

**RESOLUTION
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ**

DATE: 01/23/2025

RESOLUTION# 25-71

Council	Motion	Second	Yes	No	Abstain	Absent
Yaccarino			✓			
O'Toole			✓			
Homan		✓	✓			
Lovisololo	✓		✓			
Daloisio						✓
O'Connell			✓			
Mayor Wilczynski	-----	-----				

- Carried
- Defeated
- Tabled
- Approved on Consent Agenda

RESOLUTION OF THE BOROUGH OF ALLENDALE, COUNTY OF BERGEN, STATE OF NEW JERSEY COMMITTING TO COMPLY WITH PRESENT NEED (REHAB OBLIGATION) AND THE ROUND 4 PROSPECTIVE NEED SUBJECT TO CORRECTIONS OF DATA AND ALL APPLICABLE ADJUSTMENTS

WHEREAS, the Borough of Allendale, County of Camden, State of New Jersey, (hereinafter, "Borough" or "Allendale") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to provide an estimate of the present need, also referred to as the rehab obligation, and the Round 4 prospective need for all municipalities by October 20, 2024 based upon the criteria in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the present need and the Round 4 prospective need obligation for all municipalities based upon its interpretation of the standards in the Act; and

WHEREAS, the DCA Report calculates Present Need (Rehabilitation) Obligation to be 159 and its Round 4 Prospective Need to be 260; and

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WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and

WHEREAS, the Amended FHA gives municipalities the opportunity to propose different obligations from those reported by the DCA on October 18, 2024 based upon the standards in Sections 6 and 7 of the Act; and

WHEREAS, the Amended FHA further provides that “[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing (“COAH”) unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions” (N.J.S.A 52:27D-311 (m)); and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey and also empower municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, the Borough has exercised its right to take advantage of that opportunity to propose a different rehabilitation obligation than reported by the DCA by conducting a windshield survey; and

WHEREAS, based upon the windshield survey included in the expert report of Edward Snieckus, Jr. PP, LLA, ASLA attached hereto (hereinafter “Snieckus Report”, the Borough has established that its rehabilitation obligation is 10; and

WHEREAS, the Borough is happy to address any issues that may arise with respect to the conducting the windshield survey in accordance with COAH standards and to address the needs of lower income households residing in affordable units if there is an application to participate in the rehab program for more than 10 lower income households residing in qualified units; and

WHEREAS, the Borough, through its professionals, has exercised its right to review the data that is the basis for the 3 allocation factors used to determine Allendale’s share of the regional need; and

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WHEREAS, more specifically, Allendale has reviewed the data that the DCA used to compute the Land Capacity Allocation Factor that the DCA belatedly provided on or about November 27, 2024 instead of by October 20, 2024; and

WHEREAS, the Borough further notes that the link to the DCA GIS data that the DCA belatedly made available to municipalities includes the following language:

"The land areas identified in this dataset are based on an the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program." (emphasis added)

WHEREAS, the Borough accepted the DCA's invitation to examine the data it used to compute this allocation factor and found that the DCA had indeed been over inclusive in the land it found to be developable; and

WHEREAS, more specifically, based upon the Sniekus Report, the Borough finds that fewer acres are developable than the DCA reported in computing the Land Capacity factor; and

WHEREAS, upon correcting the data used to determine the Land Capacity Factor, the correct Round 4 prospective need number is 182 not 260; and

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

WHEREAS, in addition to setting forth its Round 4 fair share affordable housing obligations for the reasons summarized above, substantial activity has occurred and is ongoing that warrants the reservation of certain rights to avoid any claim that it has waived them; and

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WHEREAS, for example, the New Jersey Institute of Local Government Attorneys (“NJILGA”) has expressed its support for proposed legislation (hereinafter “NJILGA Legislation”) would reduce Allendale’s Round 4 Prospective Need to 53 and would give the Borough “90 days from receipt of revised fair share obligations from the [DCA] to provide an amended Housing Element and Fair Share Plan addressing the new number); and

WHEREAS, the Borough of Allendale supports the NJILGA Legislation and would have the right to reduce its Round 4 obligation in the event that the Legislature enacts it; and

WHEREAS, similarly, a number of municipalities, led by the Borough of Montvale, have filed suit (MER-L-1778-24) (hereinafter “Montvale Litigation”) challenging the Amended FHA and the outcome of this litigation is uncertain; and

WHEREAS, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for litigation over the obligations of the municipality; and

WHEREAS the court approved a vacant land adjustment and an RDP for the Borough in Round 3; and

WHEREAS, more specifically, on June 27, 2019, Judge Padavano entered a final Judgment of Compliance and Repose in which he approved the Borough’s application for a determination that the Borough’s realistic development potential is 54; and

WHEREAS, the Borough will be entitled to an adjustment in Round 4 since it lacked sufficient land to meet its fair share quota for Round 3; and

WHEREAS, the Borough will include the basis for its vacant land adjustment in in the Housing Element and Fair Share Plan it submits by the June 30, 2025 deadline established by the Amended FHA; and

WHEREAS, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025 as to its obligations.

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WHEREAS, in light of the above, the Borough of Allendale finds that it is in its best interest to declare its obligations in accordance with this binding resolution in accordance with the Act; and

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

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

WHEREAS, the Borough of Allendale seeks a certification of compliance with the Act and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 23rd day of January, 2025, by the Governing Body of the Borough of Allendale, County of Bergen, State of New Jersey, as follows:

1. The preamble of this resolution is incorporated into the operative clauses of this resolution as if set forth in full.

2. For the reasons set forth in this resolution and its attachments, the Borough of Allendale commits to a Round 4 Present Need (“Rehabilitation”) Obligation of 10 and a Round 4 Prospective Need (“New Construction”) obligation of 182, as set forth in the Sniekus Report, subject to all reservations of all rights, which specifically include, without limitation, the following:

- a. The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted in accordance with COAH regulations;
- b. The right to comply with the NJILGA Legislation if enacted, including the right to adjust its fair share obligations;

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- c. The right to adjust its fair share obligation in the event of any future legislation that adjusts the fair share obligations that the DCA reported on October 18, 2024;
- d. The right to adjust its fair share obligations based upon any ruling in the Montvale Litigation or other litigation; and
- e. The right to adjust its fair share obligations in the event third party challenges the obligations to which the Borough has committed and the Borough of Allendale litigates or negotiates its obligations with a third party.

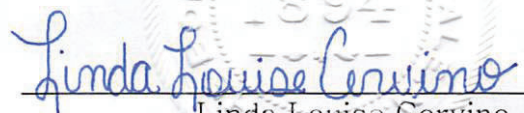
3. The Borough hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in the appropriate venue within 48 hours after adoption this resolution attaching this resolution.

4. The Borough also hereby authorizes its Affordable Housing Counsel to file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. This resolution shall take effect immediately, according to law.

CERTIFICATION

I hereby certify the above to be a true copy of a Resolution adopted by the Governing Body of the Borough of Allendale on January 23, 2025.



Linda Louise Cervino, RMC
Municipal Clerk





Community Planning
Land Development and Design
Landscape Architecture

B U R G I S
A S S O C I A T E S , I N C .

Principals:

Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA
David Novak PP, AICP

Fourth Round Present and Prospective Need Analysis

Borough of Allendale
Bergen County, New Jersey

Fourth Round

Present and Prospective Need

Analysis

Borough of Allendale
Bergen County, New Jersey

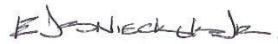
Prepared for the Borough of Allendale
Mayor and Council

BA# 4127.03

The original document was appropriately signed and sealed on January 21, 2025, in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.



Joseph H. Burgis, AICP, PP
Professional Planner #2450



Edward J. Snieckus Jr. PP, LLA, ASLA
Professional Planner #5442

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Executive Summary

The following Present and Prospective Need Analysis has been prepared for the Borough of Allendale in Bergen County, New Jersey.

By way of background, Governor Murphy signed A-40/S-50 into law on March 20, 2024 after the Senate and Assembly adopted it. This legislation (hereinafter "Amended FHA" or "Act") overhauled the Fair Housing Act (FHA) by abolishing the Council on Affordable Housing (COAH) and created a new process that involved the Department of Community Affairs (DCA) and the Administrative Office of the Courts (AOC).

The Amended FHA directed the New Jersey Department of Community Affairs ("DCA") to report the present need (also referred to as the rehab obligation) and the prospective need for Round Four based upon the standards set forth in the Act. The DCA issued its report on October 18, 2024; and, in accordance with the Act, made clear that the report was advisory only. For Allendale, the DCA Report identifies a Present Need of 159 and a Prospective Round Four Need of 260.

Since the DCA report is non-binding, each municipality has the opportunity to study and define why its obligations should be different based on the standards in the Act. However, the municipality must adopt a binding resolution by January 31, 2025, identifying the present and prospective need obligation to which it is committing.

As to the Present Need (also known as the rehab obligation), the Act allows municipalities to rely on COAH standards that the Act has not eliminated. N.J.S.A 52:27D-311 (m). Over each housing cycle, COAH permits municipalities to adjust their rehab obligation through a structural conditions survey. Accordingly, the Borough conducted a structural conditions survey pursuant to NJAC 5:93-5.2(a) to more accurately reflect those units in need of rehabilitation.

Recommendation: As a result of the structural conditions survey included herein, the Borough's Present Need Obligation should be adjusted from 159 to 10 units.

As to the Round Four Prospective Need of 260 units that the DCA Reported on October 18, 2024, the methodology used to determine a municipality's prospective fair share obligation requires an initial determination of the regional prospective need. The region that Allendale is in consists of all municipalities in Bergen, Passaic, Hudson and Sussex counties. To determine a municipality's share of the regional need, the Act requires a calculation of three factors: (1) the equalized nonresidential valuation factor; (2) the income capacity factor; and (3) the land capacity factor. The Act then requires these three factors to be averaged and applied to the regional need to determine the share of the regional need for each municipality that is not a Qualified Urban Aid Municipality ("QUAM"). The Act therefore imposes no prospective need obligation on QUAMs, it instead distributes the obligation to the other municipalities in the respective housing region.

The Borough does not dispute the DCA’s calculation of the Equalized Nonresidential Valuation Factor or the Income Capacity Factor. However, the Borough does dispute the calculation of the Land Capacity Factor. More specifically, the Borough accepts the DCA’s invitation to examine the Land Capacity Factor and the lands that the DCA deemed developable for purposes of calculating this factor.

Recommendation: For the reasons set forth herein, the DCA calculation under the Land Capacity Analysis was overinclusive. Once appropriate corrections are made to the land that is developable, the Borough’s Prospective Need Obligation should be adjusted from the 260 figure the DCA reported to 182 based upon the weighting criteria. With the findings in this report, the following summarizes the comparison of the three allocation factors as adjusted by the analysis provided herein.

Table 1: Summary of Adjusted Factors

	Equalized Nonresidential Valuation Factor	Income Capacity Factor	Land Capacity Factor
DCA Analysis	0.56%	1.05%	1.21%
Borough Analysis	0.56%	1.05%	0.36%

The basis for these conclusions are contained herein.

Section 1: Present Need- Structural Conditions Survey

The following section reviews the Borough's Present Need as calculated by the DCA. The following is summarized:

1. The Borough finds that the methodology utilized by the DCA to calculate its Prospective Need Obligation is in accordance with the applicable regulations.
2. The Borough conducted a Structural Conditions Survey to more accurately identify its indigenous needs since the data sets excessively estimated for the actual need in the borough. This survey identified that 10 units have been identified as in need of rehabilitation in accordance with the applicable criteria as noted herein.

1.1: Present Need Background

The Amended Fair Housing Act provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing ("COAH") unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions". N.J.S.A 52:27D-311 (m).

As detailed below, COAH has adopted regulations to permit municipalities conduct a visual exterior survey to adjust their rehab obligation, which is also referred to as Present need in the Amended Fair Housing Act.

Since the Borough had a rehab obligation of 21 in Round 3, the 159 the DCA assigned to the Borough for its rehab obligation raised questions. Accordingly, in accordance with COAH regulations, the Borough conducted the windshield survey COAH regulations authorize. While many towns have reserved their right to conduct a windshield survey as part of preparing a Housing Element and Fair Share Plan for the June 30, 2025 deadline, the Borough conducted the survey up front.

If there are issues with the survey, we will address those issues in the process that lies ahead. In any event, the Borough will implement a rehabilitation program as it has in the past with Court approval. If more low and moderate income households with qualified units seek to participate in the program than our survey determines exist, the Borough will address the needs of the additional low and moderate income households.

1.2: Structural Conditions Survey

As per NJAC 5:93-5.2:

"Each municipality shall be provided with the Council's estimate for substandard units occupied by low and moderate income households. This estimate shall be the municipality's indigenous need, unless the municipality or an objector performs the Council's Structural Conditions Survey (see Appendix C, incorporated herein by reference). Where the municipality or objector performs the Structural Conditions

Survey, the Council shall review the results of the data collected and shall modify the indigenous need if it determines a modification is warranted."

A Structural Conditions Survey therefor was conducted as a first step by the Borough of Allendale Construction Official, Mr. Anthony Hackett. The Construction Official was guided by the available criteria established in N.J.A.C. 5:93-5.2 and N.J.A.C. 5:97-6.2 which reference "Appendix C" of the rules. Appendix C of N.J.A.C. 5:93 outlines the criteria and entities licensed to perform building and/or housing inspections.

In accordance with Appendix C, the total number of units found to be substandard was then factored for the estimated number of substandard units occupied by low- and moderate-income households census information and overcrowded that is available from the Public Use Micro-Data Sample (PUMS).

In calculating Round 4 Present Need obligations, the DCA did not rely on PUMS data for determining the percent of substandard units occupied by low and moderate income households in each municipality. Instead, the DCA relied on HUD's Comprehensive Housing Affordability Strategy (CHAS) dataset for this estimate. The DCA's Fourth Round Methodology Report provides the reasoning behind this as follows:

"Previous approaches have calculated county-level LMI deficient housing shares from the American Community Survey Public Use Microdata Sample (PUMS) and used them to estimate the LMI-occupied portion of each municipality's deficient housing. However, this approach essentially assumes that the LMI share of deficient housing is uniform in a county, which is not the case. For example, data from HUD's Comprehensive Housing Affordability Strategy (CHAS) dataset show that for 2017-21, the LMI share of housing lacking complete plumbing or kitchen facilities in Atlantic County was 69.1 percent. However, in Brigantine, it was 100 percent. Using the county LMI deficient share for Brigantine would result in underestimating city present need, undercounting the number of deficient housing units actually occupied by LMI households.

Therefore, the analysis utilizes data from HUD's Comprehensive Housing Affordability Strategy (CHAS) dataset, which has municipality-level data on the number and percentage of LMI households from a special tabulation of Census Bureau American Community Survey (ACS) data. The latest CHAS data release at the time of calculation corresponds to the 2017-2021 5 Year Estimates. To ensure data year and source consistency, the LMI deficient housing calculation relies on 2017-2021 data."

Therefore, in order to conduct the second step in our Structural Conditions Survey (estimating the number of substandard units occupied by low/mod income households), we relied on the CHAS data and DCA's methodology.

The structural conditions survey performed by the Construction Official upon review of the entire Borough identified there are a total of 10 units that reflect a need for rehabilitation. To apply the second step, the aforementioned CHAS data for Allendale estimated the number of substandard units occupied by low- and moderate-income

households was 100 percent of the identified substandard units calculated. Thus all 10 units from the survey represent the Borough's present need and may potentially need assistance through the affordable housing present need mechanisms.

This result is pending further guidance on other methods or means of adjusting the need based upon actual conditions as determined by the applicable state regulatory agency. The survey demonstrates that the data DCA utilized substantially overestimated the Present Need obligation. The Borough is committed to addressing any issues with its compliance with the COAH standards to adjust the rehab component fully implementing a rehab program and rehabbing more units than the survey substantiates if more than 10 low and moderate income households with units that qualify apply to participate in the program.

The housing survey form is provided in Appendix B of this document.

Section 2: Equalized Nonresidential Valuation Factor

The following section reviews the equalized nonresidential valuation factor calculated by the DCA. The following is summarized:

1. The Borough finds that the methodology utilized by the DCA to calculate its nonresidential valuation factor is acceptable.
2. The Borough’s change in equalized nonresidential valuation between 1999 and 2023 is \$180,676,233.
3. This results in the Borough’s calculated share of the region’s equalized nonresidential valuation of 0.56%.

2.1: Basis of Calculation

As per the adopted legislation, a municipality’s equalized nonresidential valuation factor shall be determined as follows:

“To determine this factor, the changes in nonresidential property valuations in the municipality, since the beginning of the round preceding the round being calculated, shall be calculated using data published by the Division of Local Government Services in the department. For the purposes of such, the beginning of the round of affordable housing obligations preceding the fourth round shall be the beginning of the gap period in 1999. The change in the municipality’s nonresidential valuations shall be divided by the regional total change in the nonresidential valuations to determine the municipality’s share of the regional change as the equalized nonresidential valuation factor.”

2.2: Analysis of Calculation

The calculation conducted by the DCA determined that the Borough has a 0.56% share of the region’s equalized nonresidential valuation.

Table 2: DCA Equalized Nonresidential Valuation Calculation Summary

Year	Non-equalized Nonresidential Valuation	Equalization Ratio	Equalized Nonresidential Valuation
1999	\$100,574,900	0.8197	\$122,697,206
2023	\$279,376,600	0.9209	\$303,373,439
<i>Difference</i>			<i>\$180,676,233</i>

Source: DCA Fair Share Housing Obligations for 2025-2035 (Fourth Round) Workbook

The Borough has reviewed the methodology and data utilized by the DCA for this calculation. The methodology employed by the DCA is appropriate, the Borough finds that the equalization ratios employed by the DCA are accurate.

Section 3: Income Capacity Factor

The following section reviews the income capacity factor calculated by the DCA. It finds that the data and methodology utilized by the DCA relating to the Borough’s income capacity factor are both acceptable.

3.1: Basis of Calculation

As per the adopted legislation, a municipality’s income capacity factor shall be determined by calculating the average of the following measures:

“The municipal share of the regional sum of the differences between the median municipal household income, according to the most recent American Community Survey Five-Year Estimates, and an income floor of \$100 below the lowest median household income in the region; and

“The municipal share of the regional sum of the differences between the median municipal household incomes and an income floor of \$100 below the lowest median household income in the region, weighted by the number of the households in the municipality.”

3.2: Analysis of Calculation

The calculation conducted by the DCA determined that the Borough has a 1.05% share of the region’s income capacity factor. Table 3 below summarizes the methodology utilized by the DCA to determine this share.

The Borough has reviewed the data and the methodology utilized by the DCA for this calculation and finds both to be acceptable.

Table 3: Income Capacity Factor

Number of Households	Median household income in the past 12 months (in 2022 inflation-adjusted dollars) *	\$100 Below Regional Median HH Income Floor	Diff. from Median Household Income Floor with Household Weight	HH Weighted Income Difference % of Region Total	Diff from Median Household Income Floor	Income Difference % of Region Total	Income Capacity Factor
2,271	\$163,875	\$51,992	254,086,293	0.8%	\$111,883	1.3%	1.05%

Section 4: Land Capacity Factor

The DCA issued the data that was the basis for the land capacity factor on November 27th, over a month after the DCA deadline to issue its non-binding numbers under the Amended FHA.

The link to the DCA GIS data, and the description section (<https://njdca.maps.arcgis.com/home/item.html?id=12acdfe0a5104f8f8a2f604e96063e74>) includes the following language:

"The land areas identified in this dataset are based on an the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program." (underlined for emphasis)

The areas identified as developable in the DCA's calculation of the Land Capacity factor is indeed overinclusive. Accordingly, we believe that the land capacity allocation factor should be adjusted from 23.8 acres to 7.063 acres . When this correction is made, Allendale's Round Four prospective need number should be 182 instead of the 260 unit figure identified by DCA.

While the basis for removing land treated as developable in the DCA's calculation is set forth below, it is important to note that the analysis to correct the land allocation factor is different than the analysis to use the determine a municipality's entitlement to vacant land adjustment. While the analysis to correct the Land Capacity factor focuses on developable land, the analysis to support a vacant land adjustment focuses on land suitable for inclusionary development. Therefore, just because a site was not removed for purposes of calculating the land capacity factor has no bearing on whether it should be removed to calculate entitlement to a vacant land adjustment.

In this regard, the Borough secured court approval of a vacant land adjustment in Round 3 and will necessarily seek an adjustment in Round Four in conjunction with its preparation of a Housing Element and Fair Share Plan. Nothing herein should be construed as a waiver of those rights that are explicitly reserved.

An analysis of the lands identified by the DCA as being "developable" revealed several inaccuracies. In summary, these inaccuracies generally included lands which were: artifacts of error as described by the DCA; located on developed properties or those inaccessible due to environmental constraints; located on open space or common element properties; located on properties presently under construction; and located on properties with active site plan or approvals.

Correcting these inaccuracies adjusts the Borough's weighted land area from 23.8 acres to 7.063 acres. This adjustment to the Borough's weighted land area also adjusts the region's weighted land area from 1980 acres to 1964 acres. This results in an adjustment of the Borough's calculated share of the region's land capacity from 1.21% to 0.36%.

4.1: Basis of Calculation

As per the adopted legislation, a municipality's land capacity factor shall be determined by:

"estimating the area of developable land in the municipality's boundaries, and regional boundaries, that may accommodate development through the use of the 'land use / land cover data' most recently published by the Department of Environmental Protection, data from the American Community Survey and Comprehensive Housing Affordability Strategy dataset thereof, MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from the Department of Community Affairs and weighing such land based on the planning area type in which such land is located. After the weighing factors are applied, the sum of the total developable land area that may accommodate development in the municipality and in the region shall be determined. The municipality's share of its region's developable land shall be its land capacity factor. Developable land that may accommodate development shall be weighted based on the planning area type in which such land is located."

The legislation identifies the primary data sources and weighing factors to utilize in calculating a municipality's land capacity factor. However, unlike the equalized nonresidential valuation factor and the income capacity factor, the legislation did not establish a delineated process to combine the aforementioned data sources into one comprehensive and coherent formula.

The DCA subsequently released a workbook entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" (herein referred to as the "DCA Workbook" or the "Workbook") which established that department's interpretation on how to calculate the land capacity factor. In summary, that workbook identified the following steps:

1. First, the DCA divided the weighing regions established by the legislation by municipality.
2. Next, land use/land cover areas were used to identify vacant, developable lands. The workbook identifies the codes and descriptions of the land use/land cover data used in this process. In short, they include: cropland and pastureland; orchards/vineyards/nurseries/horticultural areas; deciduous forest areas; coniferous forest areas; plantations; mixed forest areas; old field areas; phragmites dominate old field areas; deciduous brush/shrubland; coniferous brush/shrubland; mixed deciduous/coniferous brush/shrubland; severe burned upland vegetation; and undifferentiated barren lands.

3. These initial vacant, developable lands were then refined to remove rights-of-way as well as developed properties. For the latter, the DCA utilized MOD-IV tax data and selected underlying tax parcels with property class codes for residential, commercial, industrial, apartment, railroad, and school.
4. Construction permit data was then analyzed to capture more recent development activities that may not have otherwise been reflected by the land use/land cover data or MOD-IV tax data.
5. Other limiting factors were utilized to remove initial vacant, developable lands. These include open space, preserved farmland, category 1 waterways and wetlands (and associated buffers based on special area restrictions), steep slopes exceeding 15 percent, and open waters.
6. Due to limitations resulting from inconsistencies between data sources, the resulting DCA mapping included instances of small land areas caused by an incongruous alignment of geospatial layers. To eliminate these "slivers" of leftover land, DCA eliminated any segment with an area of less than 2,500 square feet. This presumed that a sliver with a minimum dimension of 25 by 100 feet could be a developable property.
7. Finally, the resulting land area for each municipality was summed with the resulting land areas for all other municipalities within each housing region to then determine the municipal percentage of land capacity for the housing region.

4.2: Analysis of Calculation

The calculation conducted by the DCA determined that the Borough has 23.870 acres of developable land which accounts for a 1.21% share of the region's land capacity factor. Overall, the Borough finds the general methodology utilized by the DCA to calculate its land capacity factor acceptable. However, an analysis of the DCA's resultant mapping discovered the following:

1. Several of the lands identified as "developable" by the DCA represent slivers which "are considered artifacts of error that are common when overlaying polygons and vectors from non-coincident data sources." The DCA initially tried to eliminate these slivers by deleting any feature parts with an area of less than 2,500 square feet.
2. Other lands identified as "developable" by the DCA are located on properties with development. To eliminate "developable" lands on developable properties, the DCA had removed any lands where the underlying tax parcels had property class codes for residential, commercial, industrial, apartments, railroad, and school. However, the property classifications identified by the DCA did not account for houses of worship, properties developed with nonprofit facilities, and residential dwellings with associated farmland.
3. Several lands identified as "developable" by the DCA were in fact located on open space, common elements for homeowner's associations, or properties containing infrastructure (e.g. detention basins, utility improvements, rights-of-way, etc.).
4. Some developable areas did not account for areas restricted by regulated 100-year floodway areas of streams and other mapped watercourses.
5. There were several instances of lands identified as "developable" by the DCA being located on properties which are presently under construction. This is likely due to a lag in construction permit reporting.
6. Finally, lands identified as "developable" by the DCA are located on properties with active site plan or general development plan (GDP) approvals which are no longer available for development.

These discrepancies are summarized in Table 4 utilizing the Land Capacity Analysis and are detailed in Appendix A of this analysis. Removing these lands would adjust the Borough's weighted land area from 23.870 acres to 7.063 acres. This results in an adjustment of the Borough's calculated share of the region's land capacity from 1.21% to 0.36%.

Irrespective of the land capacity factor analysis established herein, the Borough reserves the right to conduct a vacant land adjustment (VLA) to determine its realistic development potential (RDP) at a later date.

Table 4: Summary of Land Capacity Factor Analysis

ID #	Shapefile Object ID*	Block	Lot	Initial Weighted Area	Status	Weighted Area Recalculated
1	28149	2004	10	0.251	Not Develop	0.000
2	28150	2001	1	0.096	Developable	0.096
3	28151	2003	19	1.212	Not Developable	0.000
4	28152	2004	34	0.183	Developable	0.183
5	28153	2101	4	2.383	Not Developable	0.000
6	28154	2101	4	0.196	Not Developable	0.000
7	28155	2101	4	0.358	Not Developable	0.000
8	28156	2008	11	0.095	Developable	0.095
9	28157	1503.01	14	0.805	Not Developable	0.000
10	28158	2103	4	2.555	Not Developable	0.000
11	28159	1406	19	0186	Not Developable	0.000
12	28160	2103	32	0.690	Not Developable	0.000
13	28161	2103	30	0.378	Not Developable	0.000
14	28162	1604	15	3.928	Developable	3.928
15	28163	915	1	0.643	Not Developable	0.000
16	28164	912	3	1.026	Not Developable	0.000
17	28165	201	9	0.195	Not Developable	0.000
18	28166	301	28	0.262	Not Developable	0.000
19	28167	301	31	0.338	Not Developable	0.000
20	28168	303	14	0.799	Not Developable	0.000
21	28169	602	1	0.061	Not Developable	0.000
22	28170	301	33	0.313	Not Developable	0.000
23	28171	406	21.01	0.077	Not Developable	0.000
24	28172	203	1, 1.01	4.363	Not Developable	0.000
25	28172	303	1	2.600	Developable	2.600
26	28173	406	21.01	0.377	Constrained-reduced area	0.060
27	28174	411	21.01	0.101	Developable	0.101
					TOTAL	7.063

* Object ID and area computations identified were obtained from the NJDCA published Vacant and Developable Land Analysis.

Appendix A: Land Capacity Factor Detailed Review

The following illustrations show in more detail the specific mapping of all land capacity areas as identified in the DCA analysis provided through the Land Capacity Analysis for P.L. 2024, c.2. They are obtained from the web based ARCGIS online mapping utilizing feature layers (hosted) by NJDCA and incorporating other layer features available through NJDEP and ARCGIS Online services.