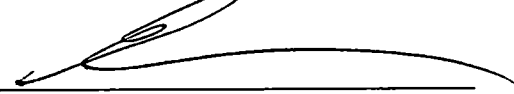


**TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY**

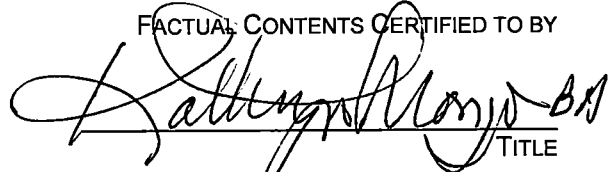
RESOLUTION

No. **25-080**

APPROVED AS TO FORM AND LEGALITY


TOWNSHIP ATTORNEY

FACTUAL CONTENTS CERTIFIED TO BY


TITLE

RESOLUTION OF THE TOWNSHIP OF HAMILTON CONFIRMING THE FOURTH ROUND OF AFFORDABLE HOUSING OBLIGATIONS PURSUANT TO P.L. 2024, c. 2 AND THE FAIR SHARE HOUSING ACT, N.J.S.A. 52:27D-302

WHEREAS, on March 20, 2024, Governor Murphy signed *P.L. 2024, c.2.* into law, amending the Fair Housing Act (hereinafter "Amended FHA") and establishing a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine; and

WHEREAS, the Amended FHA requires that the New Jersey Department of Community Affairs ("DCA") perform a calculation of regional need, and municipal present and prospective affordable housing needs, in accordance with the formulas established in the law; and

WHEREAS, on October 18, 2024, the DCA released its "Affordable Housing Obligations For 2025-2035 (Fourth Round)" report ("DCA Report"), establishing the Fourth Round (2025-2035) fair share methodology and estimating non-binding calculations of low- and moderate-income housing obligations for New Jersey's 564 municipalities; and

WHEREAS, the final calculation and obligations for each municipality are presented in an Appendix at the end of the report; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support a lower fair share calculation; and

WHEREAS, per *P.L. 2024, c.2*, in order for Hamilton Township to maintain immunity from exclusionary zoning litigation, it must determine its municipal present and prospective obligations in accordance with the formulas established in sections 6 and 7 of the law by binding resolution no later than January 31, 2025; and

WHEREAS, *P.L. 2024, c.2* permits Hamilton Township to diverge from the DCA's calculations in determining its obligations, in case local factors exist that make the calculations unreasonable, so long as Hamilton Township adheres to the methodology set forth in *P.L. 2024, c.2*; and

WHEREAS, Hamilton may take into consideration the calculations in the DCA Report to determine its obligations; and

WHEREAS, the present and prospective fair share obligations of the Hamilton Township were identified as follows:

- Present Need: 186 units
- Prospective Need: 546 units

WHEREAS, based on a review of the DCA Report and findings made by the Township Affordable Housing Planner, it is recommended that the Township Council adopt a binding resolution accepting the Present Need obligation of 186 units; and

WHEREAS, the Township's Planner possesses actual knowledge of present conditions in Hamilton which were not known to the DCA officials that evaluated Hamilton through raw data sets and land use/land cover data reflecting land uses and coverages in 2020; and

WHEREAS, such present day conditions, history and knowledge could not be known to DCA officials that were evaluating every municipality in the State of New Jersey; and

WHEREAS, the Township professionals evaluated DCA's vacant land analysis and identified land in Hamilton that should not be included as vacant and developable; and

**TOWNSHIP OF HAMILTON
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RESOLUTION

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RESOLUTION OF THE TOWNSHIP OF HAMILTON CONFIRMING THE FOURTH ROUND OF AFFORDABLE HOUSING OBLIGATIONS PURSUANT TO P.L. 2024, c. 2 AND THE FAIR SHARE HOUSING ACT, N.J.S.A. 52:27D-302

WHEREAS, the Planner tabulated these areas and confirmed that the vacant land in Hamilton is reduced from 273 acres to 166.4 acres; and

WHEREAS, the Township Planner has determined that the Land Capacity Allocation Factor must be adjusted from 2.41% of the region's vacant land (based on 273 acres) to 1.48% of the region's vacant land (based on 166.4 acres). The vacant land capacity was adjusted by removing the following land, which was improperly included as developable land in the DCA's calculation:

- Presence of existing development as indicated by recent aerial imagery from 2020 and/or 2024;
- Presence of existing construction activity with accompanying development approvals;
- Extreme narrowness of Vacant Land Capacity areas, which renders development unfeasible or unrealistic;
- Inclusion of properties containing Vacant Land Capacity on the current Recreation and Open Space Inventory ("ROSI");
- Location of Vacant Land Capacity areas within or on the periphery of existing drainage basins, as confirmed with recent aerial imagery from 2020 and/or 2024;
- Current use of properties with Vacant Land Capacity areas by local businesses;
- Presence of small areas of Vacant Land Capacity in yard areas of properties with an active use (e.g., church);
- Presence of Vacant Land Capacity within landlocked properties, or on properties with limited or infeasible access (e.g., only frontage is I-295 or the approach of an overpass over I-295); and
- Presence of Vacant Land Capacity areas within:
 - a. school sites;
 - b. landfills;
 - c. cemeteries;
 - d. Hamilton Train Station and associated parking areas;
 - e. swamplands; and
 - f. Grounds for Sculpture.

WHEREAS, vacant land is one of three allocation factors to be considered; and

WHEREAS, the three allocation factors (land capacity factor, nonresidential valuation factor, income capacity factor) are averaged to find the "average allocation factor", which is multiplied by the regional prospective need to get the Township's obligation; and

WHEREAS, using the DCA's vacant land analysis Hamilton's average allocation factor was 3.95% and with the new vacant land number the average allocation factor is 3.64%; and

WHEREAS, this reduces the Township's round 4 prospective need obligation from 546 units to **504 units**.

WHEREAS, the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7 of the Act; and

WHEREAS, the Township's calculation of need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Act; and

WHEREAS, within 48 hours of adoption of this resolution, the Municipal Clerk of Hamilton shall file this resolution on its official website and with the Affordable Housing Dispute Resolution Program.

TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY

RESOLUTION

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RESOLUTION OF THE TOWNSHIP OF HAMILTON CONFIRMING THE FOURTH ROUND OF AFFORDABLE HOUSING OBLIGATIONS PURSUANT TO P.L. 2024, c. 2 AND THE FAIR SHARE HOUSING ACT, N.J.S.A. 52:27D-302

WHEREAS, pursuant to the Directive #14-24, a municipality seeking a certification in compliance with the FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after the adoption of the municipal resolution of the fair share obligations, or by February 3, 2025, whichever is sooner; and

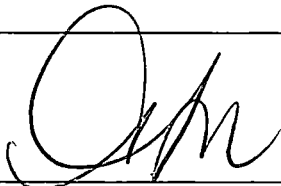
WHEREAS, the Township of Hamilton seeks a certification of compliance with the FHA and, therefore, directs its affordable housing counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in Mercer County.

NOW, THEREFORE, BE IT RESOLVED on this 21st day of January, 2025, by the Township Council of the Township of Hamilton, in the County of Mercer, and the State of New Jersey that, pursuant to *P.L.2024, c.2*:

- 1. All of the Whereas Clauses set forth above are incorporated into the operative clauses of this resolution.
- 2. This resolution rescinds and replaces any prior resolutions concerning Fourth Round obligations.
- 3. The Township Council of the Township of Hamilton hereby accepts a Present Need obligation of 186 and a Prospective Need obligation of 504 as its Fourth Round (2025-2035) affordable housing obligation pursuant to P.L. 2024 c.2 and the Fair Housing Act, N.J.S.A. 52:27D-302 et. seq. These findings are to be documented in the Township's housing element and fair share plan.
- 4. The Township Council hereby directs its Affordable Housing Counsel to file a declaratory judgment attaching this resolution in Mercer County within 48 hours after adopting this resolution.
- 5. The Township reserves its right to adjust its Fourth Round Affordable Housing obligation subject to any vacant land adjustments and other amendments as may be provided for by law.
- 6. This resolution shall be posted on the Township's official website and with the Affordable Housing Dispute Resolution Program within 48 hours of adoption.
- 7. This resolution shall take effect immediately, according to law.

ADOPTED BY COUNCIL ON JANUARY 21, 2025
DATE


PRESIDENT


MUNICIPAL CLERK

RECORD OF VOTE						
COUNCIL	AYE	NAY	N.V.	A.B.	RES.	SEC.
ANTHONY P. CARABELLI, JR.	✓				✓	
NANCY PHILLIPS				✓		
CHARLES F. WHALEN	✓					
PASQUALE "PAT" PAPERIO, JR.	✓					✓
RICHARD L. TIGHE, JR.	✓					
X – Indicates Vote A.B. – Absent N.V. – Not Voting RES. – Moved SEC. – Seconded						