

# EXHIBIT 1

**RESOLUTION # 2025-35****RESOLUTION OF THE BOROUGH OF HOPATCONG, COUNTY OF SUSSEX, 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 FHA"); 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 Hopatcong's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 3 units and a Prospective Need or New Construction Obligation of 306 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**, the Borough of Hopatcong 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, the Borough of Hopatcong relies on the DCA calculations of the Borough of Hopatcong'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 fair share of 3 units present need and 244 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 of Hopatcong reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

**WHEREAS**, the Borough of Hopatcong 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 of Hopatcong 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 Governing Body finds that it is in the best interest of the Borough of Hopatcong 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 Governing Body finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of the Borough of Hopatcong 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 28<sup>th</sup> day of January, 2025 by the Governing Body of the Borough of Hopatcong, County of Sussex, 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 Hopatcong hereby commits to the DCA's Round 4 Present Need Obligation of 3 units, and a modification of the DCA's Round 4 Prospective Need Obligation of 306 units to 244 units, as explained above and in the attached memo from the Borough of Hopatcong's affordable housing planner, and subject to all reservations of rights set forth above
3. The Borough of Hopatcong hereby directs its Attorney to file a declaratory judgment complaint in Sussex 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 Hopatcong authorizes its 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.

**CERTIFICATION**

I, Valerie A. Egan, Borough Clerk of Borough of Hopatcong, County of Sussex, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Governing Body at a meeting held on January 28, 2025.

  
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Valerie A, Egan, Borough Clerk

## Memorandum

**To:** Borough of Hopatcong Mayor and Council

**Cc:** Shelby Snow, Borough Administrator  
 John E. Ursin, Esq., Borough Attorney  
 Madison L. Hooker, Esq., Borough Attorney

**From:** Joseph R. Vuich, Borough Planner

**Date:** January 24, 2025

**Re:** Analysis and Response  
 Fourth Round Affordable Housing Obligations  
 Housing Region 1  
 Borough of Hopatcong  
 Sussex County  
 HOP-1000.001

With the passage of P.L.2024, c.2 on March 20 2024, the Council on Affordable Housing (COAH) was abolished. Each municipality within the State is now responsible for determining its present and prospective need affordable housing obligations. Obligations are to be determined in accordance with formulas established pursuant to sections 6 and 7 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3). Municipalities must also adopt a binding resolution committing the municipality to its Fourth Round affordable housing obligations by January 31, 2025.

P.L. 2024, c. 2 further establishes that the Department of Community Affairs (“DCA”) is responsible to conduct a calculation of the regional and municipal present and prospective need obligations and prepare and publish a report. Each municipality may take into consideration the calculations in the DCA’s report when determining the municipality’s Fourth Round affordable housing obligations. However, P.L. 2024, c. 2 explicitly makes clear that the calculations and determinations set forth in the DCA’s report shall not be binding on each municipality.

In addition to the above, P.L. 2024, c. 2 also establishes the Affordable Housing Dispute Resolution Program (“Program”) and outlines new procedures for municipalities to achieve compliance with the Mount Laurel doctrine and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq., (FHA) and obtain a “compliance certification”. Compliance certification entitles the participating municipality to immunity from Mount Laurel compliance suits and exclusionary

### OFFICE LOCATIONS

[www.vancleefengineering.com](http://www.vancleefengineering.com)

Hillsborough, NJ  
908-359-8291

Mt. Arlington, NJ  
862-284-1100

Phillipsburg, NJ  
908-454-3080

Doylestown, PA  
215-345-1876

Pottstown, PA  
610-323-4040

Hamilton, NJ  
609-689-1100

Toms River, NJ  
732-573-0490

Freehold, NJ  
732-303-8700

Bethlehem, PA  
610-332-1772

zoning litigation (including builder’s remedy suits) for each successive 10-year affordable housing round.

The process for Fourth Round affordable housing compliance and the criteria, methodology and formulas each municipality must rely upon to determine its present and prospective need obligation are now set forth within N.J.S.A. 52:27D-304.1 thru 304.3 of the FHA. The March 8, 2018 unpublished decision of the Superior Court, Law Division, Mercer Count, In re Application of Municipality of Princeton (“Jacobson Decision”) is also to be referenced as to datasets and methodologies that are not explicitly addressed in N.J.S.A. 52:27D-304.3.

Both the Jacobson Decision and N.J.S.A. 52:27D-304.3a of the FHA explain that the datasets and information must be reliable and updated to the greatest extent practicable. For example, N.J.S.A. 5:27D:304.3a explicitly states: “[t]hese calculations of municipal present and prospective need shall use necessary datasets that are updated to the greatest extent practicable.” Likewise, the Jacobson Decision quotes Judge Serpentelli’s guiding principles in AMG with regarding to the fair share methodology:

*Any reasonable methodology must have as its keystone three ingredients: reliable data, as few assumptions as possible, and an internal system of checks and balances. Reliable data refers to the best source available for the information needed and the rejection of data which is suspect. The need to make as few assumptions as possible refers to the desirability of avoiding subjectivity and avoiding any data which requires excessive mathematical extrapolation. An internal system of checks and balances refers to the effort to include all important concepts while not allowing any concept to have a disproportionate impact.*

In accordance with the deadlines established in P.L. 2024, c. 2, the DCA prepared and published a report (Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background) on its calculation for regional needs and municipal obligations on October 18, 2024 (“DCA Report”).

**DCA Figures**

The following table summarizes the Borough of Hopatcong’s Present and Prospective Need, as sourced from the DCA report:

Present Need	Equalized Non-Residential Valuation Factor	Land Capacity Factor	Income Capacity Factor	Average Allocation Factor	Prospective Need
<b>3</b>	0.29%	2.21%	0.81%	1.10%	<b>306</b>

### **DCA Analysis**

The DCA Land Capacity Factor was computed by determining the total developable acreage utilizing available land use / land cover (LULC) data from the New Jersey Department of Environmental Protection, available MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and DCA construction permit data. In an effort to identify and remove ineligible parcels, the DCA also manually reviewed approximately 22,000 vacant parcels.

The DCA has published the output from its Land Capacity Analysis and identified 78 features totaling  $\pm 43.772$  acres within the Borough of Hopatcong.

Consistent with sections 6 and 7 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3), on behalf of the Borough we have considered the DCA Report, along with the underlying data and data sets relied upon by the DCA in reaching its non-binding calculations for the Borough, and have further carefully considered and analyzed the most up-to-date localized data pertaining to the Borough, including amongst other verifiable information, land use approvals, environmental constraints (including wetlands, wetland buffers, and steep slopes) and other site specific information, construction permits, and MOD-IV data maintained and on file with the Borough, and conservation easements and other deed restrictions.

Based upon our analysis of the DCA Report, the data and data sets relied upon by the DCA and our analysis of the Borough's up-to-date localized verifiable data, we have determined that the DCA arrived at the Borough's land capacity factor using incorrect assumptions and outdated data and/or or incorrect or inaccurate data, including geospatial artifacts or anomalies.

This analysis has led us to conclude that the DCA erroneously included approximately 13.54 acres of land as part of the above-referenced  $\pm 43.772$  total acres. Accordingly, it is our professional opinion that the Borough's land capacity allocation should be reduced to  $\pm 30.234$  acres.

### **Supplemental Analysis**

As explained in the section immediately above, given characteristics of the source data sets and limitations of the DCA analysis work (which the DCA admits in the DCA Report to have inaccuracies and flaws), pursuant to N.J.S.A. 52:27D-304.3a and the Jacobson Decision, our office has further examined the published DCA Land Capacity Factor dataset based on up-to-date verifiable localized data.

In accordance with same, the following table identifies and summarizes the ineligible parcels included in the DCA's published Land Capacity Analysis GIS Composite Layer dataset that should not have been determined to be developable, along with the basis for our conclusion:

Object ID	Area (Acres)	Location	Characteristics
<b>27413</b>	0.705058152	Milton Avenue Block 10108, Lot 32	NJDOT-owned; feature is geospatial artifact Planning Area 5, outside Sewer Service Area
<b>27414</b>	0.349698275	1 Janice Street Block 10105, Lot 5	Planning Area 5, outside Sewer Service Area
<b>27415</b>	0.255225033	6 Arnold Street Block 10105, Lot 8	Planning Area 5, outside Sewer Service Area
<b>27416</b>	0.127259782	11 Frances Avenue Block 10108, Lot 6	Exceptional narrow width (<50 feet) Planning Area 5, outside Sewer Service Area
<b>27428</b>	0.145438668	332 Flora Avenue Block 10314, Lot 1	Exceptional narrow triangular-shaped lot, 90-foot- wide frontage with zero (0) foot width in rear
<b>27429</b>	0.438213702	29 Lakeside Blvd Block 10707, Lot 7 8 Edsall Road Block 10707, Lot 8	Bellarose Realty on Lakeside LLC Active construction of new development Including Lots 6, 6.01, 7, 8, & 9
<b>27430</b>	0.43666722	37 Lakeside Boulevard Block 10705, Lot 5 Dell Road Block 10705, Lot 7	Steven Milford Independent Living Experience (SMILE) non-profit – existing developed lot Privately-owned Landlocked, without ROW access
<b>27435</b>	0.067620333	40 Stanhope Sparta Road Block 20002, Lot 3	NJDEP Open Space – Hopatcong State Park Geospatial artifact along boundary
<b>27436</b>	0.334909101	122 Regina Avenue Block 10310, Lot 10 124 Regina Avenue Block 10310, Lot 11 40 Stanhope Sparta Road Block 20002, Lot 3	Planning Area 5, outside Sewer Service Area Planning Area 5, outside Sewer Service Area NJDEP Open Space – Hopatcong State Park Geospatial artifact along boundary
<b>27438</b>	0.15126619	121 Regina Avenue Block 10313, Lot 1	Planning Area 5, outside Sewer Service Area
<b>27439</b>	0.340827744	40 Stanhope Sparta Road Block 20002, Lot 3	NJDEP Open Space – Hopatcong State Park Geospatial artifact along boundary
<b>27440</b>	0.378442202	Flora Avenue Block 10002, Lot 1.01	Borough Recycling Center Geospatial artifact of natural wooded buffer
<b>27443</b>	2.900263669	Flora Avenue Block 10002, Lot 1	Borough Animal Shelter & Solar Farm Geospatial artifact of natural wooded buffer
<b>27446</b>	0.351452998	119 River Styx Road Block 30324, Lot 1	Exceptional narrow triangular-shaped 'island' between River Styx Road & Sharp Avenue rights-of-way
<b>27447</b>	0.186125146	121 Monroe Trail Block 30216, Lot 38 119 Monroe Trail Block 30216, Lot 39	Geospatial artifact narrow width of frontage (<40% combined lot area)





Object ID	Area (Acres)	Location	Characteristics
<b>27448</b>	0.35	414 Brown Trail Block 40319, Lot 28	40% of feature at corner of Brown Trail & Swathmore Trail (0.24 acres remains) 60% of feature is non-contiguous and inaccessible (0.35 acres removed)
<b>27450</b>	0.40	151 Monroe Trail Block 30216, Lot 24 Tori Trail Block 30216, Lot 60.01	feature on 100% of lot (0.48 acres remains)  HOA Open Space feature on 22% of lot (0.40 acres removed)
<b>27460</b>	1.170504677	11 Lafayette Trail Block 40305, Lot 5 1 Lafayette Trail Block 40305, Lot 9 22 Vassar Trail Block 40305, Lot 13 20 Tufts Trail Block 40305, Lot 10 24 Tufts Trail Block 40305, Lot 11	Planning Area 5, outside Sewer Service Area  Planning Area 5, outside Sewer Service Area  Planning Area 5, outside Sewer Service Area  Planning Area 5, outside Sewer Service Area  Planning Area 5, outside Sewer Service Area
<b>27462</b>	0.072027508	21 Roosevelt Trail Block 40413, Lot 19	Geospatial artifact in rear of lot (<40% lot area) Inaccessible, frontage constrained
<b>27464</b>	0.081916313	53 Stevens Trail Block 40401, Lot 9	Geospatial artifact narrow width of frontage (<10% lot area)
<b>27466</b>	0.245675568	3 DiVito Trail Block 30801, Lot 115	Geospatial artifact in rear of lot (<50% lot area) Inaccessible, frontage constrained
<b>27474</b>	0.141337679	1 Toledo Court Block 40909, Lot 6 2 Toledo Court Block 40909, Lot 7	Geospatial artifact narrow width of frontage (<30% combined lot area)
<b>27476</b>	0.160958057	782 Brooklyn Mountain Block 40504, Lot 71	Planning Area 4, outside Sewer Service Area
<b>27480</b>	0.340348864	37 Columbia Trail Block 40902, Lot 1 35 Columbia Trail Block 40902, Lot 2	Planning Area 5, outside Sewer Service Area  Planning Area 5, outside Sewer Service Area
<b>27481</b>	0.07958665	49 Mountain Trail Block 41001, Lot 26	Geospatial artifact narrow width of frontage (<25% lot area)
<b>27482</b>	0.490695562	25 Columbia Trail Block 40902, Lot 7	Planning Area 5, outside Sewer Service Area





Object ID	Area (Acres)	Location	Characteristics
<b>27483</b>	0.248929407	69 Mountain Trail Block 41001, Lot 16 106 Leland Trail Block 41001, Lot 31 108 Leland Trail Block 41001, Lot 32	Geospatial artifact narrow width through center of all 3 lots
<b>27484</b>	0.221657613	27 Maxim Drive Block 31507, Lot 3	Geospatial artifact narrow width of frontage (<7% lot area)
<b>27486</b>	0.431229606	40 Maxim Drive Block 31206, Lot 8	St. Jude’s Roman Catholic Church Geospatial artifact of natural wooded buffer
<b>27487</b>	0.413956729	105 Mountain Trail Block 41001, Lot 10	Planning Area 5, outside Sewer Service Area
<b>27488</b>	0.062323428	123 Mountain Trail Block 41001, Lot 1	Planning Area 5, outside Sewer Service Area
<b>Total</b>	<b>13.53822305</b>		

Based on these findings, the land capacity acres for the Borough of Hopatcong should be reduced from ±43.772 acres to ±30.234 acres.

Using the formulas, criteria, methodology and datasets required by sections 6 and 7 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3), we have further arrived at the Borough’s updated land capacity factor, which in turn results in the reduction of the Borough’s average allocation factor and ultimately the Borough’s Prospective Need Obligation.

The reduction in the Borough’s land capacity acres from ±43.772 acres to ±30.234 acres, results in a revision to Region 1’s land capacity from 1,980 acres to 1,966 acres. Taken together, this revises the Borough of Hopatcong’s Land Capacity Allocation Factor, as set forth in the DCA Report, from 2.21% to 1.54%

Holding the DCA’s calculated Equalized Non-Residential Valuation Factor and Income Capacity Factor consistent, this corrected Land Capacity Factor changes the Borough of Hopatcong’s Average Allocation Factor from 1.10%, as set forth in the DCA Report, to  $((0.29+1.54+0.81) / 3) = 0.88\%$ . This in turn, reduces the Borough’s Prospective Need for the Fourth Round from the DCA’s non-binding gross Prospective Need calculation of 306 units to 244 units.

This determination is of course subject to further adjustments and reductions as permitted in the FHA and regulations associated therewith, including adjustments for: lack of vacant developable land (“vacant land adjustment”); lack of available sewer or water infrastructure (“durational adjustment”); consideration of the Highlands Regional Master Plan inputs, formulas or its build out; or the application of any applicable statutory “caps” and/or other adjustments set forth in P.L. 2024, c. 2, Mount Laurel case law, and/or as codified in COAH’s prior round regulations, or any combination thereof.

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**Conclusion and Recommendations**

The methodology used to identify and exclude parcel types listed in the analysis is consistent with the published DCA Fourth Round report. The data, data sources, methodology, criteria and formulas relied upon in completing this analysis and arriving at these opinions, including the calculation of the Borough's Prospective Need Obligation, was performed in accordance with sections 6 and 7 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3) and the Jacobson Decision. All opinions and conclusions set forth herein are within a reasonable degree of professional planning and engineering certainty. We reserve the right to amend and supplement our findings, opinions and conclusions should additional information be made available at a later date.

Please contact me should you have any questions.