

RESOLUTION 25-71

RESOLUTION OF THE BOROUGH OF SOUTH PLAINFIELD, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AS MODIFIED

WHEREAS, on March 20, 2024, Governor Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) (hereinafter "Amended HFA"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to produce non-binding estimates of fair share obligations on or before October 20, 2024; and

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

WHEREAS, the DCA Report calculates the Borough of South Plainfield's (the "Borough") Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 54 units and a Prospective Need or New Construction Obligation of 208 units; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; 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 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 vacant land adjustments as well as durational adjustments; and

WHEREAS, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c.2 containing the Vacant and Developable land information that serves the basis for calculating the land capacity factor; and

WHEREAS, the Borough has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, Land Use Board approvals, configuration and accessibility to ascertain whether these identified developable lands may accommodate development; and

WHEREAS, based upon the foregoing, the Borough relies on the DCA calculations of the Borough's fair share obligations as modified herein to account for the Borough's review of the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, Land Use Board approvals, configuration and accessibility to ascertain whether these identified developable lands may accommodate development, and as further set forth in detail and explained in the attached memo prepared by the Borough's Affordable Housing Planner, and the Borough seeks to commit to provide its faire share of 54 units present need and 206 units prospective need, subject to any vacant land and/or durational adjustments it may seek as part of the Housing Plan element and Fair Share Plan element it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Borough reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough also reserves the right to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Borough reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Prospective Need Obligation should be lower than described herein; and

WHEREAS, in light of the above, the Mayor and Council of the Borough of South Plainfield find that it is in the best interests of the Borough of South Plainfield to commit to the modified present need and prospective need Fourth Round affordable housing faire share numbers set forth herein, subject to the reservations set forth herein; and

WHEREAS, in accordance with the AOC Directive #14-24 dated December 13, 2024, the Mayor and Council find that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of the Borough of South Plainfield to direct the filing of an action in the form of a declaratory judgment complaint within 48 hours after adoption of the within Resolution of fair share obligations, or by February 3, 2025, whichever is sooner;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey as follows:

1. All of the above Whereas clauses are incorporated into the operative clauses of this Resolution.

2. The Borough of South Plainfield hereby commits to the DCA's Round 4 Present Need Obligation of 54 units and a modification of the DCA's Round 4 Prospective Need Obligation of 208 units to 206 units as explained above and in the

attached memo from the Borough’s Affordable Housing Planner, and subject to all reservations of rights set forth above.

3. The Borough of South Plainfield hereby directs its Borough Attorney to file a declaratory judgment complaint in Middlesex County within 48 hours after adoption of the within Resolution and attaching this Resolution as an exhibit with the attached memo.

4. The Borough of South Plainfield hereby authorizes its Borough Attorney to submit and/or file the within Resolution with attached memo 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.

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	X		X				
Councilwoman Faustini			X				
Councilwoman Mott			X				
Councilman Smith		X	X				
Councilman Wolak						X	
Council President White			X				
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Mayor Anesh – TIE ONLY							

I do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Mayor and Borough Council of South Plainfield Borough on January 21, 2025

Amy Antonides

Amy Antonides, RMC/CMC/CMR
Municipal Clerk – South Plainfield Borough