

RESOLUTION

RESOLUTION DETERMINING THE PRESENT AND PROSPECTIVE FAIR SHARE OBLIGATION OF THE TOWNSHIP OF BRICK FOR THE FOURTH ROUND

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 FHA"); and

WHEREAS, the Amended FHA required 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 Brick Township's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 149 units and a Prospective Need or New Construction Obligation of 360 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, pursuant to N.J.S.A. 52:27D-304.3, a municipality's average allocation factor is comprised of the equalized nonresidential factor, income capacity factor, and land capacity factor and shall be averaged to yield the municipality's average allocation factor, 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 as the basis for calculating the land capacity factor; and

WHEREAS, Brick Township 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 on the foregoing and upon review of the lands identified by the DCA for the land capacity factor, the municipality performed its own analysis utilizing the 2023 MOD-IV Property Tax List data as well as construction permit data, land use board approvals, configuration, NJDEP GIS environmental constraint data, Coastal Areas Facilities Act (CAFRA) constraints, zoning 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 and realistic development potential prepared by Brick's affordable housing planner, Brick seeks to commit to provide its fair share of 149 units present need and hereby modifies its prospective need obligation to 29 units, 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

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

WHEREAS, Brick 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, Brick 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 Township Council finds that it is in the best interest of Brick to commit to the modified present need and prospective need Fourth Round affordable housing fair share numbers set forth herein, subject to the reservations set forth herein; and

WHEREAS, in accordance with AOC Directive #14-24 dated December 13, 2024, the Township Council finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of Brick 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;

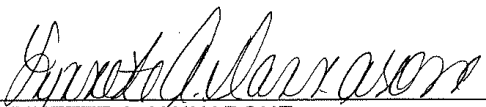
NOW, THEREFORE, BE IT RESOLVED on this 28th day of January, 2025 by the Township Council of the Township of Brick, County of Ocean, State of New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. Brick hereby commits to the DCA's Round 4 Present Need Obligation of 149 units, and a modification of the DCA's Round 4 Prospective Need Obligation from 360 units to 29 units.
3. Brick Township hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in Ocean County within 48 hours after adoption of the within resolution and attaching this resolution as an exhibit with the attached memo.

CERTIFICATION

I, Lynnette A. Iannarone, Township Clerk of the Township of Brick, County of Ocean and State of New Jersey, do certify that the foregoing resolution was duly passed by the Township Council of the Township of Brick at a regular meeting held on January 28, 2025.

IN WITNESS, WHEREOF, I have hereunto set my hand and seal of this Township this 28th day of January, 2025.



LYNNETTE A. IANNARONE
TOWNSHIP CLERK

TOWNSHIP OF BRICK

OCEAN COUNTY, NEW JERSEY
401 CHAMBERS BRIDGE ROAD, BRICK, N.J. 08723

Lisa Crate, Mayor

Township Council:

Derrick T. Ambrosino - President
Vince Minichino - Vice President
Perry Albanese
Heather deJong
Steve Feinman
Marianna Pontoriero
Melissa Travers



**Division of Land Use Planning
Community Development Program**

Tara B. Paxton, MPA, PP, AICP
Township Planner
732-262-4783
Fax: 732-262-2941
tpaxton@twp.brick.nj.us
www.bricktownship.net

MEMORANDUM

January 28, 2025

To: Mayor Lisa Crate
From: Tara B. Paxton, MPA, PP, AICP, Township Planner
Copy: Joanne Bergin, Business Administrator
Jean Cipriani, Esq., Affordable Housing Attorney
Robin LaBue, Esq., Affordable Housing Attorney
Re: Vacant Land Analysis (VLA) and Realistic Development Potential (RDP) for Affordable Housing Unit Development in the Township of Brick

As per the attached resolution DCA Report calculates Brick Township's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 149 units and a Prospective Need or New Construction Obligation of 360 units.

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. 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 as the basis for calculating the land capacity factor.

My staff and I have reviewed the lands identified by the DCA for the land capacity factor and found it to be wholly inaccurate and unusable. It utilized MOD-IV Property Tax List data from 2023, which is the most recent data available, however, does not reflect the current supply of available land for development and it does not accurately reflect the realistically developable vacant land in the Township of Brick.

Therefore, we prepared a Vacant Land Analysis (VLA) and Realistic Development Potential (RDP), utilizing the same methodology as was provided in the Prior Round for which the Township's analysis was found acceptable by the Court for the establishment of an RDP of 105.

Our VLA/RDP Analysis utilized GIS MOD-IV parcel layer, NJDEP GIS environmental constraint data including wetlands, flood zones, steep slopes, Sewer Service Areas (SSA), NJ State Plan Planning Areas including Critical Environmental Sites (CES), and Planning Area 5's (Environmentally Sensitive Areas), construction permit data, land use board approvals, current use, zoning, density allowances, Coastal Areas Facilities Act (CAFRA) constraints, and accessibility to identified developable lands that may accommodate development. The methodology for our analysis is provided herein:

1. Wetlands and Special Flood Hazard GIS data was clipped to the Parcel layer and subtracted from the total acreage of each parcel.
2. The remaining acreage was multiplied by the allowable impervious cover limitation for each zone.
3. The remaining acreage was multiplied by the dwelling unit per acre for each zone. *Residential Zones were based on the minimum lot size and the Commercial lots were based on 6 du/acre (presumptive density) to arrive at the Build Out for that property.
4. The Build Out (total possible units) was then multiplied by 20% to derive the Realistic Development Potential of Affordable Units.
5. The parcels were analyzed to determine the developability and status of development due to the fact that the data is 2 years old using permit, construction approvals, aerial photos, land use board approvals and site inspections.
6. Properties that have steep slopes, are not in Sewer Service Areas, in CES or PA5's, are currently developed, have development approvals and are in the permitting process and are in CAFRA Zones or require significant stormwater facilities that are too small to build on to yield affordable units from a minimum presumptive density of 6 dwelling units per acre were subtracted out and noted in the OTHER column and noted.

After concluding the analysis as described above, the properties that have been identified as vacant, realistically developable and contributing to the development of affordable units potentially will yield at build-out, 145 units providing 29 affordable housing units.

Regarding the Present Need obligation of 149, the Township has a robust Housing Rehabilitation Program that is partly funded by the U.S. Housing and Urban Development Community Development Block Grant Program and is committed to continuing to provide income-qualified residents of the Township with this programmatic support and accepts the obligation of 149. However, based on the foregoing analysis and current realistically developable land inventory, we recommend that the Prospective need be modified and provided as an RDP of 29 units and will prepare a Housing Plan element and Fair Share Plan element that will be submitted in accordance with the Amended FHA.