and facilities within the service area;
4. The site can be developed consistent with the NJ Residential Site Improvement Standards; and
5. Sites designed to produce affordable housing shall be consistent with the NJ State Development and Redevelopment Plan.

### **Proposed Changes to the Williams and Myrtle Avenue Sites**

The Town of Westfield proposes to amend the zoning for these properties as discussed below. With the proposed amendments, both sites will continue to present a realistic opportunity for the development of affordable housing in the future. The fact that an application for development on a portion of the Myrtle Avenue Tract was approved in 2013 (see “Myrtle Avenue Tract” below) confirms that these sites are developable from an economic perspective and should be retained in the plan. Following is a discussion of the proposed amendments for the Williams property and Myrtle Avenue Tract.

In reviewing the Town’s ability to meet its Third Round obligation, these two previously zoned inclusionary sites were reevaluated to determine site capability to provide additional affordable housing. The Williams site has not, as yet, been developed in accordance with the affordable RA-5A zone provisions, and there are two remaining vacant properties owned by the Town in the Myrtle Avenue RA-5B zone district. Changes to these two zones are proposed as follows:

**Williams Property (20 Units)**: This site (Block 1905 Lot 13) was identified as a developable and suitable property for affordable housing by the Court-appointed Special Master and was approved by the Court for inclusionary zoning in 2013. The property is 6.5 acres in size and is located along the east side of Springfield Avenue. The property is zoned for 8 units/acre to permit a total of 52 multifamily units, for sale or rent, including a 20% affordable housing set-aside, generating 10 affordable units. The Town proposes to increase the density for this site to 16 units/acre to permit 104 multifamily units, including a 20% set-aside generating 20 affordable housing units, representing an increase of 10 more units. This increase in density to 16 units/acre is consistent with the other existing market rate multifamily zones within the Town. Since its inclusion in the plan, this property has been occupied by, and used as, a garden supply and nursery business. Site suitability criteria are addressed below.

1. *The site has clear title and is free of encumbrances which preclude the development of affordable housing.* The Town is not aware of any issues that would preclude the development of affordable housing on this property.
2. *The site is adjacent to compatible land uses and has access to appropriate streets.* The property has frontage along Springfield Avenue, a County road. Zoning to the north, south and east is RS-16 single family residential requiring 16,000 square foot minimum lot size. To the north and west, adjacent to the site is the Union County Nomahegan Park. Across Springfield Avenue lies the border between Westfield and

the Borough of Mountainside. The property in Westfield is zoned RS-40 single family residential, and the land within Mountainside is a continuation of the County Nomahegan Park. The Court, in 1991 and again in 2013, recognizes the particular suitability of this site, due in part to its access to the Park.

3. *The site has access to adequate water and sewer capacity, including the location, size and capacity of infrastructure lines and facilities within the service area.* Public water and sewer infrastructure is available to service this property. New Jersey American Water provides water service. There is a 16-inch and 18-inch water line in Springfield Avenue in front of this site, and sewage disposal is handled by Rahway Valley Sewage Authority. There is an 8-inch sewer line in Springfield Avenue right-of-way in front of the subject site. Elizabethtown Gas also has an 8-inch gas line located within the Springfield Avenue right-of-way in front of this property. The Town has no knowledge of any capacity deficiencies within the services areas effecting this site. (See maps attached for RA-5A zone.)
4. *The site can be developed consistent with the NJ Residential Site Improvement Standards (RSIS).* There are no known site constraints that would prohibit development of this site in conformance with the RSIS.
5. *Sites designed to produce affordable housing shall be consistent with the NJ State Development and Redevelopment Plan.* In 2001, the entire Town was designated within Planning Area 1 by the State Planning Commission. The development of inclusionary housing in PA-1 designated areas is consistent with state planning policies. It is anticipated that Westfield will be designated within a growth area in the new state plan presently under consideration by the State Planning Commission and that the development of inclusionary housing within such areas will be consistent with state planning policies.

**Myrtle Avenue Tract (9 Units):** The properties making up this tract, initially identified in the 1989 Court Master's report as comprising an area suitable and developable for affordable housing, were approved by the Court for inclusionary zoning in 1991. These findings were re-affirmed by the Court-appointed Special Master and the Court in 2013. The six lots that make up this area comprise over 4 acres of land. The Town rezoned this area in 1991 to the RA-5B District with a density of 8 units/acre, permitting the construction of a total of 34 dwellings, including 7 affordable units (based on inclusionary development of the entire tract at that time). Credit was given for 5 units as part of the 2013 Court Judgment pending the outcome of the sale of the state-owned lot.

The Town owns Lot 1 in block 4005, adjacent to the approved development, and Lot 13 across Grandview Avenue from Lot 1. It is envisioned that the combined density that could reasonably be achieved on each of the lots be combined to allow one special needs housing facility providing six bedrooms to be constructed on one of the two lots, most likely Lot 1. The Town will make the lot available to a qualified provider of Special Needs Housing for development to provide a facility that could accommodate up to six bedrooms for developmentally disabled citizens. It is anticipated that this can be accomplished in one house to be constructed on the lot.

If less than six bedrooms are constructed on the one lot, the Town will then make the other lot (presumably Lot 13) in Block 4007 available for development to a special needs housing provider. It is approximately 1/2 acre in size and could be expected to accommodate two bedrooms. Combined with the three affordable units approved in the 16-unit development on lots 2 and 3 in Block 4006, the special needs housing on Town-owned land will result in a total of nine affordable housing units in this tract. This represents an increase of 4 additional units to be applied to the Third Round Obligation. Site suitability criteria are discussed below.

1. *The site has clear title and is free of encumbrances which preclude the development of affordable housing.* The RA-5B zone is made up of six tax lots with ownership as indicated below.

MYRTLE AVENUE TRACT	
Block and Lot	Lot Ownership
Block 4005 Lot 1 Lot 2	Westfield Board of Education State of New Jersey
Block 4006 Lot 1	Town of Westfield (Lot to be offered for Special Needs Housing)
Lots 2 and 3	Private ownership (Development application approved 3 affordable units)
Block 4007 Lot 13	Town of Westfield (Lot to be offered for Special Needs Housing)

Privately-owned Land - Approved Development Application: In 2012 the owner of Lots 2 and 3 in Block 4006, which together comprise approximately 1.55 acres of land, received a development approval to construct 16 dwelling units, three of which will be affordable. The proposal involves an increase in density based on the limited land controlled by the developer. The Sunnyside Settlement provides that the Town-owned land may be considered part of the land area of the development for the purpose of calculating density. This development application received Board of Adjustment approval in 2013.

Town-owned Land: Lot 1 in Block 4006, owned by the Town of Westfield, lies adjacent to Lots 2 and 3, which are the subject of the above-mentioned development application. The site is approximately 2/3 acre in size. A preliminary site analysis reveals a small isolated wetland on the common property line of Lots 1 and 3. A tributary to Garwood Brook traverses the westerly portion of Lots 1 and 2.

Disposition of Surplus State-owned Land: The State-owned land (Lot 2 in Block 4005) contains a paved area once used as a staging area for a NJ Motor Vehicle Inspection Station located across Windsor Avenue, which has since ceased full-time operations (Lot 2, Block 4005 is included in the inclusionary RA-5B zone while the land on which the former NJ Motor Vehicle Inspection Station is situated is not). The Town has requested

the NJ State House Commission (and NJMVC) to declare Lot 2, Block 4005 as surplus land and approve its disposition for development. If inclusionary housing is developed on this parcel, they will be surplus credits that can be applied to the Town's future affordable housing obligation.

2. *The site is adjacent to compatible land uses and has access to appropriate streets.* All of the lots in this zone have adequate access to public streets. With the exception of State-owned Lot 2 in Block 4005, all of the lots are undeveloped. The surrounding area is predominantly single-family residential with properties averaging 7,000 square feet in size. Across Grandview Street from the subject tract is a private indoor tennis facility. The RA-5B zone is adjacent to the Town boundary with Garwood.
3. *The site has access to adequate water and sewer capacity, including the location, size and capacity of infrastructure lines and facilities within the sewer area.* Public water and sewer infrastructure is available to service this property. New Jersey American Water provides water service and sewage disposal is handled by Rahway Valley Sewage Authority. There is a 12-inch and 15-inch sewer line within the Myrtle Avenue right-of-way in front of the subject properties. There is a 6-inch water line within the Grandview Avenue right-of-way in front of the subject properties. There is a 4-inch gas main on both the Myrtle Avenue and Grandview Avenue rights-of-way in front of the subject properties. The Town has no knowledge of any capacity issues within the service area of the subject properties. (See map for RA-5B zone.)
4. *The site can be developed consistent with the NJ Residential Site Improvement Standards (RSIS).* Some site constraints have been identified as indicated above, but with clustering and proper site design it appears that the properties can be developed. There are no apparent constraints that would preclude development in accordance with RSIS requirements.
5. *Sites designed to produce affordable housing shall be consistent with the NJ State Development and Redevelopment Plan.* In 2001, the entire Town was designated within Planning Area 1 by the State Planning Commission. The development of inclusionary housing in PA-1 designated areas is consistent with state planning policies. It is anticipated that Westfield will be designated within a growth area in the new state plan presently under consideration by the State Planning Commission and that the development of inclusionary housing within such areas will be consistent with state planning policies.

Therefore, based upon the proposed changes discussed above, the Williams and Myrtle Avenue zones could produce an additional 14 affordable units toward meeting the Town's third round obligation for a total of 29 units.

#### **Transit-oriented Development – Two Adopted Zone Districts (15 Credits)**

Since the Town is virtually fully developed, the approved 2013 plan addressed a portion of the future affordable housing obligation using "smart growth" planning techniques encouraged by state planning policies. A "transit-oriented development" (TOD) refers to a development located

within reasonable proximity of a transit station (bus, train, light rail, or ferry) within a larger, pedestrian-friendly, transit-supportive neighborhood core or center. A transit-oriented development area is typically characterized by a mix of uses and compact higher density than is typical of conventional suburban residential development.

**TOD Zoning:** The Town rezoned two distinct areas, the New Street TOD and North Avenue TOD, located within a ½-mile radius or less of the Westfield and Garwood NJ Transit stations for transit-oriented development with requirements for on-site affordable housing. Both areas are immediately adjacent to the rail corridor and are zoned to permit residential densities of 15 to 16 units per acre depending on whether the housing will be for sale or for rent.

The base zoning for each TOD permit 15 units/acre, generating a total of 67 units with a 20% setaside of affordable housing (14 units). The ordinance allows an option for development in these zones to be constructed as rental housing with an increase in the density to 16 units/acre. This may provide an incentive for rental housing because an additional four market rate units would be permitted, although no additional affordable units would be required. The orientation of these sites to the rail corridor suggests that developers may well be interested in developing all or a portion of a site for rental housing. Moreover, current economic conditions suggest that rental housing may be an attractive option to developers, as well as those in need of affordable housing in view of high credit standards being imposed by lending institutions on potential homebuyers.

**Site Suitability Criteria:** Detailed site descriptions follow this summary of site suitability. Each of the TOD sites is presently used primarily for nonresidential purposes and off-street parking, but the zoning only permits re-development resulting in high density residential development. The two areas are suitable for transit-oriented development in view of their proximity to train stations in both Westfield and Garwood and their adjacency to Westfield's pedestrian-friendly central business district and retail area, which is within walking distance. Both areas are suitable for the development of inclusionary housing in accordance with COAH's site suitability criteria addressed below. More detailed descriptions of the characteristics of each site follow on the next page.

1. The Town is not aware of any issues that would preclude the development of affordable housing on the three TOD sites. Each area designated for TOD development is currently developed, but contain land uses that are conducive to future re-development. Two out of the six lots in the New Street TOD are vacant.
2. Each of the TOD sites is adjacent to compatible land uses and has adequate access to appropriate streets.
3. Each site is already served by and has access to adequate water and sewer and capacity, including the location, size and capacity of infrastructure lines and facilities within the service area for inclusionary development. This matter will be discussed separately for each of the sites.

New Street TOD. The properties within this zone have sanitary sewer access in South Avenue (10-inch sewer line), Central Avenue (8-inch sewer line) and South Elmer Street (8-inch sewer line). There is water service within Central Avenue (12-inch line) and South Elmer Street (6-inch line). Elizabethtown Gas has a 6-inch low-pressure gas line within Central Avenue and a 4-inch line in both South Avenue and South Elmer Street in front of the subject properties. The Town has no knowledge of any capacity deficiencies within the subject service areas. (See map for NS-AMFH zone.)

North Avenue TOD. There is no sanitary sewer line within North Avenue in front of this subject site. An 8-inch sewer line does exist within 175 feet west of the site (at the North Avenue and Forth Street intersection), which should enable access for sanitary sewer service where the properties are developed. There is a 12-inch water line within the North Avenue right-of-way in front of the subject properties. Elizabethtown Gas maintains a 10-inch and an 8-inch gas line within North Avenue. The Town has no knowledge of any capacity deficiencies within the subject service areas. (See map for NA-AH zone.)

4. Each site can be re-developed for residential purposes consistent with the NJ Residential Site Improvement Standards.
5. The re-development of each site for inclusionary housing is consistent with the State Development and Redevelopment Plan. In 2001, the entire Town was designated within Planning Area 1 by the State Planning Commission. The development of inclusionary housing in PA-1 designated areas is consistent with state planning policies. It is anticipated that Westfield will be designated within a growth area in the new state plan presently under consideration by the State Planning Commission and that the development of inclusionary housing within such areas will be consistent with state planning policies.

The two TOD areas have extensive street access and are served by public water and sewer systems with available capacity to support new development. The size and characteristics of each site are described below and displayed in the table that follows.

#### **Proposed Amendment to New Street TOD Affordable Multi-Family Housing Zone**

Within the past year, a developer has purchased three of the lots located in this zone. He has approached the Town Council with a development proposal to construct 68 rental units (7 unit set-aside for inclusionary housing) on the property, and has requested that the Town adopt amendments to the current NS-AMFH zone.

There are four significant changes to the zoning ordinance listed below that need to be addressed to permit the property to be developed in the manner proposed:

- 1) Density increase: The density increase is from 16 units/acre (2.0 acres, 32 units/6 affordable) to a density permitting a maximum of 68 units to be constructed with 7 affordable units on approximately 1.5 acres.

- 2) Set-aside percent: The percentage of set-aside units were decreased from a current 20% set-aside to a 10% set-aside. This change still results in one additional affordable unit.
- 3) Zone boundaries: The NS-AMFH zone boundaries should be modified to place the remaining properties in the zone back in the GB-3 zone.
- 4) Bulk standards: The bulk standards of the zone should be amended to permit four habitable floors for a portion of the building, along with coverage limits and building setbacks.

The merits of these changes are discussed below.

The developer has submitted concept plans showing that the properties owned by it (Block 3207, Lots 1 and 4 and Block 3208, Lot 1.02) can reasonably be developed at the proposed density, resulting in 68 living units. At a 10% set-aside, this development proposal will provide seven affordable units, surpassing the six units in the 2013 plan. As a result, the purpose of the NS-AMFH zone as defined in the 2013 Plan has been achieved.

There are significant onsite development costs associated with the construction of these units, including the construction of underground parking and the purchase of a significant portion of the New Street right-of-way from the Town. Additionally, the developer will be installing a right turn lane along South Avenue at its own cost, which involves the construction of significant traffic signal infrastructure. Due to these costs, it has been determined that a reduction in the percent set-aside is fair and reasonable.

As a result of this development proposal, the remaining properties within the zone are no longer necessary for inclusionary development. The subject properties are identified on the Town Tax Maps as Block 3207, Lots 2,3,5 and 6, and Block 3208, Lot 2. Furthermore, the remaining lots are each under separate ownership, are not contiguous and will no longer meet the zone standards of the NS-AMFH zone. These identified tax lots should be rezoned back to, and become part of, the existing GB-3 zone. These lots conform to the requirements of that zone. This was the zone that these lots were part of prior to the establishment of the NS-AMFH zone.

**North Avenue TOD:** This area is comprised of approximately 2.6 acres and includes two tax lots. Both properties are developed with older nonresidential uses: a small manufacturing company and a hardware store/lumberyard. This site is situated across the street from Gumbert Park, making it a particularly attractive site for residential purposes. Development of this site will result in 8 affordable units.

Based upon the above discussion of the proposed amendments to the NS-AMFH zone, the two existing TOD sites will generate a total of 15 affordable units, one additional unit than was approved in the 2013 Plan.

**Proposed TOD 339 W. Broad Street:** A third area is being proposed for transit oriented development that also has similar characteristics as the adopted New Street and North Avenue TOD zones. A property owner of two lots, currently located in the GB-1 general business zone (the property address is 339 W. Broad Street, at the intersection of W. Broad Street and Rahway

Avenue) filed a use variance application in June, 2014 seeking a d.(5) density use variance (Municipal Land Use Law 40:55D-70) to construct a mixed use building consisting of retail on the first floor, 26 one- and two-bedroom apartments on two upper floors and 42 on-site parking spaces. The proposed development would redevelop a property, currently underutilized as a car wash and old stand-alone building occupied as a consignment shop with two apartments on the upper floors. The applicant states in his application form that, "This appeal should also be granted because of overall project benefits. A modern and attractive building will replace an antiquated car wash. Additional new housing will be provided for the Westfield community. New higher income household formation will benefit local businesses. The proposed development will also be transit-friendly because it is located within a short walk of the Westfield train station."

A development analysis of the property was performed to ascertain what the development of a mixed use building conforming to the GB-1 zone standards with on-site parking would yield. In general terms, the development would result in a building with about 5,000 square feet of retail space, with two upper floors of 5,000 square feet each. This would result in the development of about 7 to 10 residential units total on the upper two floors. This is a third of the units than what is proposed in the use variance application. The per unit square footage is based upon the submitted floor plans. Parking standards require 17 spaces for the retail spacing and between 7 and 11 spaces for the residential units, for a total of between 24 to 28 spaces on site.

In continued recognition of the developed nature of the Town, the Town saw this as an opportunity to provide zoning that would redevelop an underused property occupied as a car wash and old stand-alone building, located at a gateway intersection to the downtown. Discussions have been held with the property owner to rezone the subject property to entirely high density residential at an appropriate density with an inclusionary affordable housing component that would permit the redevelopment of the property, similar to the other TOD zoning recently enacted. The owner has responded with the submission of floor plans depicting a total of 31 apartments, an architectural rendering of a three-story building and a concept plan with 34 on-site parking spaces.

**Site Suitability Criteria:** This proposed TOD site is presently used primarily for nonresidential purposes and off-street parking, but could be re-developed under new zoning permitting high density residential development. The area is suitable for transit-oriented development in view of its proximity to the Westfield train station and being within close proximity of Westfield's pedestrian-friendly central business district and retail area. There is no apparent need for significant off-site improvements and it does not appear that the property presents any difficulty in its redevelopment. The property is suitable for the development of inclusionary housing in accordance with COAH's site suitability criteria addressed below.

1. The Town is not aware of any issues that would preclude the development of affordable housing on the proposed TOD site. The property is currently developed, but contains land uses that are conducive to future re-development. In fact, retail use is problematic in that particular location, which is a couple of blocks removed from the CBD, and may not be a suitable use at this location.

2. The property is adjacent to compatible land uses and has adequate access to appropriate streets. The property is adjacent on one side to a Town municipal parking lot used for overflow train station parking. Older residential uses are predominant along W. Broad Street and Rahway Avenue, and this proposal may stimulate other redevelopment of the area.
3. The site is already served by New Jersey American Water and Rahway Valley Sewage Authority and has access to adequate water and sewer and capacity, including the location, size and capacity of infrastructure lines and facilities within the service area, for inclusionary development. There is an 8-inch sanitary sewer line located within the Rahway Avenue and West Broad Street rights-of-way along the frontage of the subject properties. There is a 6-inch water line located within both the Rahway Avenue and West Broad Street rights-of-way along the frontage of the properties. Elizabethtown Gas maintains a 4-inch gas line in both the Rahway Avenue and West Broad Street rights-of-way. The Town has no knowledge of any capacity deficiencies affecting the service areas for this site. (See map zone GB-1.)
4. The site can be redeveloped for residential purposes consistent with the NJ Residential Site Improvement Standards. The concept plan submitted reflects parking in conformance with RSIS and local standards.
5. The redevelopment of each site for inclusionary housing is consistent with the State Development and Redevelopment Plan. In 2001, the entire Town was designated within Planning Area 1 by the State Planning Commission. The development of inclusionary housing in PA-1 designated areas is consistent with state planning policies. It is anticipated that Westfield will be designated within a growth area in the new state plan presently under consideration by the State Planning Commission and that the development of inclusionary housing within such areas will be consistent with state planning policies.

The table below provides the relevant site data concerning these three TOD zones. The New Street data is after amendments to the NS-AMFH zone (proposed herein and as an amendment to the 2013 Plan), the West Broad Street site is proposed, and the North Avenue site data is based upon the adopted NA-AH zone.

TRANSIT-ORIENTED DEVELOPMENT (TOD) SITES					
TOD AREA, CURRENT ZONING, SITE SIZE			TOD "FOR SALE" HOUSING DEVELOPMENT OPTION		
Name/Location Block/Lot	Current Zoning	Size: Acres	Density "For Sale" Units	Total Units in TOD	Affordable Units
New Street Block 3208 Lots 1.02, 2 and Block 3207 Lots 1-6	GB-3	1.49	45.6	68	7 (10%)
North Avenue Block 3305 Lots 4, 5	C	2.6	15	39	8 (20%)
W. Broad Street Block 3001 Lots 1, 6	GB-1	0.479	64.7	31	5 (16.12%)
			<b>TOTAL</b>	<b>138</b>	<b>20</b>

**NOTES:**

1. The acreage of each site is approximate based on County MOD IV data.
2. The New Street TOD acreage is inclusive of the New Street ROW.
3. Unit counts are rounded to the nearest whole number, with 0.5 or greater rounded up.

**Sunnyside Settlement**  
**Inclusionary Zoning (4 Units)**

The Sunnyside property was the subject of the Sunnyside Settlement. The site, designated as Lot 27 in Block 3905, is comprised of approximately 1.46 acres of land situated on the northerly side of Springfield Avenue, east of Woodbrook Circle, adjacent to the municipal boundary with the Township of Cranford. The property is developed with a single-family dwelling, which is proposed to be demolished.

Pursuant to the Sunnyside Settlement, the property was rezoned to a new district, the RA-5C Multifamily Residence District, permitting the construction of 24 multifamily residences, including four affordable rental units, representing a density of approximately 16.5 units/acre. Of the 24 proposed units, 20 will be market rate for-sale residences, each of which will contain two bedrooms. Four affordable units (a 16% set-aside) will be provided, all of which will be rentals, with no more than 25% having one bedroom and at least 25% having three bedrooms. None of the market-rate or affordable units will be required to be age-restricted. At least one-half of the affordable units will be designated for occupancy by low-income households, and at least one of the low-income units will be made available to a very low income household. COAH's site suitability criteria are addressed below.

1. *The site has clear title and is free of encumbrances which preclude the development of affordable housing.* The Sunnyside property is the subject of a Settlement Agreement, which will allow the 24-unit housing development to be constructed. The development is subject to site plan review and approval in accordance with the stipulations contained in the Agreement. The Town is not aware of any other issues or encumbrances that would impact upon the development of this site.
2. *The site is adjacent to compatible land uses and has access to appropriate streets.* The property has 95+/- feet of frontage on Springfield Avenue, affording adequate land for ingress/egress to the proposed residential development. Surrounding land uses include a two-story assisted living residential development adjacent to the site to the west and single-family dwellings to the north, east and south.
3. *The site has access to adequate water and sewer capacity,* including the location, size and capacity of infrastructure lines and facilities within the service area. Public water and sewer infrastructure is available to service this property. New Jersey American Water provides water service and sewage disposal is handled by Rahway Valley Sewage Authority. There is no sanitary sewer line within Springfield Avenue in front of the subject site. There is an 8-inch line within 200 feet of the subject site, accessible by way of Woodbrook Circle, which intersects with Springfield Avenue. There is a 6-inch water line within Springfield Avenue in front of the subject site. Elizabethtown Gas maintains a 16-inch gas line in Springfield Avenue in front of this property. The Town has no knowledge of any capacity deficiencies affecting the service areas for the subject site. (See map RA-5C zone.)
4. *The site can be developed consistent with the NJ Residential Site Improvement Standards (RSIS).* There are no known site constraints that would prohibit development of this site in conformance with the RSIS.
5. *Sites designed to produce affordable housing shall be consistent with the NJ State Development and Redevelopment Plan.* In 2001, the entire Town was designated within Planning Area 1 by the State Planning Commission. The development of inclusionary housing in PA-1 designated areas is consistent with state planning policies. It is anticipated that Westfield will be designated within a growth area in the new state plan presently under consideration by the State Planning Commission and that the development of inclusionary housing within such areas will be consistent with state planning policies.

Based upon all of the above, and the previous discussion of the methods that the Town of Westfield proposes in this plan to meet its future obligation, a total of 94 affordable housing credits are provided. The various components that make up this housing are displayed in the table below:

**TOWN OF WESTFIELD  
AFFORDABLE HOUSING**

Project, Date Established and Location	No. of Affordable Units	Rental Housing	Population Served	Court-Approved Future Credits	Proposed Third Round Credits
<b>Special Needs and Permanent Supportive Housing (10 Units – All Housing is Occupied)</b>					
Our House - 2001 506 Boulevard	4 (BR)	Yes	Devel. Disabled	4	
Home First Interfaith Hsg-2009 550 Trinity Pl	2	Yes	Homeless Disabled	2	
Home First Interfaith Hsg-2010 706 Central Ave	2	Yes	Homeless Disabled	2	
Home First Interfaith Hsg-2011 710 Central Ave	2	Yes	Homeless Disabled	2	
<b>Proposed Special Needs/Supportive Housing (6 Units Town-Owned Land)</b>					
Town-Owned Lands--Myrtle Ave Lot 1, Block 4006 Lot 13, Block 4007	6	Yes	Devel./ Homeless Disabled	2	4
<b>Senior Citizen Housing (Constructed 1995 and Occupied)</b>					
Westfield Senior Citizens	30	Yes	Senior Citizens	30	
<b>Inclusionary Zoning (Proposed Affordable Housing)</b>					
Williams Property Court-Approved First Round (8 units/ acre 20% set-aside)	10	No	Families	10	
Proposed Third Round (16 units w/acre 20% set-aside)	10	No	Families		10
Myrtle Ave Tract Court-Approved 2013 Plan	5*	No	Families	3	
Approved Dev App (16 units w/3 affordable Lots 2,3 Block 4006)	3				
339 W. Broad St Future TOD Zoning (31 units/5 affordable)	5	Yes	Individuals/ Families		5
New Street Future Credits Zoned TOD	7	Yes	Individuals/ Families	6	1
North Ave Future Credits Zoned TOD	8	No	Families	8	
Sunnyside Settlement Future Credits (24 units/4 aff.)	4	Yes	Families	4	
<b>Grand Total: Number of Affordable Units Approved Credits Proposed Credits</b>	<b>93</b>			<b>73</b>	<b>20</b>

\* As part of the Court's Judgment October 7, 2103, the Court-approved for future credits 5 inclusionary units. This Plan proposed applying the 3 inclusionary units approved by the Board of Adjustment in 2013 and proposes 6 additional units via Special Needs/Supportive Housing for a total of 9 credits from the Myrtle Avenue tract, 4 more credits that approved in the 2013 Plan.

## **D. Spending Plan**

Municipal housing programs designed to facilitate the rehabilitation of deficient housing and/or production of new affordable units often requires a subsidy or expenditure of funds to achieve affordable housing objectives. Communities in New Jersey are authorized to generate revenue for affordable housing programs in several ways. They may sell bonds, appropriate funds from general revenues, or impose fees on development to generate revenue to pay for the costs associated with preparing and implementing affordable housing plans.

### **Generating Revenue for Affordable Housing Programs**

Since January 1992, COAH's rules have authorized municipalities under its jurisdiction to collect "development fees" based on the assessed value of new construction to generate revenue to fund the costs associated with affordable housing requirements. Revenue collected pursuant to a development fee ordinance can only be used for affordable housing-related purposes and must be expended in accordance with an approved "Spending Plan" that complies with COAH and state regulations.

COAH's third round rules, effective on December 20, 2004, also permitted municipalities to adopt "growth share ordinances" facilitating the production of affordable housing commensurate with new market rate development. Alternatively, the ordinance could impose a "growth share" fee in lieu of satisfying the affordable housing obligation. The rules were an integral part of COAH's overall growth share methodology, which was intended to produce affordable housing as growth occurred in the state's municipalities, referred to as the "growth share obligation."

### **Westfield's Growth Share Ordinance & Affordable Housing Trust Fund**

On June 6, 2006, the Town of Westfield enacted Ordinance #1869 establishing affordable housing production or "payment in lieu" requirements for developments that generate a growth share obligation. COAH approved Ordinance #1869 and instructed the Town to establish a housing trust fund and a separate dedicated account with a local banking institution. An escrow agreement governing the account was executed by the Town, COAH and Town Bank on February 29 2008. As of December 31, 2013, the Growth Share Account contained approximately \$639,000. To date, no funds collected pursuant to Ordinance #1869 have been expended.

COAH's third round rules were the subject of numerous lawsuits, and on January 25, 2007, the Appellate Court invalidated many aspects of the rules, including provisions enabling municipalities to enact growth share ordinances. COAH requested a stay of the decision with regard to such ordinances, which was granted on April 2, 2007. Growth share ordinances were permitted to remain in effect pending new third round rules to be issued by COAH in response to the Court's January 25, 2007 decision. However, the rules subsequently adopted by COAH in response to the Court were also challenged and the growth share approach to determining municipal affordable housing obligations was then declared invalid by the Appellate Court. Since that decision, no new rules have been promulgated and COAH has been reorganized.

As part of the implementation of the Town's 2013 Affordable Housing Compliance Plan, the Westfield Growth Share Ordinance was repealed by the Town Council by adoption of General Ordinance 2013 on December 17, 2013, as recommended by the Court-appointed Special Master.

### **Capital Costs Associated with the 2013 Affordable Housing Compliance Plan**

The Town of Westfield will implement this Fair Share Plan as described herein in accordance with any terms and conditions imposed by the Court. Most of the affordable housing described in the plan is either already in place and occupied by eligible households or individuals or the zoning is in place thereby providing the opportunity. The Town proposes to satisfy much of its future affordable housing obligation with surplus senior citizens housing credits and credit for special needs housing. New affordable units will be achieved in inclusionary housing developments constructed by private developers on property either already zoned or proposed for rezoning in accordance with this Plan.

The only direct capital cost associated with the Town's implementation of this plan is related to the rehabilitation obligation. Forty-eight units of rehabilitation will cost approximately \$480,000 based on the average \$10,000 per unit for the "hard costs" of physical repairs to substandard dwellings.

### **Spending Plan Requirements**

COAH regulations governing the preparation of plans to spend affordable housing trust funds are largely geared to communities that are, or have already, enacted ordinances imposing development fees. This section addresses each of COAH's Spending Plan requirements (displayed in italics below), recognizing that Westfield has already collected the revenue pursuant to its growth share ordinance and is not proposing to impose development fees.

1. *A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity.*

Ordinance #1869 was repealed by the adoption of General Ordinance 2013 on December 17, 2013 and therefore the Town will not be collecting additional revenue.

2. *A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned.*

No additional revenues are projected.

3. *A description of the administrative mechanism that the municipality will use to collect and distribute revenues.*

The revenue in Westfield's housing trust fund has already been collected and no additional revenues are forecast. If the Town is not able to rely on the Union County Home Improvement Program to satisfy the rehabilitation obligation, thus requiring a local rehabilitation program to be implemented, the distribution of funds for rehabilitation will be in accordance with the terms of a contract to be negotiated with a qualified consultant.

In September 2014 a Town-wide mailing was sent advertising both the County and Town rehabilitation programs with relevant contact information concerning making application for rehabilitation funds.

4. *A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8 and 8.9.*

The Sunnyside Settlement recognizes that the Town has collected fees that should be used for affordable housing. The terms of the settlement require as follows:

*“Westfield shall make available funding from the municipal affordable housing trust fund, and/or other governmental funding from the County of Union or State of New Jersey, to allow a minimum of five existing units of the rehabilitation obligation to be rehabilitated per year beginning in 2014; it being understood that the actual amount of rehabilitation to occur depends upon the availability of willing participants (see section 10 paragraph a of the Sunnyside Settlement Agreement).*

As described previously in this plan (Subpart B, The Rehabilitation Obligation) the Town is participating in the Union County Home Improvement Program to address owner-occupied rehabilitation and will establish a local Rental Rehabilitation Program to address substandard rental properties. Sufficient funds are available to cover the program's "hard costs" as well as a negotiated fee for a qualified consultant to conduct the local program for rental properties. Funds distributed under the Rental Rehabilitation Program will be provided in the form of a loan, and all repaid funds will be made available for future rehabilitation needs. The use of the Housing Trust Fund for these purposes is consistent with the Sunnyside Settlement.

5. *A schedule for the expenditure of all affordable housing trust funds.*

As described above, the Town is participating in the Union County Home Improvement Program to address owner-occupied housing. The Town has appointed its Town Planner to conduct a local program to offer assistance for rental rehabilitation. The Sunnyside Settlement requires that Westfield's Housing Trust Fund be made available to address at least five units per year to address Westfield's rehabilitation obligation. There is sufficient funding available to conduct the local program without a limit on the number of units served on an annual basis.

6. *If applicable, a schedule for the creation or rehabilitation of housing units.*

See number 5 above. Funding is available, in accordance with the Sunnyside Settlement, to address at least five units per year (48 units total) to address Westfield's rehabilitation obligation.

7. *If the municipality is supporting or sponsoring public sector or non-profit construction of housing, a pro-forma statement of the anticipated costs and revenues associated with the development, consistent with standards required by the Agency in its review of funding applications.*

The Town is not proposing to sponsor affordable housing construction with revenue in the housing trust fund.

8. *If the municipality maintains an existing affordable housing trust fund, documentation showing that the entire trust fund balance as of the effective date of P.L. 2008 c.46, July 17, 2008, will be spent and/or committed for expenditure within four years, as set forth at N.J.A.C. 5:99-11.17.*

The Town is required, pursuant to the Sunnyside Settlement, to use all of the funds in its Housing Trust Fund for rehabilitation. The settlement recognized that the Town may take advantage of other county or state funding that may be available for rehabilitation in Westfield, but the revenue in the housing trust fund must remain available in the event that any such funding proves to be insufficient. The Town is participating in the County program for owner-occupied rehabilitation and funds are also allocated in the Housing Trust Fund to provide rehabilitation assistance for rental units.

**Section 5:99-11.17 Transfer of Municipal trust funds for failure to spend or commit to expend development fees and payments in lieu within four years of the date of collection**, sets forth the requirements that must be met for a municipality to award forfeiture of funds. As this section pertains to Westfield's collection of in-lieu development contributions and the commitment to spend, the following applies:

- (a) ...payments-in-lieu collected by a municipality on or after July 17, 2008 must be expended or committed for expenditure within four of the date of collection.

*Need to look at 2009 plan amended April 2013*

*Need to look at Fair Share Housing Center date requiring funds to be reserved for rehabilitation*

- (d) ...the Council has been provided as executed contract a legally enforceable agreement implementing the housing activity. The Town Council adopted resolution...

Also, a policy and procedures manual has been prepared and reviewed and approved by the Court-appointed Master as a condition of the Judgment. The Town has aggressively advertised both its rental and rehabilitation programs, as well as the county homeowner rehabilitation program through a Town-wide mailing to each single- and multifamily

property owner in town. This mailing was sent in September 2014. The program is also advertised on the Town official website and at the Town library. To date, no applications have been submitted to the Town of Westfield seeking funding for housing rehabilitation for either owner- or renter-occupied units.

9. *A plan to spend and/or commit for expenditures all affordable housing trust funds within four years of collection, as set forth at N.J.A.C. 5:99-11.17.*

The Town will continue its participation in the Union County Home Improvement Program to address owner-occupied housing rehabilitation. Funding available in the Housing Trust Fund is sufficient to conduct the local Rental Rehabilitation Program. In accordance with the Sunnyside Settlement, these funds are to be reserved to address the Westfield housing rehabilitation obligation for 41 units.

10. *A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.*

Funding for rental rehabilitation will be provided in the form of a loan requiring repayment. All repaid funds will be re-deposited into the Housing Trust Fund and made available for future rehabilitation. At this time, the only use of excess or surplus funds is potentially for continued rehabilitation in connection with the obligation to rehabilitate 41 units. If, in the future, it is determined that the Housing Trust Fund is not needed to address a rehabilitation obligation, the Town may amend this Spending Plan or prepare a new plan and seek approval to use the funds for alternate affordable housing purposes.

#### **E. Compliance Plan Implementation**

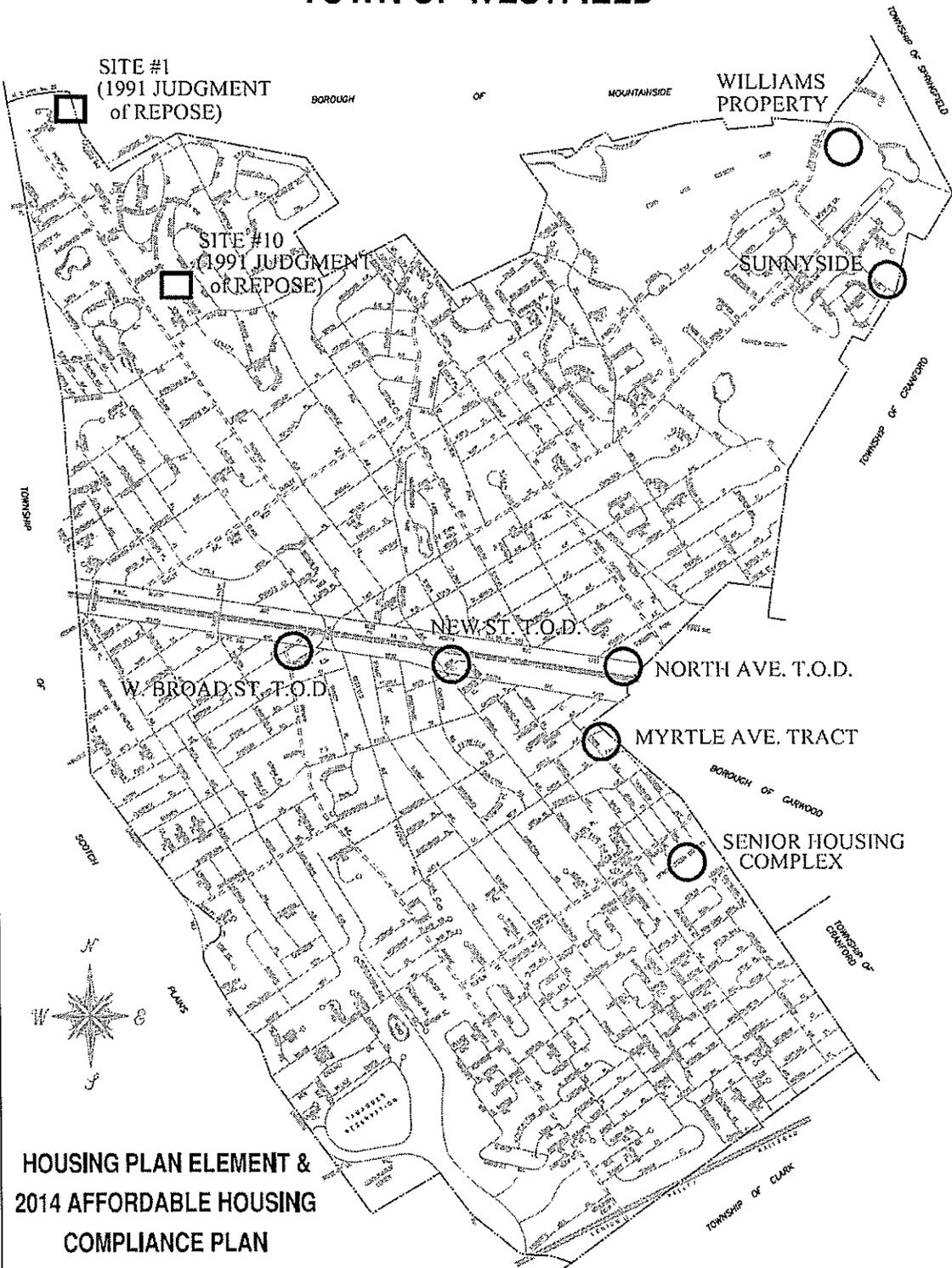
Most of the affordable housing described in this plan has already been established, and the administrative process is in place to address the housing rehabilitation. Additional actions to be undertaken to complete the implementation of this plan include enacting ordinances to amend one TOD zone and establish one new TOD inclusionary housing zone, as outlined in the prior table. The Town will enact updated affordable housing rules as needed to be consistent with the Fair Housing Act and the state's Uniform Housing Affordability Control (UHAC) regulations.

## Appendix Maps

The following maps are attached hereto and incorporated in this plan:

1. Town of Westfield map displaying housing sites.
2. Williams Property with utility maps Zone RA-5A
3. Myrtle Avenue Track with utility maps Zone RA-5B
4. North Avenue TOD with utility maps Zone NA-AH
5. New Street TOD with utility maps Zone NS-AMFH
6. 339 West Broad Street TOD with utility maps Zone GB-1
7. Sunnyside Property with utility maps Zone RA-5C

# TOWN OF WESTFIELD



**HOUSING PLAN ELEMENT &  
2014 AFFORDABLE HOUSING  
COMPLIANCE PLAN**

**AREA MAP**

SCALE: N.T.S.

REV: OCTOBER 2014  
DATE: FEBRUARY 2013

TOWN ENGINEER: Kris McAloon, P.E.

- SITES 1 & 10 (1991) JUDGMENT of REPOSE
- IDENTIFIED AFFORDABLE HOUSING SITES

